



Forest Trends Policy Brief

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Analysis of the Russian Roundwood Act

In December 2013 Russia amended its federal Forest Code. This policy brief describes the scope and requirements of the Act and analyzes implications for processors and importers of Russian timber, giving special consideration to the law's potential to minimize risk as part of a due diligence system.

Introduction

This paper analyzes amendments to the Russian Forest Code to assess implications for overseas buyers of Russian roundwood and other timber products. The analysis focuses on the potential of the new amendments to minimize the risk of sourcing illegal timber as part of a due diligence system.

The 'Russian Roundwood Act' (Federal Law of December 28, 2013 N 415-FZ; referred to here as the 'Act') is an amendment to the Russian Forest Code. It contains requirements for the measurement, marking, registration, and transport of roundwood. The law and its implementing regulations have not yet been fully developed so this study is limited to evaluating its potential rather than its actual implementation.

The Act aims to provide a system to document and trace roundwood from its harvesting site through transport and sale to the point of processing or export. If successful, this system will be significant for importers of Russian roundwood required to verify the legality of their materials, such as those in the US, EU or Australia. The Chinese market is of particular importance since Chinese manufacturers are by far the largest importers of roundwood and timber products from the Russian Far East, where there have long been concerns about illegal logging. An increased ability to trace roundwood back to the forest of origin is important for Chinese manufacturers asked to provide overseas markets with the required information and legality documentation for their products.

Scope & Requirements

The amendment to the Forest Code uses the term 'wood' in its description of what it regulates. The interpretation is that this term only covers 'roundwood' and therefore does not include lumber, sawn timber or other processed timber products. 'Timber' is used as a general term for logs and roundwood.

The Act is applicable to all forests under concession. For municipal forests, the requirements of the Act are fully applicable when timber is harvested under a formal contract between the municipality and an entrepreneur. If timber is harvested for local consumption, the state authorities will be responsible for measuring the timber before removal from the forest – other requirements are not applicable in this case.



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Below is a summary of the scope and requirements of the Act

- I. Prohibition of distribution of timber harvested for the needs of the local population
 - a. The Act includes a ban on the free distribution and transfer of ownership of timber harvested by local communities for local use. Such timber may not be legally sold for commercial purposes (e.g. to sawmills, pulp mills, etc.).
- II. Measurement of harvested timber
 - a. Introduction of compulsory measuring of harvested timber from forest areas under concession.
 - b. The Acts states that timber measurement shall be done before removal of timber from the forest.
- III. Marking of roundwood
 - a. Roundwood of the species oak, beech and ash must be marked with individual marks (procedure is yet to be developed).
 - b. Other species are not required to be marked.
 - c. Information on marking roundwood shall be submitted by the forest manager to the government and recorded in the online information management system.
- IV. Accompanying Document
 - a. It is prohibited to transport roundwood without an 'Accompanying Document' issued by the owner of the wood prior to transport. The Act does not formally name this document, nor has a template been developed yet, but it does list information it will contain:
 - i. Roundwood owner
 - ii. Consignee (actor receiving the roundwood)
 - iii. Carrier
 - iv. Species
 - v. Volume
 - vi. Assortment (quality)
 - vii. Origin
 - viii. Destination
 - b. The Accompanying Document shall not be issued for the transport of wood harvested for the needs of local populations.
- V. Transaction declaration (online)
 - a. Any transaction involving roundwood, including export, must be declared by legal persons or entities making transactions using an electronic form on the Unified State Automated Information System.
 - b. The information contained in this declaration shall include:
 - i. Wood owner
 - ii. Volume
 - iii. Species
 - iv. Assortment (such as sawn log grade, pulp wood grade or firewood grade)
 - v. Information on lease agreement or other documents on the granting of forest area
 - vi. Information on roundwood purchase contract
- VI. State Unified Automated Information System (Information System)
 - a. An online Unified State Automated Information System of timber measurement and transactions will be created by the state.
 - b. The new information system shall also integrate existing systems, such as the harvesting areas satellite monitoring system, and facilitate the quick identification of illegal harvesting activities.
 - c. All transactions involving roundwood must be declared and submitted by the owner of the roundwood for inclusion in the new online Information System.
- VII. Penalties
 - a. Punitive measures for non-compliance with the new legal requirements are introduced, with a list of the type of violations and a range of possible fines.

Phasing in Implementation of Roundwood Act

The Act will be introduced in stages, coming into full effect on January 1, 2016. The stages of introduction of the main regulations are shown in the table below:

Key Issues of the Law	Enforcement Date
<ul style="list-style-type: none"> Prohibition of free distribution of timber harvested by local communities for domestic use. Initial development of the online information system with basic data input 	February 1, 2014
<ul style="list-style-type: none"> Prohibition of roundwood transportation without Accompanying Document. 	July 1, 2014
<ul style="list-style-type: none"> Timber measurement by forest users required prior to removal from forest. Marking of valuable tree species (oak, beech, ash) required. Penalties implemented for the lack of an Accompanying Document during roundwood transportation. 	January 1, 2015
<ul style="list-style-type: none"> Implementation of the Information System Requirement to declare all transactions involving roundwood. Penalties implemented for non-compliance with the law concerning roundwood measurement in the forest and marking of valuable tree species. 	July 1, 2015
<ul style="list-style-type: none"> Penalties implemented for non-compliance with the law concerning provision of the roundwood transaction declaration. 	January 1, 2016

The following procedures, systems and regulations are mentioned in the Act but are not enacted at the time of writing:

- The procedure for timber measurement in the forest;
- The procedure and requirements for marking roundwood;
- The Accompanying Document form and the rules for its completion;
- The form and procedure for online declaration of roundwood transactions;
- The information system operating procedures;
- The rules for reporting data to the information system and the forms for reporting data;
- The forms and procedures for making requests for data from the Information System.

Furthermore, the government has not yet announced which information from the information system will be publicly available. Under the Act the Information System data may be placed online in the public domain.

The exact delegation of responsibilities and obligations under the Act are not yet defined by the Russian authorities.

Limitations & Possibilities

As currently formulated, the Act contains limitations as well as possibilities for minimizing the risk of sourcing timber from unknown or illegal sources as part of a due diligence system .

These limitations and possibilities should be considered by buyers of Russian roundwood and other timber products seeking to assure traceability and legality in their supply chains.

Limitations

- Implementing regulations and procedures:** A key limitation of the Act is the lack of implementing measures and procedures. The law will not fulfill its intended purpose without such regulations and procedures. The content of these documents and methods for enforcement will ultimately define the legislative environment and integrity of the system. This analysis is therefore strictly limited to evaluating existing formulations of the Act.
- Prohibiting the transfer of timber for the needs of local populations into the commercial market:** One of the main articles of the Act is the prohibition of transferring ownership of timber harvested for the needs of the local population. If enforced, this requirement closes a loophole which has allowed timber harvested by local communities for household use to be illegally resold and processed for commercial trade. Historically the national volume of municipal quotas has amounted to approximately 20 million cubic meters (m³) per year. Nonetheless, under-regulation and lax oversight by executive authorities and law enforcement agencies has allowed this timber to be “legalized” when ownership was

transferred from a person to a business entity. The Act now precludes legalization at this stage. However, if state control and enforcement continue to be ineffective, timber intended for local use may well continue to be transferred to informal (black) wood markets and mixed into legal supply through illegal sawmilling, etc.

3. **Limitation of scope:** The Act only includes ‘roundwood’ in its scope, therefore excluding sawn timber and other processed products. This considerably constrains the potential impact of the Act. Russia exports large quantities of sawn timber and this is likely to increase relative to roundwood as a result of Russian export taxes. Therefore in many cases the chain of documents and required information as regulated in the Act will not extend "to the border." The chain will generally stop somewhere within Russia, at the point where roundwood is turned into a processed product. Thus, in order to use the document chain in a due care/due diligence process, importers of processed materials will need to identify the processor and request information from that company about the specific roundwood origin and documentation associated with the products they purchased. This makes the applicability of the Act very limited for sawn timber and other processed products, as importers will still have to carry out significant supply chain investigations in order to fulfill due care/due diligence requirements.
4. **The sawnwood loophole:** The Act only covers roundwood and not processed timber products. A considerable proportion of roundwood of doubtful provenance is still being milled, particularly at smaller production facilities located in close proximity to the harvesting areas. Once the roundwood is milled – no matter how roughly – the main provisions allowing for controls are no longer applicable. Enforcement actions should therefore be thorough enough to ensure that all harvested timber is documented within the system before it reaches the saw mill. Russian authorities do not currently have sufficient resources to efficiently control such transactions and the Act does not solve this problem.
5. **Timber measurement increases ability to identify overharvesting, but...:** The Act’s requirement for timber measurement prior to transport from the forest theoretically builds a statistical capacity to quickly identify overharvesting and facilitate inspections to stop illegal harvesting. The Act states that measurements are to be conducted by the forest manager, but specifics will depend on the contents of the timber measurement procedure which is still to be developed and approved by the government. Even then, forest inventory data in Russia is generally very imprecise and often not recorded in practice which means that measuring the timber before harvesting adds limited value until forest inventory data is also improved. Roundwood from intermediate and sanitary logging is covered by the regulation, but there is still a risk that this type of harvesting will continue to be used as a cover for overharvesting and subsequent “legalization” through corruption and illegal manipulation of different types of permits.
6. **The timber assortment loophole:** A commonly reported approach to “legalizing” illegal timber in Siberia and the Russian Far East involves the use of legal harvest quotas for illegally harvested timber. In these regions there are very few pulp and paper mills so forest material is transported long distances from the forest; high transport costs often render transportation of low quality logs and other residues to the pulp mill unprofitable. For example, after harvesting and grading the timber, a forest manager may conclude that only 50% of the timber is of saw log quality, while the remaining material is only of pulp or firewood quality. The manager might then officially register only 50% of harvested timber and leave or burn the remaining poor quality logs. Subsequently, that volume may be substituted with high quality illegal timber and sold by this forest manager. Only by ensuring the reconciliation of pre-harvest forest inventory data and timber measurement data will the Act be able to fully address this loophole.
7. **Transportation by-laws need to be created, including anti-corruption measures:** The introduction of special documents and documentation systems for the transport of logs may reduce the overall transportation of illegal timber, especially over long distances. However, practical implementation will depend on the content of the bylaws and the resources and competence of traffic officers responsible for verifying transportation documents. This stage of the supply chain has historically been a source of illegal revenue generation for chronically underpaid traffic officials – a problem that the Act is unlikely to solve. In fact added paperwork may even exacerbate the risk of corrupt practices as new checkpoints and approvals may be created – the question is how well the Information System and the paper-based documents will be correlated.
8. **Online declaration:** The Act requires that forest users provide this information at least one day in advance of any given transaction. This requirement will be easily fulfilled by those forest users who forward roundwood to one site. However,

such prior notification becomes more complex if the roundwood is forwarded from periodic harvesting sites or moved to several sites, or with the use of motor vehicles belonging to one or more buyers or contractors. Small businesses and individual entrepreneurs, especially those in remote provincial areas, may not have the technical capacity and skills to comply with the electronic requirements. This requirement adds to the bureaucracy and takes away the necessary flexibility of decision-making between responsible companies, especially if they are small and medium-sized businesses. Experience has shown that companies that are already manipulating the system are generally the most efficient in adjusting to such bureaucratic barriers. Small and medium sized operations are more often hindered by their lack of capacity and resources.

- 9. Corruption:** Even if the necessary bylaws and procedures are developed and implemented, the efficiency of the system to provide meaningful legality assurance is dependent upon the ability of the actors to curtail corrupt practices. Considering the reported problems of corruption and the complexity of different illegal harvesting schemes, it is likely that the systems required by the Act, though focused on paperwork and registration, will be just as vulnerable to corrupt practices as current systems are.

In general, the Act has some significant limitations regarding sawn timber and the ability of overseas buyers to draw conclusions regarding the underlying legality of the timber.

Possibilities

If successfully implemented and enforced, the Act does have the potential to enable overseas importers of Russian roundwood and timber products to provide clients with information on the origin of the material and some indication of legality. This could be particularly helpful to Chinese importers of Russian timber who have buyers in regulated markets such as the United States, Australia and the EU. These regulated markets have established requirements for importers for due care/due diligence, including the obligation to access information about timber origin and species and assess and mitigate risks that the timber was harvested illegally.

The data made available by the documents and information system will provide important information that can be used as inputs to a due diligence process, such as information on species, origin, and some aspects of legality. However, the Act does not address certain issues related to the underlying legality of the timber, as described above.

Milestones in Implementation

Though the Act has limitations it also has the potential to play a significant role in controlling illegal logging; this is especially true for the three hardwood species through systematic and individual log marking.

Pending efficient and full implementation, it should be possible for buyers of Russian logs to gain access to the following information according to the schedule below:

- **July 1, 2014:** This date marks the planned start of the use of the Accompanying Document. In theory it would be possible for importers of Russian roundwood to request a copy of the Accompanying Document and ensure that the required information is included (see the section above on the contents of the Act). However, since the obligations for measuring and marking high value species will not be implemented by this date, the value of the Accompanying Document must be carefully considered.
- **January 1, 2015:** On this date the requirements for marking oak, beech, and ash, as well as the timber measurement obligation, are implemented. Buyers of these three hardwoods should be able to gain assurance that such species originate from legal transport by comparing the Accompanying Document to the actual markings on the logs. Also, the timber measurement requirements (for all species) could potentially mean a reduced risk of overharvesting.
- **July 1, 2015:** The Information System is planned to be implemented on this day. Buyers of Russian roundwood would be able to access online information about the roundwood they purchase. It is not yet established how access to the data in the system will be governed, so it is hard to make any affirmative conclusions about its functionality and efficiency in meeting its objectives.

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Analysis of Implications of the Roundwood Act for Regulated Markets

This section provides a brief overview of how the Act may help companies demonstrate compliance with recent regulatory controls of timber imports in the United States (amendments to the US Lacey Act in 2008) and the EU (EU Timber Regulation enacted in 2013). It is widely believed that the Act, if implemented and enforced adequately, will improve the control of illegal timber exports from Russia and ensure a uniform and transparent system allowing for the verification of legal sourcing. Ultimately, these new processes have the potential to decrease the risk for buyers of Russian timber and level the playing field for those who source only legal timber.

The information made available by the documents and information system may provide important information that can be used as input to a due diligence process by importers of timber and timber products in regulated markets; this relates specifically to information on species and origin of roundwood.

However, even if the Act is successfully implemented, it still does not completely resolve the risk that timber has been harvested illegally. As mentioned under the section on limitations, the Act will not fully address issues of the underlying legality of the timber; even timber with the correct Accompanying Document may have been illegally harvested and subsequently “legalized” through corruption in the different phases of approval and issuance of documents.

Key Findings for Importers of Russian Timber

As seen from this analysis, there are certain things that the Act will and will not provide. Importers of Russian roundwood and timber products should consider the following issues if they intend to use the system to fulfill due diligence requirements related to traceability and legality:

1. When receiving documents or other information from suppliers of roundwood in Russia, ensure that the information can be verified according to the phases of implementation. Be aware that not all information will be available immediately and plan to stay informed of the implementation process as delays may further complicate it. In July 2014 importers should start asking for the Accompanying Document and in July 2015 the Information System should start making declaration data available online.
2. Importers of processed wood should also be aware that the document chain only extends to the border or to the saw mill where roundwood is exported or processed. Importers of processed wood will still face challenges tracing sawn timber back to the saw mill, connecting sawn timber to specific logs, and identifying the source of those logs.
3. The Act potentially decreases the risk that timber has been harvested above the given quota of the forest. However, there is no system to address other issues relating to the legality of harvesting. This means that the Act does not address important facets of the Lacey Act, the EUTR and the Australian Illegal Logging Prohibition Act which all have comprehensive scope definitions of legal harvesting, trade and transport. Importers of roundwood and sawn timber are therefore still required to evaluate the risk that the harvesting, transport and trade of the products has been done in violation of applicable legislation. In this regard the systems of the Act will only provide limited assurance.
4. Importers of oak, beech or ash should stay informed about the procedures and systems for marking these species, applicable from January 2015.
5. Corruption is still considered a major challenge in Russia and it is not addressed by the Act. Importers of Russian roundwood and timber products must be aware of the risk of corruption and treat documents and information with care; they should also consider such risk in their purchasing strategy.