

## Regulating the Trade in Illegal Timber: Republic of Korea Update

### State of Play October 2018

**The Government of the Republic of Korea released the Detailed Standards for Determining the Legality of Imported Timber and Timber Products in August 2018 to support implementation of the Revised Act on the Sustainable Use of Timbers 2017. The Act has the potential to significantly increase global market demand for legal timber and position Korea as a regional leader in reducing the global incentive for illegal logging.**

**In order to be considered an effective and robust system, the current Detailed Standards for Determining the Legality of Imported Timber and Timber Products should be amended to widen the regulated product scope and tighten standards for evidence of legality.**

In August 2018, the Government of the Republic of Korea released national Detailed Standards for Determining the Legality of Imported Timber and Timber Products (referred to as “implementing standards” throughout this brief) to support implementation of the *Revised Act on the Sustainable Use of Timbers 2017*.<sup>1,2</sup> The Act mandates that all companies comply with these implementing standards starting October 1, 2018. The implementing standards provide detailed information on the products covered by the provisions and the type of information the Korea Forest Service (KFS) will accept as evidence of legal harvest.<sup>3</sup>

This brief synthesizes the latest available information as of October 2018 on the recent legislative developments in the Republic of Korea (hereinafter referred to as Korea). The information is based on documentary analysis and a questionnaire. This brief also reviews the background of the legislative developments and considers the likely impact of the provisions and implementing standards.

### Background and Context

#### Domestic Demand for Wood Products Exceeds Domestic Supply

The Government of Korea has pursued extensive domestic forest conservation and reforestation policies since the 1960s. Originally focusing on the rehabilitation and restoration of degraded forest land, it has recently placed more emphasis on sustainable production and consumption of forest products. The Fifth National Forestry Plan (2008-2017) sought “to realize a green nation with sustainable welfare and growth” by managing forests as key resources for strengthening the nation’s economic development, land conservation, and achieving an improved quality of life.

<sup>1</sup> This requirement puts into action governmental commitments to exclude illegal wood from the Korean market, starting with the 2012 *Act on the Sustainable use of Timbers* which was revised in March 2017 to include provisions regulating the import of illegally logged timber products.

<sup>2</sup> Act on the Sustainable Use of Timbers is available from the National Law Information Center in Korean:

<http://www.law.go.kr/lsSc.do?tabMenuId=tab18&p1=&subMenu=1&nwYn=1&section=&tabNo=&query=%EB%AA%A9%EC%9E%AC%EC%9D%98%20%EC%A7%80%EC%86%8D%EA%B0%80%EB%8A%A5%ED%95%9C%20%EC%9D%B4%EC%9A%A9%EC%97%90%20%EA%B4%80%ED%95%9C%20%EB%B2%95%EB%A5%A0#undefined>

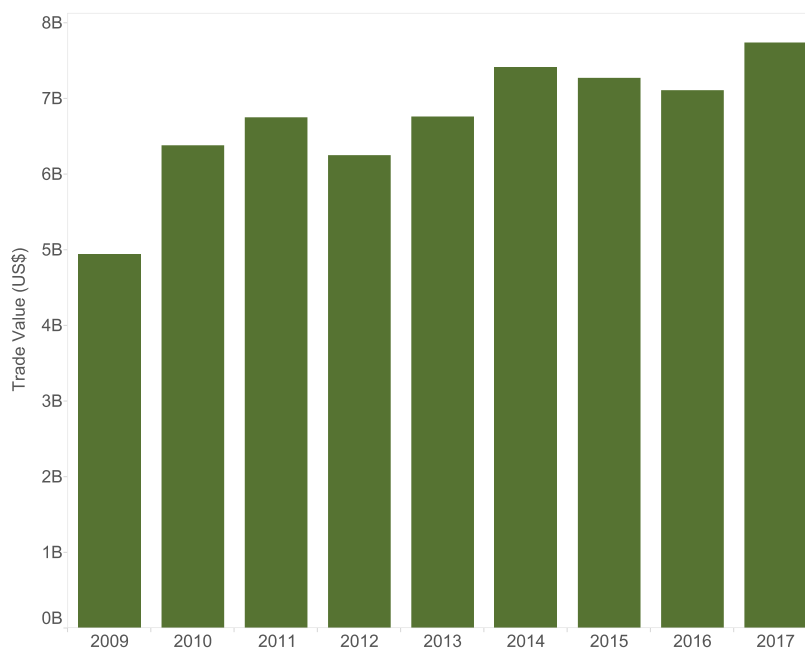
In English:

<http://www.law.go.kr/engLsSc.do?tabMenuId=tab45&query=%EB%AA%A9%EC%9E%AC%EC%9D%98%20%EC%A7%80%EC%86%8D%EA%B0%80%EB%8A%A5%ED%95%9C%20%EC%9D%B4%EC%9A%A9%EC%97%90%20%EA%B4%80%ED%95%9C%20%EB%B2%95%EB%A5%A0>

<sup>3</sup> The Detailed Standards for Determining the Legality of Imported Timber and Timber Products are available on the Korea Forest Service website in Korean and English [http://www.forest.go.kr/newkfsweb/html/HtmlPage.do?pg=/conser/conser\\_090101.html&mn=KFS\\_02\\_02\\_07\\_01\\_01](http://www.forest.go.kr/newkfsweb/html/HtmlPage.do?pg=/conser/conser_090101.html&mn=KFS_02_02_07_01_01)

As a result, current Korean domestic production will not meet the national projected demand for timber and wood products. While the government has made significant strides in progressing towards self-sufficiency, standing timber stocks promoted under successive forest plans will not be ready for commercial harvesting for another 20 years. Both consumers and the timber processing industry in Korea therefore rely heavily on imported wood and fiber, the total value of which reached an all-time high of US\$7.5 billion in 2017 (Figure 1).

**Figure 1: Korean Forest Product Imports (Value in US\$)**



Source: Data from UN Comtrade, 2018. Compiled by Forest Trends, 2018.

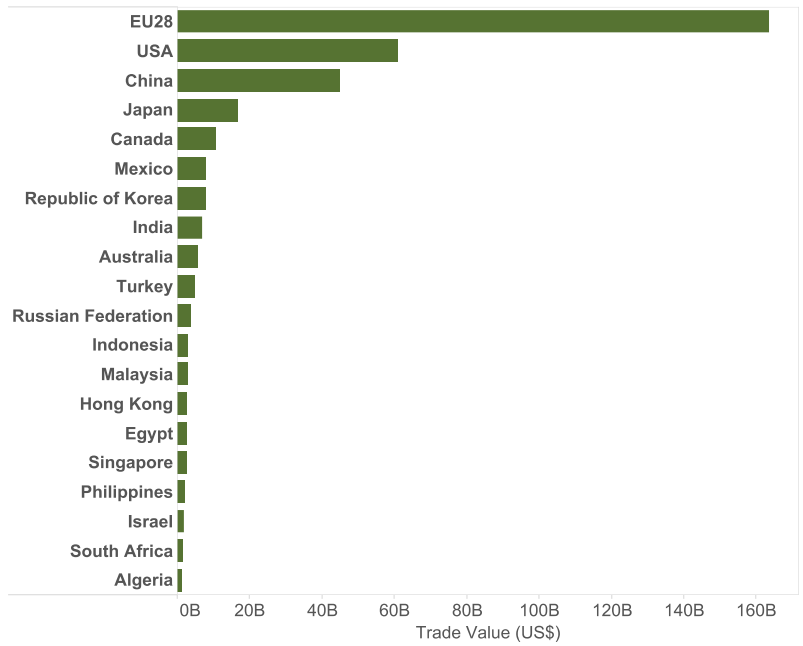
### Increased Government and Citizen Interest in Global Environmental Issues

In parallel with growing imports, Korea is now one of the top ten global consumers of timber, pulp, and paper products (Figure 2) and Korean leaders and citizens are increasingly aware of their global environmental footprint, including the deforestation caused by Korean consumption. This “embodied” deforestation is a risk to Korean regional leadership on combating climate change. In addition, a large proportion of imports are sourced from countries with poor forest governance and significant documented reports of illegal logging (Figure 3).<sup>4</sup> Although not a perfect proxy for the scale of illegal logging in a country, indicators of the quality and effectiveness of national governance in source countries can indicate the likelihood of buying illegally harvested timber from those countries.<sup>5</sup>

<sup>4</sup> “High-risk” and “low-risk” source country categories shown in Figure 3 reflect country scores on Forest Trends’ Average Relative Country Governance Percentile Rank which provides an average relative governance and corruption risk score between 1 and 100 for 211 countries globally. Countries with a higher percentile rank are associated with greater governance and corruption challenges. For the sake of the analysis in this paper, Forest Trends has followed others in labeling countries ranked lower than 50 on the percentile rank as “low-risk”, labelling countries ranked between 50 and 75 as “high-risk,” and those ranked between 75 and 100 as “highest-risk.” Imports from countries listed on the 2019 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 corruption risk score.

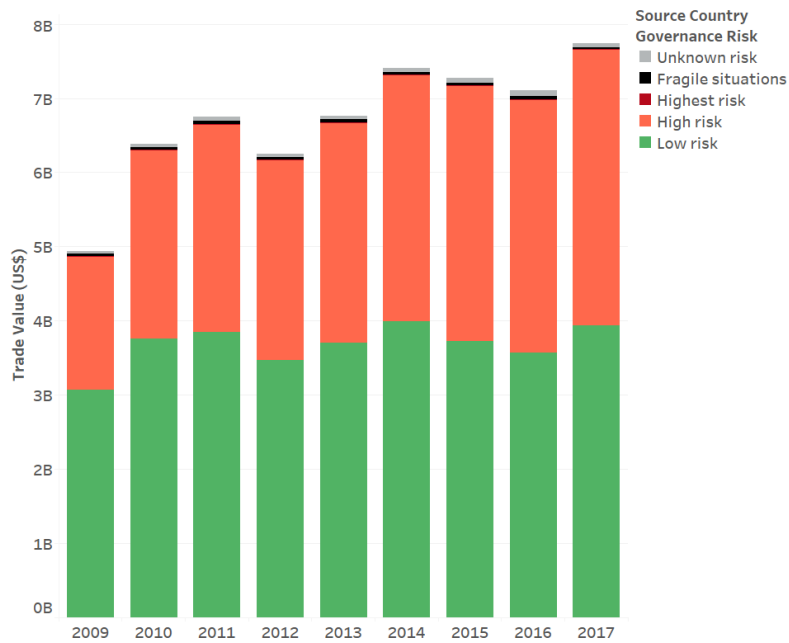
<sup>5</sup> Marigold Norman, Jade Saunders, and Kerstin Canby. 2017. *National Governance Indicators. Relevance for the Regulation of the Trade in Illegal Timber*. Washington DC: Forest Trends.

**Figure 2: Top 20 Global Importers of Forest Products in 2017 (Value in US\$)**



Source: Data from UN Comtrade, 2018. Compiled by Forest Trends, 2018.

**Figure 3: Governance Risks Associated with Korean Imports, 2009-2017 (Value in US\$)**



Source: Data from UN Comtrade, 2018. Compiled by Forest Trends, 2018.

A Chatham House assessment in 2013 estimated that around 13 percent of Korea’s total wood imports were likely to be from illegal sources<sup>6</sup> and the per capita scale of Korea’s illegally sourced imports was the highest of the ten consumer and processing countries assessed in the study.<sup>7</sup> Furthermore, a 2014 report written by Lee et al

<sup>6</sup> Sam Lawson. 2014. *Illegal Wood Import and Re-export: The Scale of the Problem and the Response in Thailand, South Korea and India*. Chatham House. Available at: [http://indicators.chathamhouse.org/sites/files/reports/Lawson\\_Thailand\\_SK\\_India\\_PP\\_2014\\_0%281%29\\_2.pdf](http://indicators.chathamhouse.org/sites/files/reports/Lawson_Thailand_SK_India_PP_2014_0%281%29_2.pdf)

<sup>7</sup> The level of imports of wood-based products at high risk of illegality was estimated through an evaluation of product flows. The evaluation involved estimating the roundwood equivalent volume and value of imports (in US dollars) from official import data for each year as well as the bilateral flow of

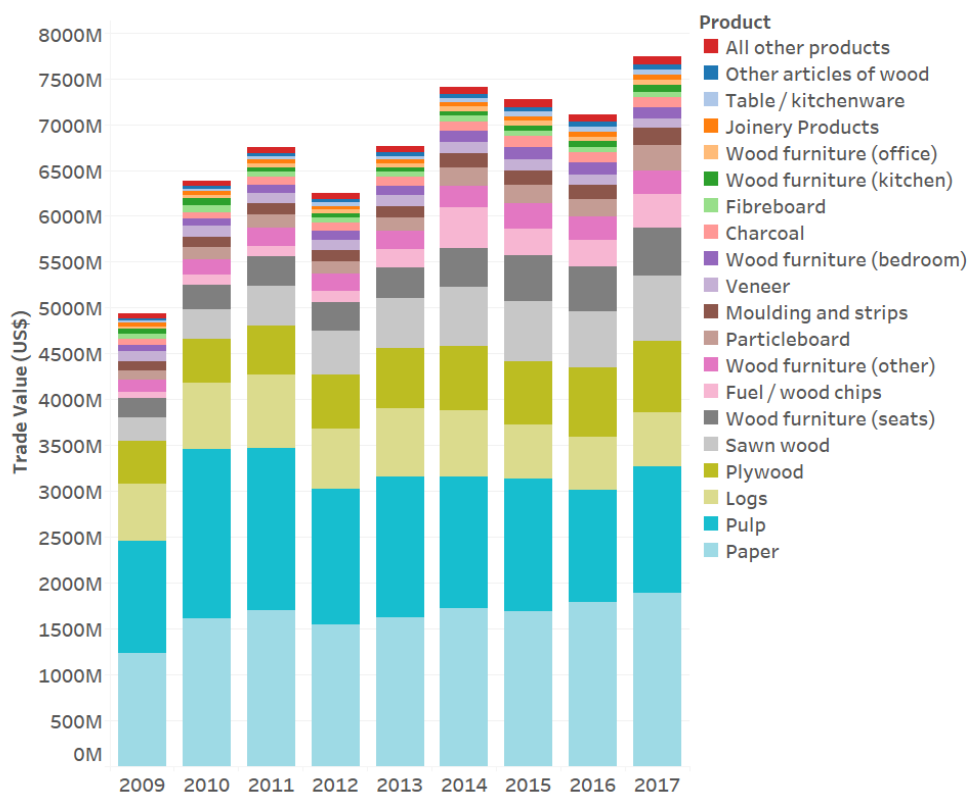
published in a Korean Rural Economic Institute (KREI) journal assessed imports of five products (logs, sawnwood, plywood, particleboard and fiberboard) and suggested that as much as 36 percent of Korean imports of these five products were sourced from countries with a high risk of corruption and associated risks of illegal logging.<sup>8</sup>

Korea is just one of several countries that are actively pursuing legislative controls to curtail the imports of illegally sourced wood products.<sup>9</sup> The Korean government hopes that by effectively restricting illegally harvested timber products in the Korean market, these “regulated” markets will reduce the financial incentives for illegal logging and associated trade. In parallel, the new Korean legislation will help increase global demand for verified legal timber.

## Korea’s Imports and Associated Risks of Illegal Deforestation

The main timber products imported into Korea since 2009 include pulp and paper, logs, plywood, sawnwood, wooden seating and fuel wood/wood chips which collectively account for more than 80 percent of imports (Figure 4). Imports have most significantly increased for particleboard (93 percent increase in 2017 relative to 2013 levels), fuel wood/wood chips (85 percent increase over the same period) and wooden kitchen furniture (84 percent increase).

Figure 4: Korean Imports of Top 20 Timber Products since 2009 (Value in US\$)



Source: Data from UN Comtrade, 2018. Compiled by Forest Trends, 2018.

Since 2009, Korean companies have imported 70 percent of timber, pulp and paper and furniture products from China, the EU 28 Member States, Indonesia, the United States, Canada, New Zealand and Vietnam (Figure 5).

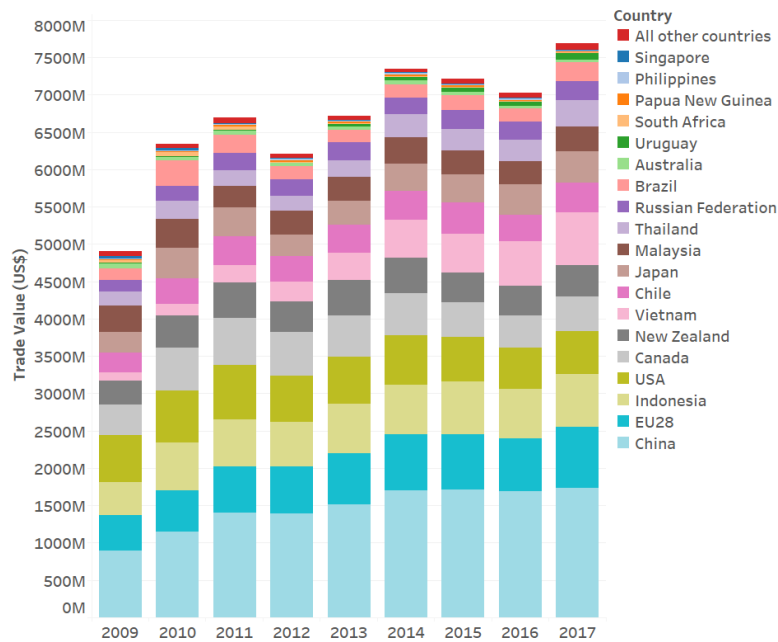
each category of wood-based product. Those values were then multiplied by estimates of the proportion that was likely to be illegal. That proportion was based on an estimate of the level of illegality likely to be associated with the export of each product category for a given country and year as well as the extent to which importing countries demonstrate a preference for legal (e.g. FSC-certified) products.

<sup>8</sup> SM Lee, CS Jang, KD Kim, SH Song, and J Park. 2014. “Analysis of the effect of timber industry on illegal logging timber and timber import regulations” (informal translation) in *Rural Economy* 37 volume 2. Korea Rural Economic Institute: Seoul.

<sup>9</sup> Marigold Norman, and Jade Saunders. 2017. *Regulating the Trade in Illegal Timber: Asian Approaches Compared*. Washington DC: Forest Trends.

However, imports from smaller source countries such as Fiji, Tanzania, Macao, Belarus, Pakistan, Kuwait, Ghana and Ukraine have increased by over 2,000 percent since 2013, with the most significant increases in imports of paper, sawnwood, wood chips, and other wood furniture.<sup>10,11</sup>

**Figure 5: Korean Imports of Timber Products by Source Country (Value in US\$)**



Source: Data from UN Comtrade, 2018. Compiled by Forest Trends, 2018

In 2014, Lee et al. assessed the likely risks associated with each source country between 2009 and 2013, and then estimated the volume of imports likely to have been sourced from what they called “high-risk” source countries.<sup>12</sup> By comparing logs, sawnwood, plywood, fiberboard and particleboard, Lee et al. found that during the period of the study, 97 percent of plywood, 80 percent of fiberboard, and 63 percent of particleboard imports were sourced from countries with a high-risk of illegal logging (Table 1). By contrast Korea primarily sourced sawnwood and logs from lower-risk source countries. Lee et al. also suggested that volumes of imports from high-risk countries increased between 2009 and 2013 (Figure 6).

<sup>10</sup> Environmental Investigation Agency. 2017. *Repeat Offender: Vietnam’s persistent trade in illegal timber*. Environmental Investigation Agency.

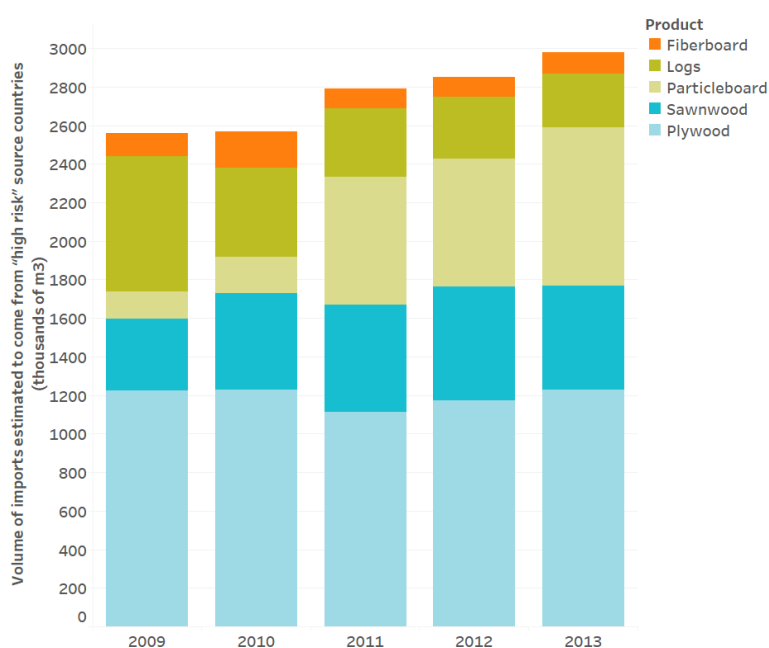
<sup>11</sup> Earthsight. 2018. *Complicit in corruption: How billion-dollar firms and EU governments are failing Ukraine’s forests*. Earthsight.

<sup>12</sup> The Lee et al. study assessed the risks associated with Korea’s imports by using corruption as an indicator of illegal logging. The study uses Transparency International’s Corruption Perception Index 2013 to determine an illegal harvest risk and follows the approach laid out in Forest Trends’ 2013 which assumes a country is high-risk for illegal harvest if it has a CPI score of 50 and below (out of 100). Forest Trends. 2013. *European trade flows and risk*. Washington DC: Forest Trends

**Table 1: Volume and Percentage of Imported Timber Estimated to Come from “High-Risk” Source Countries**

Product	Total volume of imports (thousands m <sup>3</sup> )	Volume of imports estimated to come from “high-risk” source countries (thousands m <sup>3</sup> )	Percent of imports from “high-risk” source countries
<b>Total (all imported timber and wood products)</b>	7,703	2,751	36%
<b>Logs</b>	4,143	424	10%
<b>Sawnwood</b>	1,399	512	37%
<b>Plywood</b>	1,232	1,194	97%
<b>Fiberboard</b>	158	125	80%
<b>Particleboard</b>	771	495	63%

Source: Table informally translated and adapted from Lee et al., 2014.

**Figure 6: Volume (Thousands of m<sup>3</sup>) of Imports Estimated to Come From “High-Risk” Source Countries by Product**

Source: Data from Lee et al 2014. Adapted and compiled by Forest Trends, 2018

Lee et al. only assessed risk associated with imports until 2013. Since then, Korean companies have continued to source timber products from the same countries and have increased their sourcing of logs, sawnwood, particleboard, fiberboard and plywood from countries considered high-risk for illegal logging. For example, Papua New Guinea and the Solomon Islands continue to supply a combined US\$30 million worth of logs to Korea annually. Both countries are considered high-risk based on their national governance rating suggesting a relatively high risk of illegal logging.<sup>13</sup> In addition, both countries are currently listed on the World Bank’s Harmonized List of Fragile Situations,<sup>14</sup> indicating significant challenges for respective governments to maintain the Rule of Law. More

<sup>13</sup> Marigold Norman, Jade Saunders, and Kerstin Canby. *National Governance Indicators. Relevance for the Regulation of the Trade in Illegal Timber.*

<sup>14</sup> “Harmonized list of Fragile Situations FY2019,” World Bank, last modified July 1, 2018, <http://www.worldbank.org/en/topic/fragilityconflictviolence/brief/harmonized-list-of-fragile-situations>

than 80 percent of the wood-based trade from Papua New Guinea and Solomon Islands has been reported to derive from unlawful harvest. The United Nations Office on Drugs and Crime (UNODC) estimated in 2010 that illegal log exports totaled US\$800 million from both island states.<sup>15</sup>

## Regulating the Trade in Illegal Timber

Several Asian countries have started policy processes to control the import of high-risk timber, and regulatory frameworks have evolved quickly since 2017, particularly in the case of Korea. This section therefore builds on the analytical framework presented in Norman and Saunders 2017 which provided a lens for understanding how the requirements of the various pieces of emerging legislation work together to exclude illegal timber from the market.<sup>16</sup>

The section provides updated information on the Korean legislation to discuss the provisions as of October 2018.

### Application and Scope of the Korean Legislation

The provisions of the revised Act on the Sustainable Use of Timbers apply to the whole supply chain including timber producers, processors, and distributors. The import regulations are mandatory for all importers of the following products:

- Log (HS4403)
- Sawn timber (HS4407)
- Anti-decay wood (HS4407)
- Fire retardant treated wood (HS4407)
- Laminated wood (HS4407)
- Plywood (HS4412)
- Wood pellets (HS4401-31)

Notably, fiberboard and particleboard are not included in the scope of the 2018 implementing standard, despite the documented risks discussed by Lee et al. in 2014. However, the KFS has indicated that the country will take a phased approach to product coverage and will review the scope.

### Expectations for Compliance under the Korean Legislation

Importers are expected to document the legality of timber imports prior to import into Korea. Article 4 of the Act on the Sustainable Use of Timbers states that “the distribution and use of timber or timber products produced (hereinafter referred to as ‘legally felled’)” shall be “in compliance with the timber harvest-related statutes of the Republic of Korea or the country of origin,” and the categories of evidence of legality deemed acceptable for import clearance focus primarily on legal harvest (summarized in Table 2). By contrast, the *European Union Timber Regulation 2010* (EUTR) includes a broader definition of legality as it defines “legally harvested” to mean harvested in accordance with all applicable legislation in the country of harvest. The scope of “applicable” legislation includes laws relating to rights to harvest, but also includes payments for harvest rights and timber, forest management and biodiversity conservation, third parties’ use and tenure rights, as well as trade and customs payments. The *United States Lacey Act 1900* also makes it an offense to trade in wood products that have been illegally taken, possessed, transported, or sold in their country of origin, also suggesting a broad range of relevant national legislation.

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15 UNODC. *Transnational organized crime in East Asia and the Pacific: A threat assessment*. Austria, 2013.

16 Marigold Norman, and Jade Saunders. *Regulating the Trade in Illegal Timber: Asian Approaches Compared*.

**Table 2: Documents Considered Sufficient to Demonstrate that Timber Products Have Been Legally Harvested**

<b>Documents Verifying that Timber and Timber Products have been Legally Felled</b>	1. A permit for felling issued pursuant to the statutes of the country of origin.
	2. A document which is internationally recognized to certify legally felled timber or timber products: <ul style="list-style-type: none"> <li>A. A forest management certificate or a forest product certificate including Chain of Custody and Controlled Wood Certificate published by the Forest Stewardship Council (FSC);</li> <li>B. A forest management certificate or a forest product certificate including Chain of Custody published by the Programme for the Endorsement of Forest Certification (PEFC);</li> <li>C. A certificate which is mutually recognized in accordance with bilateral consultation between countries and the PEFC; or</li> <li>D. A document published in accordance with international certification systems, including third party certification followed by International Organization for Standardization (ISO) 17065 for sustainable use of biomass which verify whether timber or timber products have been legally felled.</li> </ul>
	3. A document prescribed and publicly notified by the Minister of the Korea Forest Service which is mutually recognized in accordance with bilateral consultations between Korea and the country of origin: <ul style="list-style-type: none"> <li>A. A certificate issued in accordance with the forest certification system of the exporting country, which is mutually recognized in accordance with bilateral consultations with Korea.</li> </ul>
	4. Any other document prescribed and publicly notified by the Minister of the Korea Forest Service, which verifies that the relevant timber or timber product has been legally felled: <ul style="list-style-type: none"> <li>A. A certificate issued in accordance with management systems of the exporting country established pursuant to the Forest Law Enforcement, Governance and Trade-Voluntary Partnership Agreement (FLEGT-VPA) with the European Union;</li> <li>B. A permit for export which verifies that timber or timber products have been legally felled in accordance with the Acts and subordinate statutes of the exporting country;</li> <li>C. A document with an official seal or a signature from the government of the exporting country or an agency delegated by the government of the exporting country that verify that the relevant timber or timber product has been legally felled, including a permit for transportation and a packing list;</li> <li>D. A document written by an exporter in accordance with in case of the exporting country that has laws and systems for restriction on illegal logging and associated trade; or</li> <li>E. Any other document to verify the legality and sustainability of timber, provided that the name of document issuing authority and the document form shall be included in the “Country Specific Guidelines Template” which is mutually recognized based on bilateral consultation between Korea and the exporting country.</li> </ul>

Source: Table adapted from the *Detailed Standards for Determining the Legality of Imported Timber and Timber Products*, 2018.

### **Enforcement and Penalties Associated with Non-Compliance**

The Korean Government mandates an inspection agency, the Korea Forestry Promotion Institute (KFPI), to consider documentary evidence prior to import and allow for customs clearance if all requirements are met. If documentary evidence is deemed inadequate, then the importer will be responsible for the return of the shipment to its country of origin, or the shipment will be destroyed. If further information is required to demonstrate legality, customs clearance is allowed. However, importers will be legally obliged not to sell or distribute the products before a subsequent inspection of the legality documents has been concluded. The KFS is responsible for investigating any timber products post-import but is expected to focus on high-risk source countries.

Businesses will be expected to keep the relevant documents verifying legality on file, and if they fail to do so, the KFS has entrusted local governments with the authority to revoke their timber products registration or suspend their business license. Where importers are found to be consistently and knowingly importing illegal timber, they can be subject to fines of up to US\$30,000 or imprisonment of up to three years.

### **Impact on Demand for Forest Law Enforcement Governance and Trade (FLEGT) Licensed Timber Products**

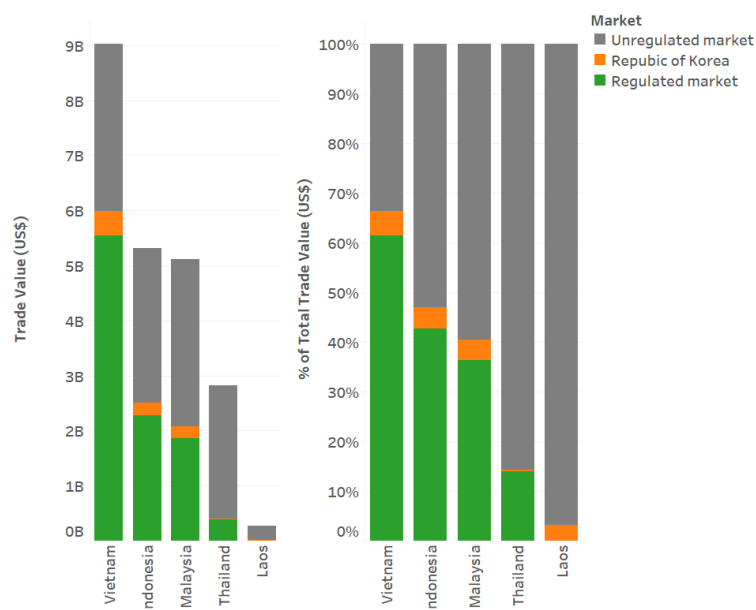
FLEGT licenses are issued by timber-producing countries that have concluded a Voluntary Partnership Agreement (VPA) with the EU and established a national system to demonstrate compliance with relevant legislation and control the movement of wood products around the country. Korea’s implementing standards specify that FLEGT licenses are



considered sufficient evidence of legality. Once a country begins to issue FLEGT licenses, exporters will then have an established system by which to demonstrate legality to Korean importers. Korea's recognition of FLEGT licenses will also increase market penetration of FLEGT licensed products, creating greater incentives for producer governments to conclude VPA negotiations and start effective implementation.<sup>17</sup>

Within the Asia Pacific region, Korea is a significant market for Indonesia (which has been issuing FLEGT licenses since November 2016), Vietnam (which signed a VPA with the EU in October 2018), and Thailand and Laos (actively negotiating VPAs and designing national Timber Legality Assurance Systems). These countries already sell to the "regulated" markets of Europe, the United States, and Australia. Korean legislation coming into force will increase the share of global imports of timber to "regulated" markets for each of these trade partners from one to four percent, with the impact likely to be felt most strongly in Vietnam and Malaysia (Figure 7).

**Figure 7: The Impact of Korean Imports Measures on Global Demand for Asian VPA Country FLEGT-Licensed Timber (Based on UN Comtrade Imports for 2017, Value in US\$)**

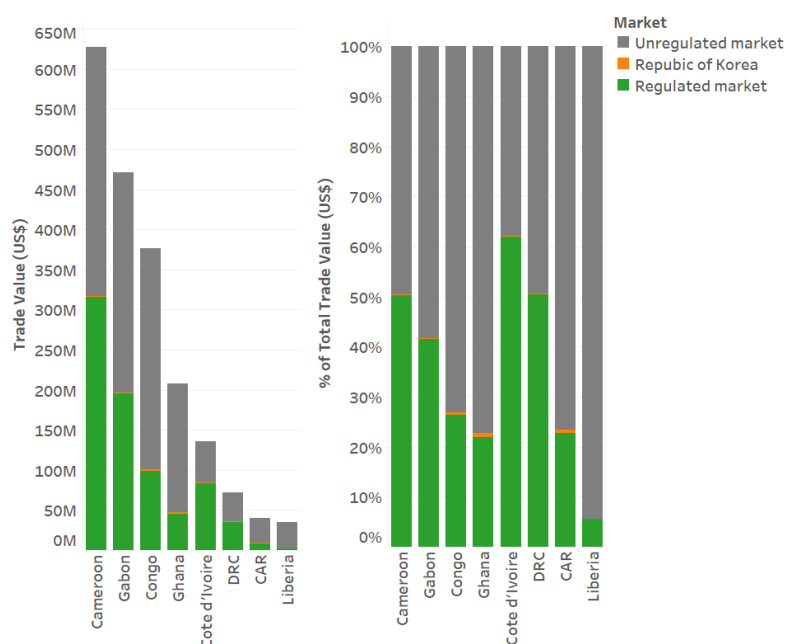


Source: Data from UN Comtrade, 2018. Compiled by Forest Trends, 2018.

Korea imports significantly less in terms of volume and value of timber products from African VPA countries (Figure 8). Korean legislation coming into force will therefore only marginally increase the share of global imports of timber to "regulated" markets. This will most significantly impact the Central African Republic and Ghana (where Korean legislation coming into force will increase global 'regulated' market demand for FLEGT-licensed timber by between 0.5 to 0.7 percent based on 2017 trade statistics).

<sup>17</sup> The EUTR also considers FLEGT-licensed timber and timber products to *de facto* comply with legality requirements as a FLEGT license suggests that all the relevant laws of the country of export have been met. While the US Lacey Act and the Australian *Illegal Logging Prohibition Act 2012* do not afford FLEGT-licensed timber a similar 'protected' status, FLEGT licensed timber will not be subject to legal challenge in these markets assuming that the FLEGT license credibly demonstrates legality.

**Figure 8: The Impact of Korean Imports Measures on Global Demand for African VPA Country FLEGT-Licensed Timber (Based on UN Comtrade Imports for 2017, Value in US\$)**



Source: Data from UN Comtrade, 2018. Compiled by Forest Trends, 2018.

### Assessing the Potential Effectiveness of the Korean Standards vs. Existing International Best Practice for “Evidence of Legality”

In contrast to the Korean legislation which lists the documents suitable for use by companies to demonstrate legality, the EUTR and the US Lacey Act do not specify documents considered sufficient to demonstrate *de facto* evidence of legality and due diligence, apart from valid FLEGT licenses and Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) permits in the case of the EU.

This is because both the EUTR and the Lacey Act are designed to place liability on regulated companies. Where any governments provide a list of acceptable documentary evidence that wood should be considered legal, there is less onus on companies to undertake further investigation into the risk of buying illegal wood, such as interrogating their suppliers or requesting verification of such documents. This increases the incentive for suppliers to produce fraudulent or forged documents and weakens the power available to governments to sanction companies for “laundering” illegal wood.

Based on international best practice and evidence emerging from experience implementing the EUTR and the US Lacey Act, there are opportunities to strengthen the documentary requirements in the Korean implementing standards regarding:

#### 1. *Felling permits*

One evidence type listed in the Korean Standard, a felling permit, is particularly inadequate for demonstrating legality unless accompanied by evidence of a credible chain of custody. Without any effort to control the supply chain after harvest, it is possible to use a valid permit to import a completely different shipment of timber. There is anecdotal evidence arising from enforcement of the EUTR suggesting that this is not uncommon. This element of the Korean legislation would therefore have significantly more impact on the import of illegal wood if it required importers to provide a certificate from a recognized and robust Chain of Custody (CoC) system alongside any claim associated with a felling permit.

To protect against inappropriate or fraudulent use of felling permits, Korean authorities could also verify document claims about species and location of harvest with physical products awaiting import by using comparison sciences such as DNA and isotopic analysis.<sup>18</sup>

The Government of Korea may also find it useful to establish mechanisms for checking claims regarding product quality and aggregated volumes for wood that importers are claiming to be from a specific harvest permit or area. It could be beneficial to use accounting mechanisms, which would be less expensive to establish than a comparable science program, and involve fewer time delays, across imports. Alternatively, they could prioritize high-risk products and source countries for increased resource efficiency.

## 2. **Certification schemes**

Acceptance of internationally recognized certification schemes has been a highly-contested issue in relation to both the Australian Illegal Logging Prohibition Act (ILPA) and the EUTR. While cost-effective systems for compliance are important, civil society groups have documented increasing fraud and misuse of claims in certification schemes.

In the implementation of the EUTR, therefore, competent authorities accept certification claims as evidence of risk mitigation. However, these certification claims must still be subject to the first two steps of Due Diligence Systems (DDS): supply chain documentation and risk assessment. There is anecdotal evidence from the European experience that many operators do not fully understand the institutional architecture of certification schemes. There is often confusion around the difference between Forest Management and CoC certificates, as well as how to use available resources to fully verify claims. Misuse of certification schemes appears to be particularly apparent in relation to processed products from Asia.

Recent independent assessments also suggest that there is significant variation in the quality of institutional governance associated with different certification schemes.<sup>19</sup> Therefore, there is the likelihood of fraud, confusion, and misrepresentation associated with different scheme claims.

Solving these problems will not be easy, particularly since most schemes involve multiple actors including standard setters, auditors, accreditation bodies, forest managers, and companies with CoC certification. Identification sciences are increasingly considered an option for testing the robustness of traditional auditing systems as well as cloud-based supply chain volume reconciliation. Certification schemes themselves, auditors, or companies dealing in high-risk certified products can conduct tests. For example, the FSC has established a voluntary isotopic sampling program for certified concessions to independently validate claims associated with processed products further down supply chains. Volume reconciliation can only be achieved through an overarching scheme institution.

For certification systems to remain credible as an effective screen for removing illegal wood from the Korean market, KFS officials have indicated that products from high-risk countries will be investigated after customs clearance, even if certified. KFS will also work with the international community to regularly consider evidence of fraud, and the efforts by certification schemes and auditors to investigate and sanction misdemeanors within their membership, as well as fraudulent claims by those outside the scheme.

## 3. **FLEGT licenses**

The Korean provisions, like the EUTR, consider FLEGT-licensed timber and timber products to *de facto* comply with legality requirements as a FLEGT license suggests that all the relevant laws of the country of export have been met. However, the US Lacey Act does not afford FLEGT-licensed timber a similar “protected” status. This is due to the recognition that national systems to demonstrate compliance with relevant legislation and control the movement of wood products around the country have elements of failure.

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<sup>18</sup> Botanical identity and sometimes geographical origin can be established through microscopic examination of wood. A more recently applied technique, stable isotope analysis is a powerful tool that can be used to establish geographical origin. Both technologies are comparison sciences, relying on valid reference material against which to compare analysis results of test samples.

<sup>19</sup> Nepcon assessment, [Forthcoming 2019].

In the EU, FLEGT licenses are currently validated at point of import under an Memorandum of Understanding (MOU) with the Indonesian Government, allowing the relevant national authorities access to the Indonesian Timber Legality Information System (SILK online system). Ghana is developing a similar system in preparation for formal FLEGT licensing there. Korean imports of FLEGT licensed timber will be less vulnerable to fraud if the KFS uses a similar arrangement to validate licenses before allowing import clearance.

While FLEGT licenses are based on complex and robust legal validation processes with independent audits, civil society groups in both the EU and partner countries remain wary of fully endorsing them. Concerns focus on the scope of legality covered by the systems – notably the exclusion of concession allocation procedures – and the levels of transparency and accountability of the bilateral political processes (known generically as Joint Implementation Committees, or JICs) which are designed to oversee the credibility of schemes over longer timeframes.

## Conclusions

The newly effective Korean implementation standards are an important step towards reducing the volume of illegal timber on the Asian market. If robustly enforced, Korea will take regional leadership in reducing the global incentive for illegal logging, as well as the deforestation and associated carbon emissions embodied in the timber products Korea imports from other countries.

To be considered an effective and robust system, the current Detailed Standards for Determining the Legality of Imported Timber and Timber Products should be amended to improve their capacity to exclude illegal timber from the Korean market. Forest Trends therefore proposes that when reviewed, KFS should consider the following amendments:

1. Widening the regulated product scope to include fiberboard and particleboard. This would target products that previous research has flagged as high-risk for illegal harvest based on source country.
2. Tightening standards for evidence of legality to exclude wood products presented with harvest permits which are not accompanied by an associated traceability or CoC certificate.

Ultimately, the impact of the Korean law will depend not only on the legal requirements, but on effective implementation and a well-resourced enforcement plan with capable institutions tasked with operationalizing it. In addition to providing support to Korean businesses to screen out illegal wood and transition to verified legal supplies, Forest Trends recommends that:

1. The KFS collects data about how companies are complying with the new requirements, and the extent and nature of any non-compliance, to identify challenges to address when the legislation is reviewed.
2. Risk and evidence-based enforcement strategies are used for checks on wood that is most likely to be illegally harvested according to internationally recognized governance indicators.
3. Formal communications channels are established to ensure that civil society and other key stakeholders can submit information about illegal wood to the Government in a timely and transparent manner.
4. Documentary checks are supplemented with scientific methods designed to verify that imported wood products are what documents claim they are (e.g., species, location of harvest).

If the design of the regulation is tightened and effective strategies are put in place to implement and enforce the new Korean legislation, it could help significantly increase the global market demand for legal timber. Asian countries now designing their own import controls, along with the regulated markets in Europe, the United States, and Australia, together accounted for 90 percent of global timber imports in 2016 based on UN Comtrade data. In addition, Korea's recognition of FLEGT-licensed timber also creates additional incentive for high-risk forest exporting countries to negotiate and implement VPAs, most notably Vietnam, Malaysia, Indonesia, Central African Republic, and Ghana. By effectively implementing the Act on the Sustainable Use of Timbers, national leadership in the Asia Pacific region will be assured.

**This Information Brief was written by Jade Saunders and Marigold Norman.**

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**Forest Trends  
1203 19th Street, NW  
Washington DC 20036  
USA**

**[www.forest-trends.org](http://www.forest-trends.org)**