



Republic of Korea legality legislation and FSC

This year, 2018, the Republic of Korea joined a growing number of countries in obliging importers to prevent trade in illegally harvested timber.¹ In September 2018, details were published of the due diligence which is required from such importers.

In this FSC briefing, we introduce the key components of the due diligence requirements for importing companies, and how FSC certification can help with the compliance.

The key documents

In March 2017, a new version of the Act on the Sustainable Use of Timber² introduced the obligation for the Korean state and local governments to ensure the legal use of timber, and for importers of timber and timber products to apply due diligence to avoid illegally felled timber or timber products to appear on the Korean market. The Act entered into force in March 2018.

In September 2018, the implementing agency, Korean Forest Service, issued a Public Notice on “Detailed standards for determining the legality of imported timber and timber products”,³ which entered into force on 1 October 2018. We understand that these ‘standards’ will be trialled for one year, and the notice itself mentions revision every three years.

In October, a guidebook was published (as far as we can tell, available in Korean only).⁴

1 The first movers were the USA (2008), Australia (2012), and the 28 members of the European Union (EU) plus Iceland, Norway, and Liechtenstein (2013). Several countries in Asia have made steps as well. See FSC briefings on all these cases: <https://ic.fsc.org/en/for-business/fsc-and-timber-regulation> and <https://ic.fsc.org/en/for-business/fsc-and-timber-regulation/eu-timber-regulation>

2 <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%20EA%B4%80%ED%95%9C%20EB%B2%95%EB%A5%A0>

3 <http://www.forest.go.kr/images/data/down/Detailed%20Standards%20for%20Determining%20the%20Legality%20of%20Imported%20Timber%20and%20Timber%20Products.pdf>

4 <http://www.forest.go.kr/images/data/down/%EB%B6%88%EB%B2%95%EB%AA%A9%EC%9E%AC%EA%B5%90%EC%97%AD%EC%A0%9C%ED%95%9C%EC%A0%9C%EB%8F%84%EA%B0%80%EC%9D%B4%EB%93%9C%EB%B6%81.pdf>



The scheme is compulsory with penal provisions, including imprisonment and/or fines. Suspension of sales and return or destruction of products are other possible measures.

The product scope of the legality obligation

The Public Notice clarifies the scope in terms of products, referring to the Harmonized Code System of the World Customs Organization:

- wood pellets (HS4401-31)
- logs (HS4403)
- sawn timber, anti-decay wood, fire-retardant wood, laminated wood (HS4407)
- plywood (HS4412).

This means that some important product groups are, for the time being, excluded – including pulp and paper, charcoal, particle board, and furniture. The scope may be changed by the end of 2019 after the pilot period, or after the first official revision.

In principle, the scope could, in the future, also include bamboo products, as the Act defines ‘timber’ as “a product obtained by cutting standing timber or bamboo”.

The definition of legality

The Act describes (Article 4.2.) ‘legally’ as “produced in compliance with the timber harvest-related statutes of the Republic of Korea or the country of origin”. It introduces a short term for this, “legally felled”.

Documentation obligations

Unlike in the European Union (EU) or Australia, importers have to submit import declarations to the ministers of the Korea Forest Service. This obligation is limited to importing products within the defined scope (see above). The declaration needs to include information about timber species and country of origin. The declaration needs to be accompanied by a copy of the invoice as well as one of the following four documents.

1. A harvesting permit provided by the country of harvest.
2. Certificates from voluntary schemes, in particular:
 - a. FSC or PEFC certificates – these can be forest management or chain of custody certificates, and they can be certificates (what FSC refers to as ‘claims’) with the shipments concerned, or evidence that the supplier is certified;



- b. A document from an international certification system for the sustainable use of biomass, including third-party verification, and in compliance with ISO 17065 (this likely refers to SBP certificates⁵).
3. A document which is mutually recognized by the Government of the Republic of Korea and the relevant organization in the country of origin.
4. Any other document that confirms or enables verification of legality – FLEGT (Forest Legality Enforcement, Governance, and Trade) licence(s), an export permit from the country of origin that confirms its legal felling, another relevant legal document from the government of the exporting country, a document produced by the exporter with relevant information on species and origin, and any other relevant document.

The importer has to wait for an import certificate, after which customs can issue a customs declaration. The legislation says that the import inspection, to be done by a specialized organization, has to be done within three days. We assume that in most cases this will be limited to checking the documents provided.

FSC response to the Korean legality legislation

FSC strongly supports governmental action to ban the trade of illegally harvested timber. Illegal harvest can lead to deforestation, forest degradation, and pollution of water and other resources for forest-dependent communities. It can also include unacceptable working, payment, and contractual conditions, and corruption, tax evasion, and questionable profit appropriations.

The presence of illegal timber in the market also directly impacts the FSC mission, as it exerts negative pressure on the prices for timber and forest products (estimates are between –7 per cent and –16 per cent), undermining the economic viability of investments required for responsible forest management and forest products consumption.

However, legality alone is not a guarantee against forest degradation, biodiversity loss, or violation of worker and community rights. And national legislation in timber-producing countries is no guarantee of ecologically and socially sound forest management practices, protection of high conservation value forests, and prohibition of natural forest conversion. This is why FSC promotes going beyond legality to pursue FSC certification.

FSC is pleased with the trust the Korean authorities put into its scheme, as FSC certification is one of the ways to confirm legal sourcing. But it wants to clarify here the limitations of reliance on voluntary schemes.

⁵ Sustainable Biomass Program.



- An FSC forest management certificate without a verified FSC claim on the imported product does not guarantee that the product concerned actually comes from that forest management unit, because one cannot assume that the supply chain is controlled by FSC certification bodies.
- An FSC chain of custody certificate of the supplier does not by itself guarantee that the imported product is FSC certified.
- Conclusion: the only evidence that a product is verified by the FSC procedures is when the imported product itself comes with an FSC claim.

Unlike other schemes, FSC has a Policy for Association, which requires FSC certificate holders to stay away from illegal logging and trade even beyond its certification scope, but compliance with this policy is not audited by FSC certification bodies. These bodies check whether FSC-certified companies have signed a commitment to the Policy for Association, and FSC acts only when there are concerns about or evidence of violation – but this does not provide the same level of certainty as valid certificates on materials.

How FSC certification complies with the Korean Law

The first requirement for any FSC forest management certificate holder is compliance with relevant national and international laws. In addition, for FSC controlled wood the first requirement is to reduce the risk of illegal sourcing to 'low'. So, working with FSC-certified forest products is good 'due diligence' practice.

In other cases (USA, EU, Australia), "compliance with trade and customs laws" is clearly part of the definition of legality. This is usually the responsibility not of forest managers, but of companies down the supply chain. Therefore, FSC requires chain of custody certificate holders to "have procedures in place to ensure the import and/or export of FSC certified products by the organization conform to all applicable trade and custom laws".⁶

Companies that are working with FSC-certified materials and wanting to make a claim of FSC-certified products to another company, must possess a valid FSC chain of custody certificate. Thus, only certified companies can sell products with FSC claims to importing companies. Such claims of FSC certification provide assurance against illegally harvested forest products. Moreover, if a public authority requires specific information about the country

⁶ FSC-STD-40-004 V3-0 on Chain of Custody Certification, clause 6.1.a. The original requirement was laid down in Advice 40-004.11 of 27 February 2013.



of origin or the species used, the FSC Chain of Custody Standard requires that FSC certificate holders assist their buyers, on request, with the collection of this information.⁷

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Notes

For more information on the Korean Act on the Sustainable Use of Timber (in Korean language), please visit
http://www.forest.go.kr/newkfsweb/html/HtmlPage.do?pg=/conser/conser_090101.html&mn=KFS_02_02_07_01_01

A comparison between the EU Timber Regulation (EUTR) and the Korean law can be found at <http://www.euflegt.efi.int/es/publications/comparing-south-korea-s-act-on-the-sustainable-use-of-timbers-and-the-eutr>

For more information about FSC efforts to ensure legality, see <https://ic.fsc.org/en/for-business/fsc-and-timber-regulation>

⁷ FSC-STD-40-004 V3-0 on Chain of Custody Certification, 16 November 2016, page 13, clause 6.1.b. The original requirement was laid down in Advice 40-004.10 of 27 February 2013