

# Coversheet: Proposed Legislation for a Wood Legality System

Advising agencies	Ministry for Primary Industries
Decision sought	Approval to progress the development of new legislation to strengthen the integrity of the forestry supply chain.
Proposing Ministers	Minister of Forestry

## Summary: Problem and Proposed Approach

**Problem Definition**

New Zealand is committed to preventing the global trade in illegally harvested wood by reducing the risk of illegal imports into New Zealand and ensuring New Zealand’s own wood products meet appropriate standards for market access.

Illegal harvesting of wood is a significant problem in some countries and has wide-reaching environmental, economic and social impacts. New Zealand’s imports of wood products have increased by approximately 70 percent over the last decade, to NZ\$2.4 billion for the year ending June 2019. Wood products include sawn timber; wood chips; wood panels; wood pulp; paper; and ‘other’ forestry products<sup>1</sup>. This increases the risk of New Zealand being a conduit for illegal wood due to the lack of a national system that provides legislative enforcement. Illegal wood trading also presents a secondary risk of driving down the value for legally produced wood, both domestically and in international markets.

Historically, New Zealand has relied on its reputation of being a low-risk producer of illegal wood products for ensuring market access. However, more recently New Zealand exporters have been required to demonstrate the legality of their wood products in a growing number of export markets. This has been apparent with both Indonesia and Republic of Korea requiring formal government assurance that imported wood products from New Zealand come from legal sources.<sup>s 6(a)</sup>

[Redacted]

s 6(a)

[Redacted]

MPI issues Exporter Information Statements (Indonesia) and Commodity Levy Statements (Republic of Korea). These statements are intended to be an interim arrangement. A long term solution is required that can meet the requirements of an increasing number of trading partners for a robust wood legality assurance system.<sup>9 (2)(d)</sup>

[Redacted]

<sup>1</sup> This category includes wood products such as mouldings, wood furniture and furniture parts, fuelwood and charcoal, waste paper and other miscellaneous wood-based products.

Third party certification schemes provided by the Forest Stewardship Council (FSC) and the Programme for Endorsement of Forest Certification (PEFC) provide evidence of legality in regulated markets. They are used by larger wood producers in New Zealand, but are not generally a cost effective assurance mechanism for small forest owners. Small growers are an important component of New Zealand's plantation estate, and will provide approximately 40 percent of the annual harvest through the 2020s.

### Preferred Approach

A definition of wood legality will be developed in primary legislation, and regulated parties in the forestry sector will be obliged to carry out their own due diligence to ensure that the wood they are handling comes from legal sources. The regulatory elements of this programme will implement a national definition and framework for wood legality, which will support continued market access for logs and timber products. The Ministry for Primary Industries will operate as the regulator and provide auditing services to the forestry sector to ensure their systems meet the legislative requirements. Implementing requirements through legislation will:

- Allow MPI to undertake appropriate checks and have the transparency it needs to provide official export assurances that wood products come from legal sources;
- Provide reciprocity for our trading partners as they develop their own import requirements for wood products;
- Provide adequate enforcement and sanctions to deter any cases of non-compliance as a result of dealing with illegally harvested wood;
- Give New Zealand a stronger position to negotiate market access with trading partners, and meet our commitments as a signatory to international forums on illegal harvesting; and
- Provide greater investor confidence in the sector through security of market access for New Zealand produced wood.

## Section B: Summary Impacts: Benefits and costs

### Who are the main expected beneficiaries and what is the nature of the expected benefit?

#### Overview:

The nature and scale of the costs and benefits for this proposal have been assessed by <sup>9 (2)(a)</sup>, forest economist with MPI. Section 6.2.1 provides the detailed analysis prepared by <sup>9 (2)(a)</sup>, and the sensitivity analysis he has undertaken around the costs and benefits. The analysis indicates that the implementation of a wood legality regime has significant benefits throughout the supply chain, as well as for the Government. The total Net Present Value (NPV) is \$620 million over five years and \$1.05 billion over ten years.

The tables below outline the principal beneficiaries associated with each of the initiatives, along with a description of the benefits they will receive:

Principal Beneficiaries	Benefits
Forest growers	<ul style="list-style-type: none"> <li>▪ Assurance of market access will diversify risk through providing both export and domestic processing options at harvest.</li> <li>▪ Market access assurance enables better prices for logs.</li> <li>▪ Improving investor confidence in forestry will increase the value of the standing forests and the land.</li> </ul>
Forest Managers	<ul style="list-style-type: none"> <li>▪ Assurance of market access will diversify risk and allow them to continue supplying their domestic and export contracts.</li> <li>▪ Provide better prices that are received for the logs.</li> <li>▪ Deliver certainty in their requirements to meet legislative obligations.</li> <li>▪ Recognise their use of FSC and PEFC where applicable.</li> </ul>
Domestic Processors	<ul style="list-style-type: none"> <li>▪ Assurance that they will be able to continue to supply their products into both the domestic and export market.</li> <li>▪ Reduction in unfair competition from illegally harvested wood entering the domestic wood market and undercutting the prices.</li> </ul>
Exporters	<ul style="list-style-type: none"> <li>▪ Assurance that they will continue to receive export trade access into all markets.</li> <li>▪ Provide a single export assurance document that can be used in all regulated markets, which delivers consistency in their administrative systems and reduces complexity.</li> <li>▪ Delivers certainty as they will be aware of their legal obligations in continuing to receive 'certification', reducing ambiguity in the application and with clear sanctions for non-compliance.</li> <li>▪ Reduction in unfair competition from illegal wood traders.</li> <li>▪ Sustains New Zealand's image as being 'clean &amp; green', as it reduces the risk of our image being tarnished by poor operators.</li> </ul>
NZ Government	<ul style="list-style-type: none"> <li>▪ Provides assurance that New Zealand is meeting its international commitments to reduce the global trade in illegally harvested wood and wood products.</li> <li>▪ Reputational benefits from implementing a domestic legal harvesting system.</li> </ul>

### Where do the costs fall?

The costs associated with the wood legality framework would be managed on a cost recovery basis. Processors, exporters and importers would meet the compliance and auditing costs of the system, whether these services are provided by MPI or a recognised



third-party. The system would impose obligations on others in the supply chain to provide documentation, which would be assessed by the regulated party.

The primary legislation would establish the wood legality definition, and would enable cost-recovery, using a range of methods, including levies and direct charges. It would also provide for the regulator to apply sanctions for non-compliance.

Affected Parties	Costs
Forest Owners & Managers	<ul style="list-style-type: none"> <li>▪ Administrative costs of applying for and where necessary providing WorkSafe number and any other evidence prescribed in regulation, as well as signing and submitting the declaration of conformance.</li> <li>▪ Small added cost of attaching these extra pieces of information to the current log docket system, or where applicable providing it directly to the buyer.</li> </ul>
Exporters, Processors and Importers	<ul style="list-style-type: none"> <li>▪ Maintaining a due diligence system to ensure that all the wood/ wood products they are receiving have come from legal sources.</li> <li>▪ Applying to MPI (exporter) for an export assurance document.</li> <li>▪ Maintaining records for 5 years.</li> </ul>
Customs	<ul style="list-style-type: none"> <li>▪ Collecting importer information and supplying these details to the regulator.</li> <li>▪ Collection of levies or fees on behalf of the regulator.</li> </ul>
System Regulator (MPI)	<ul style="list-style-type: none"> <li>▪ The costs associated with developing and introducing the regulatory framework for wood legality.</li> <li>▪ On-going monitoring and auditing of organisations to ensure compliance.</li> <li>▪ Issuing of export assurance documentation.</li> </ul>

**What are the likely risks and unintended impacts? How significant are they and how will they be minimised or mitigated?**

There are a number of potential risks associated with the introduction of mandatory wood legality requirements:

- Creating a system that is proportionate to the risk involved was a message that was reiterated though industry engagement. New Zealand’s forest industry is effectively comprised entirely of forests that have been planted with the intention of harvesting. New Zealand also has a robust legislative framework and scores exceptionally well in international indicators of corruption and governance. In developing this proposal, MPI has sought to leverage off the current systems where possible and avoid creating new systems that would provide little to no added value with additional costs.

- s 9(2)(g)(i)



he system developed by MPI will provide for the recognition of certification by FSC and PEFC.

- That the approach must be market driven, and the system must be acknowledged and accepted by our international trading partners as meeting their import requirements. The interim export documents provide less detail and have less

verification than what MPI is proposing under the new system. Trading partners are increasingly looking for government certification as part of their import requirement. It is up to the government of the exporting country to decide what is considered as legal wood harvest, rather than a market partner determining the intricacies of this.

- 9 (2)(h)



MPI will continue to monitor the implementation risks as part of its auditing function and regulatory role. There will also be a necessary 'soft start' period to test the system and allow for the industry to familiarise themselves with the new requirements.

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## Section C: Evidence certainty and quality assurance

### Agency rating of evidence certainty

MPI considers there is an adequate evidence base for the proposed establishment of a national system for the legal harvest of wood products. MPI has been researching the barriers to meeting overseas demands for assurances on the legal harvest of forest products over the past two years.

MPI has drawn on key industry representatives to provide advice, examined good practice internationally, and undertaken regional workshops with sector representatives.

#### **Wood Legality:**

MPI has been working on wood legality for the past two decades, and last took proactive measures in 2008. Environmental NGOs and importers have been seeking mandatory requirements to ensure wood products coming into New Zealand come from legal sources. While MPI has no recent quantitative evidence to suggest that illegal wood is being imported into New Zealand, there is anecdotal advice that some imported wood has been illegally harvested. The risk of illegally harvested imports increases as wood import volumes continue to rise.

There is also no evidence that New Zealand is producing illegally harvested wood. However, New Zealand needs to meet the import requirements of our trading partners as they establish legislation to ensure they are not acting as a conduit for illegally harvested wood.

MPI has been working with industry representatives since October 2017 on the business case for a wood legality framework that would meet the regulatory requirements of key importing countries. This has included a working group made up of processors, forest managers, auditors, and industry organisations (ASureQuality, NZTIF, NZFFA, NZFOA, NZIF, and the WPMA). The group assisted in identifying and assessing the issues and scoping and designing options for a national wood legality system.

In developing options for a wood legality system for New Zealand, MPI has considered the approaches adopted by a number of our trading partners (including the United States, Australia, European Union, Republic of Korea, Japan, Indonesia, Malaysia, Korea, and Vietnam).

Officials have tested our problem definition, options and the evidence with industry through a series of regional workshops, a national workshop and other targeted industry engagement. There was generally strong support for a legislated wood legality system that could underpin New Zealand's trade in wood products. It was agreed the current voluntary measures would not provide the necessary level of enforcement and assurance sought by New Zealand's trading partners, nor would they give MPI (as the regulator) enough oversight to confidently provide export assurance documentation.

MPI has not been able to fully undertake a full formal public consultation process on a range of regulatory and non-regulatory options, which places some limitations on our understanding of the full implications of our proposed approach. There will be an opportunity for wider public engagement during the Select Committee process and MPI's development of the regulations. Officials have also provided for the release of an exposure draft of the Bill in early 2021 to inform the forestry and wood processing sector and New

Zealand's trading partners as the Bill is introduced to Parliament. Moreover, our assessment and development of the preferred approach has benefited from strong engagement with the industry.

To be completed by quality assurers:

**Quality Assurance Reviewing Agency:**

Ministry for Primary Industries

**Quality Assurance Assessment:**

The MPI Regulatory Impact Analysis Panel has reviewed the Regulatory Impact Assessment '*Strengthening the integrity of the forestry supply chain: wood legality*' produced by the MPI and dated February 2020. The review team considers that it **partially meets** the Quality Assurance criteria.

Overall, the Panel is convinced that the problem should be addressed by the preferred option. The analysis is clear and concise, despite the limitations in a number of key areas.

The RIA notes that consultation was constrained by the timeframe for MPI to report back and the impacts on key groups affected, such as importers, are not fully known. Nor have the impacts on sectors beyond the forestry system been identified. These gaps will be addressed during the Select Committee process.

The RIA provides an honest assessment of the evidence base relating to the scale and magnitude of the problem. For example, the RIA acknowledges that there is no quantitative evidence of illegal wood imports, or that New Zealand is producing any illegal wood.

**Reviewer Comments and Recommendations:**



# Impact Statement: Strengthening the Integrity of the Forestry Supply Chain: Wood Legality

## Section 1: General information

### 1.1 Purpose

The Ministry for Primary Industries is solely responsible for the analysis and advice set out in this Regulatory Impact Assessment (RIA), except as otherwise explicitly indicated.

This analysis and advice has been produced for the purpose of informing key policy decisions to be taken to Cabinet.

This RIA provides an analysis of options to strengthen the integrity of the forestry supply chain by introducing a wood legality definition for New Zealand, and a supporting regulatory framework.

Key stakeholders who were involved in targeted stakeholder discussions and provided input included the Forest Industry Contractors Association, New Zealand Farm Forestry Association, New Zealand Forest Owners' Association, New Zealand Imported Tropical Timber Group, New Zealand Institute of Forestry, New Zealand Timber Industry Federation and the Wood Processors & Manufacturers Association of New Zealand.

### 1.2 Key Limitations or Constraints on Analysis

#### **Overview:**

MPI undertook targeted engagement on options for addressing wood legality between November 2019 and January 2020. To support the engagement process, MPI prepared an Information Paper and held two further workshops on 16 and 23 January to discuss the preferred options. Time constraints precluded a full public consultation process at this stage of the policy development process.

#### **Wood Legality:**

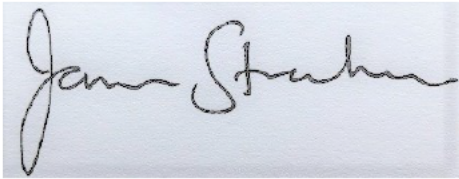
The proposed definition for wood legality will refer to 'illegal harvesting of wood', taking into consideration the approaches adopted in the illegal logging laws of New Zealand's trading partners. It will apply at the point of harvest and refer to timber harvested, transported, bought or sold in violation of national laws. Any forest operations that are undertaken prior or post-harvesting (i.e. forest establishment, silviculture, spraying etc.) are out of scope. 'Legal harvesting' for the purposes of this work does not mean that it has necessarily been harvested in a manner which is sustainable (i.e. the trees will not necessarily be replaced).

As a starting point, officials are also proposing to utilise Australia's approach for wood imports as a basis for New Zealand's system. MPI officials will work with Australian



colleagues to incorporate any learnings they have received from their stakeholders since the system was implemented over 5 years ago.

### 1.3 Responsible Manager (signature and date):

A photograph of a handwritten signature in black ink on a light-colored surface. The signature is written in a cursive style and reads "James Strachan".

James Strachan  
Acting Director, Data Insights & Forestry Policy  
Policy & Trade Branch  
Ministry for Primary Industries

10 July 2020

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## Section 2: Problem definition and objectives

### 2.1 What is the context within which action is proposed?

#### **Policy Decisions to Date**

In September 2019 the Cabinet Environment Committee directed MPI to progress the following measures to strengthen the forestry supply chain:

- Support grower and processor decision making by:
  - a. publishing a harvest and sales information series for small forest owners;
  - b. exploring the establishment of a public database; and
  - c. updating the National Exotic Forest Description and wood availability forecasts;
- Confirm the case and requirements for introducing compulsory professional registration for log buyers (and options to consider wider forestry advisers); and
- Develop a national definition for wood legality and test it with affected parties.

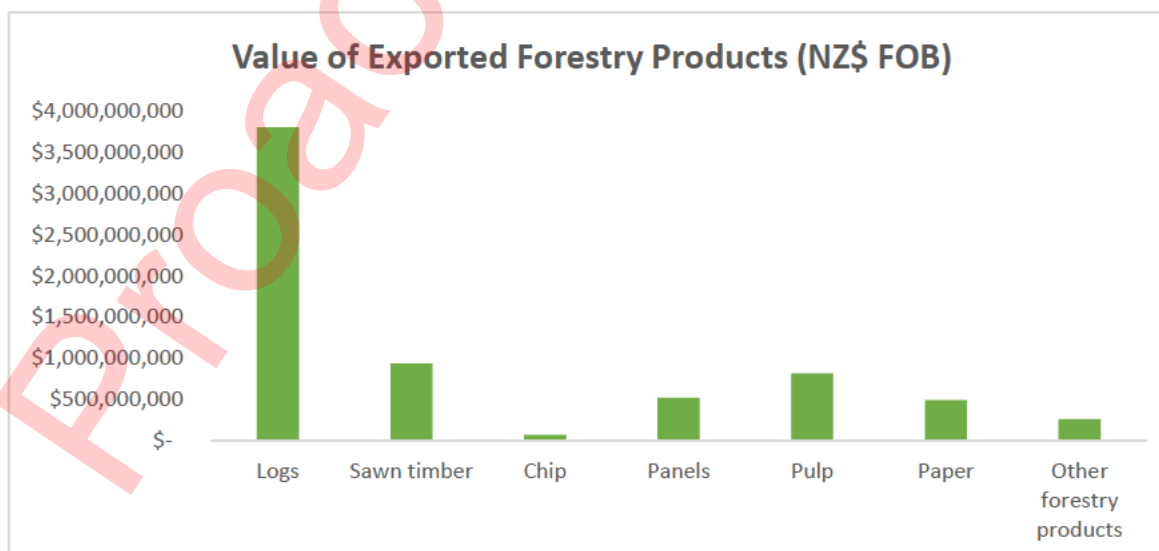
The detailed design of the wood legality framework will be brought back to Cabinet in 2020. The Minister of Forestry will seek approval to proceed with the recommended options and to commence the drafting of an enabling Bill.

#### **Wood Legality**

In 2018, 35.4 million cubic metres of wood was harvested in New Zealand, an increase of 10 percent from the previous year. The forestry and wood processing sector contributed \$3.55 billion to New Zealand's Gross Domestic Product; \$1.39 billion from forestry and logging, and \$2.16 billion from downstream activity.

The forestry and wood processing sector is New Zealand's third largest exporter, and in the year ended June 30 2019, wood products were exported to 133 countries worldwide, totalling approximately \$6.9 billion. Of that total, 32 percent is going to countries with current or imminent legality regulations.

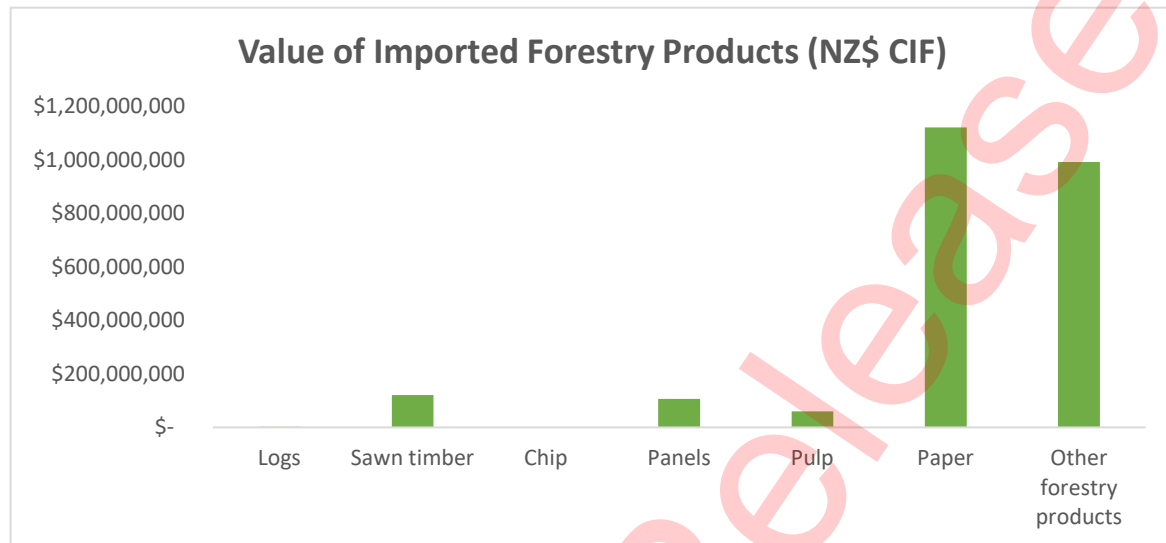
*Table One: Forestry products exported in the year ended 30 June 2019 (Free on Board – cost of delivering to the port is covered by the exporter).*



Over the same time, New Zealand also imported wood products from 141 countries, totalling approximately \$2.4 billion. Imports from China and Australia made up half of all

the imported wood products, which largely consisted of paper and other forestry products<sup>2</sup>.

*Table Two: Forestry products imported in the year ended 30 June 2019 (Cost, Insurance and Freight – cost of delivering to the port is covered by the exporter).*



The industry is based around sustainably managed exotic plantation forests, covering 1.751 million hectares – about 7 percent of New Zealand's land area. Radiata pine (*Pinus radiata*) makes up 90 percent of the exotic plantation area, with Douglas-fir (*Pseudotsuga menziesii*) accounting for 6 percent, and the rest made up of eucalypts and other species.

Approximately two-thirds of New Zealand's exotic plantation forests (1.2 million hectares) are environmentally/ sustainably certified through the Forest Stewardship Council (FSC) and Programme for the Endorsement of Forest Certification (PEFC). This is largely attributed to large-scale growers of at least 10,000 hectares and is typically managed for non-declining yield (i.e. annual harvest volumes remain consistent, and all harvested areas are subsequently re-planted).

New Zealand also operates an indigenous (native) commercial forestry sector, although this accounts for only 0.1 percent of total annual harvesting. The harvesting, milling and exporting of indigenous timber is managed under the Forests Act 1949. Under the Act, native timber can only be taken from forests in a way that maintains forest cover and ecological balance. MPI sets harvest levels and monitors and audits harvesting activity in indigenous forests under sustainable management guidelines:

- management systems must ensure forests can continue to provide a full range of products and amenities while retaining their natural values;
- harvest rates must be set at sustainable levels; and
- forests' unique plant and animal life, and their ability to replenish through natural means, must be protected through control of pests and weeds, protection of the soil and maintenance of water quality.

<sup>2</sup> Other forestry products includes: mouldings; wood furniture and furniture parts; waste paper; and prefabricated wooden buildings.

Planted indigenous forests are exempt from these requirements, but must obtain a Planted Indigenous Forest Certificate to ensure that it has not been taken from a natural indigenous forest.

## 2.2 What regulatory system(s) are already in place?

In December 2009, Cabinet adopted the '*New Zealand Policy to Address Illegal Logging and Associated Trade*'. This policy lists a number of multilateral, domestic, and bilateral measures, which include:

- encouraging voluntary industry initiatives;
- international engagement and co-operation;
- advice on consumer purchasing guidelines; and
- a government procurement policy for wood products that aims to ensure that it is buying only legally sourced timber and timber products. It also strongly encourages Government use of sustainably produced timber.

Voluntary groups such as the New Zealand Imported Tropical Timber Group (NZITTG) have been taking action to limit illegal wood entering New Zealand, most notably by ensuring that over 90 percent of kwila imports come from only certified or recognised legally certified sources. This voluntary approach means compliance is not universal and does not include all imported wood products.

New Zealand relies on the uptake of FSC and/ or PEFC by the commercial forestry sector for market access. While a number of New Zealand's trading partners have implemented their own national illegal logging laws (or licensing systems recognised by the European Union), FSC and PEFC are still currently accepted as evidence of legality in all regulated markets globally.

Rule 67 of the Government Procurement Policy, issues by MPI, also ensures that government buys only legally sourced wood and wood products while also encouraging agencies to use those that have been sustainably produced. This is mandatory for government departments, NZ Police, NZ Defence Force, and most Crown entities.

In New Zealand, small forest growers do not have the economies of scale to afford the annual fees of achieving and maintaining certification under these international third-party schemes. As a result of this, the New Zealand Government has negotiated two country-specific export statements to meet the legality verification requirements of Indonesia and Republic of Korea. These are:

- *Exporter Information Statement (Indonesia)*: These are issued by MPI and signed by the Director-General. These state that the organisation must comply with the Resource Management Act 1991, and demonstration of legality of harvesting from planted forests in New Zealand is achieved through compliance with this Act; and
- *Commodity Levy Letter (Republic of Korea)*: These are issued by MPI, but are applied for and generated by Levy Systems Limited, the organisation contracted by the Forest Growers Levy Trust to collect the mandatory harvested wood material levy on their behalf. The Letter confirms that a levy is imposed on all harvested wood material from New Zealand plantation forests, and that the timber being provided is subject to that levy (and that it has been paid).



### 2.3 What is the policy problem or opportunity?

While New Zealand is recognised as a low risk source of illegally harvested wood, our exporters need to demonstrate wood legality in a growing number of markets. It is important that New Zealand shows leadership to address illegal logging, for our wood exports, and imports of wood into New Zealand.

Illegally harvested wood is a significant problem in some countries and has had wide-reaching environmental, economic and social impacts. Illegally harvested wood degrades forest environments, reduces biodiversity and undermines government regimes and revenues generated from legal commercial operations. It also contributes to greenhouse gas emissions from associated clearing and burning activities, and deprives communities of opportunities to improve their quality of life.

In 2012, Interpol and the United Nations Environment Programme estimated the economic value of global illegally harvested wood including processing, to be between USD30-100 billion, or 10-30 percent of the global wood trade.

A number of our trading partners have implemented their own illegal harvesting laws. Research has shown that while measures to eliminate the importation of illegal timber into consumer countries has had a positive impact<sup>3</sup>, the illegal trade has flowed through to other countries with a lack of effective legislation.

Over the past decade New Zealand imports of wood products have increased by approximately 70 percent, totalling close to NZ\$2.4 billion for the year ended June 2019. This significant year-on-year increase in wood product imports means that New Zealand is at higher risk of becoming a conduit for illegal wood due to a lack of legislative enforcement. This demand by importers has been driven by a number of factors, including:

- An increase in construction to meet demand;
- Demand for products that are not produced in New Zealand (i.e. furniture); and
- Demand for timber properties that New Zealand does not have in required quantities (i.e. hardwoods for decking, flooring and hardwood fibres for pulp and paper products).

Illegal wood trading also presents a secondary risk of driving down the value for legally harvested wood both domestically and in international markets. This is a result of illegal timber being produced more cheaply than legal timber as it is not subject to the same taxes and duties. Previous work has estimated that illegal trade reduces the returns for New Zealand forestry products by 10 percent (SCION, 2007)<sup>4</sup>, and that the New Zealand forestry industry as a whole could gain an annual equivalent revenue of NZ \$264 million per year were global illegal harvesting eliminated (Turner et al, 2008)<sup>5</sup>.

While New Zealand has adopted the New Zealand Policy to Address Illegal Logging and Associated Trade that references a number of multilateral, domestic and bilateral actions

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<sup>3</sup> [https://indicators.chathamhouse.org/sites/files/reports/Tackling%20Illegal%20Logging%20and%20Related%20Trade\\_0.pdf](https://indicators.chathamhouse.org/sites/files/reports/Tackling%20Illegal%20Logging%20and%20Related%20Trade_0.pdf)

<sup>4</sup> SCION (2007) for MAF: Implications for the New Zealand Wood Products Sector of Trade Distortions Due to Illegal Logging.

<sup>5</sup> Turner et al (2008) Conference Article: The economic implication of illegal logging for the New Zealand forest sector.

to address illegally harvested wood imports, New Zealand has no mandatory legal requirement to implement this policy.

New Zealand exporters are increasingly needing to demonstrate wood legality in a growing number of markets. New Zealand's total exports of forestry and wood products for the year to June 2019 was \$6.9 billion, with 32 percent going to countries with current or imminent harvested wood legality regulations.

As noted earlier, MPI does not regulate the export of wood products from exotic or indigenous plantation forests, instead relying on third party certification schemes provided by the Forest Stewardship Council (FSC) and the Programme for the Endorsement of Forest Certification (PEFC). They are currently an accepted form of evidence for legal wood harvest in all regulated markets.

Historically, New Zealand's small forest owners have not become certified due to the associated costs and belief that forest management certification is not well suited for smaller wood lots. Meeting the requirements of forest certification is complex to set up and can cost upwards of \$20,000 per annum to maintain. Auditors take into consideration a range of factors over the entire forest management cycle which small owners have difficulty providing evidence of, such as:

- assessing land preparation and forest establishment;
- silvicultural activities;
- chemical applications; and
- interviewing contractors.

The Exporter Information Statements and Commodity Levy Statements provided by MPI to exporters to ensure market access to Indonesia and Republic of Korea are intended to be an interim arrangement. A long term and consistent solution is required that can meet the requirements of an increasing number of trading partners for a robust wood harvest legality assurance system.

New Zealand has the opportunity, therefore, to step up its contribution to preventing the global trade in illegally harvested wood by reducing the risk of illegal wood imports while also ensuring New Zealand's own wood products meet appropriate standards. The establishment of a regulatory system in New Zealand will help reduce the adverse global impact of the trade in illegally harvested wood, provide a level playing field in New Zealand's domestic market, and also provide greater confidence that our wood products will be accepted by export markets.

## 2.4 What do stakeholders think about the problem?

### *Stakeholder Engagement to Date*

MPI has been working with industry representatives since October 2017 on the structure of a timber legality framework to meet the regulatory requirements of key importing countries. Representatives from major exporters and industry groups have been involved in the deliberations, and in supporting MPI with hosting representatives from importing countries.

Following Cabinet agreement in September 2019 to develop a national definition of wood legality, MPI undertook targeted engagement on the proposal (between November 2019 and January 2020) at regional workshops. To support the engagement process, MPI prepared a comprehensive Information Paper which set out the problem, and proposed a range of regulatory and non-regulatory options, identified the costs/ risks and

benefits of these options, and the approach to cost recovery as a basis for discussions and subsequent written submissions. MPI held two workshops at the end of the engagement period to discuss the preferred options. Time constraints precluded a full consultation and submission process.

The four regional workshops attracted more than seventy stakeholder representatives, from small owners through to large corporate entities, forest management companies and log traders. The industry associations involved in the regional workshops and in subsequent meetings included:

- The Forest Industry Contractors Association (representing the majority of harvest contracting crews);
- New Zealand Farm Forestry Association (representing a membership of almost 2,000 small forest owners);
- New Zealand Forest Owners' Association (representing New Zealand's major forest owners);
- New Zealand Imported Tropical Timber Group (representing key timber importers);
- New Zealand Institute of Forestry (representing the professional forestry workforce);
- New Zealand Timber Industry Federation (representing timber processors); and
- The Wood Processors & Manufacturers Association of New Zealand (representing timber processors and manufacturers).

### ***Industry Feedback on Legality***

Industry stakeholders expressed a range of opinions on a wood legality definition and associated regulations, however, they were generally supportive of a national system.

#### *Nature of the Problem*

- The majority of attendees at the regional workshops had little understanding of the increasing import requirements by trading partners, and the work that MPI undertakes behind the scenes to ensure that trade continues to flow freely.
- The industry has been relatively free from government oversight to date, and has largely operated independently, without government intervention.
- MPI does not cost-recover for the administration work under the current system that provides the export documentation, and these are straight forward to obtain. This has given the industry a 'false sense' of how a national system should operate, and a strong will to retain the current system.
- Attendees generally thought New Zealand's current legislative system already ensures the wood harvested here is done so in a legal manner, and a national system would add unnecessary duplication with additional costs.
- Some stakeholders also held the view that the global demand for wood is generally strong, and as such there will always be a market for the products they are producing.
- Wood importers advised that confirming the legal harvest for imported wood has additional complexities due to the less visible supply chains in the country of origin.
- Some stakeholders believe that New Zealand is falling behind in this space and were concerned by what they saw as a lack of action by Government to date.



### *Preferred Response to the Problem*

- The preference of stakeholders was towards a mandatory wood legality system which MPI would regulate and provide services under. This applied to both the export/ domestic and import options discussed.
- Any additional measures implemented by the legislation must be proportionate to the low-level of risk in the domestic industry. It should also leverage off the current documentation that is available in the system that can be readily verified.
- There is a need to guard against the risk of a new system providing no added value, but adding extra regulatory costs.
- Acknowledgement that a voluntary approach is unlikely to result in any significant change, so legislation is required.
- Additional costs in the system must be kept as low as possible, as these will be passed down the supply chain and will ultimately result in the forest grower receiving less money for their wood.
- The system should not try to pre-empt all potential market needs, but instead retain flexibility so that it can respond to market demands as required.

## **2.5 What are the objectives sought in relation to the identified problem?**

### **Overall Outcome(s):**

A national definition of wood legality is part of a broader suite of initiatives designed to strengthen the integrity of the forestry supply chain to support a more transparent market for log trading; ensure smaller growers have access to current market information; and that all intermediaries in the sales process are meeting industry best standards.

### **Wood Legality Objectives:**

New Zealand's wood legality system will enable cost effective certification that applies to exported, domestic and imported wood products in a manner that:

- Strengthens market access certainty for New Zealand forestry exports to jurisdictions with harvested wood legality requirements; and
- Demonstrates New Zealand's commitment to reducing international trade in illegally harvested wood.

There was also recognition that a robust harvested wood legality system could lead to improving investor confidence in forestry, which would also support the Government's long term objectives for improved environmental outcomes in land and water management, and in meeting New Zealand's climate change objectives.

## **Section 3: Option identification**

### **3.1 What options are available to address the problem?**

MPI has developed and tested a range of regulatory and non-regulatory options. In doing so we have taken account of similar pieces of legislation from our trading partners. In particular, we have leveraged off the Australian model. Australia's legislation has been implemented for over five years and was recently subject to a review which made a number of recommendations for improvements. MPI has also utilised previously commissioned work on improving the legality of timber products in New Zealand which is



also being utilised. The regional workshops helped to sharpen the design of options and determine the preferred approach.

### Domestic and Export Options

#### *Option One: Status Quo*

- Government supports the industry with voluntary measures and Government procurement rules for sourcing legal timber products.
- Government will continue to negotiate the use of 'Exporter Statements', such as those previously identified, to markets which require added assurances.
- Government continues to support industry uptake of private certification.
- MPI will continue to uphold the 'New Zealand policy to address illegal logging and associated trade', through targeting international, bilateral and domestic actions.

#### *Option Two: Regulation with third-party certification*

- Government would introduce a legislated definition of 'wood legality' for the industry, relevant to exotic plantation forests.
- Guidance on how to achieve compliance would be provided.
- Government would recognise auditors, as being competent to provide certification that an organisation (harvester and/ or buyer) has the appropriate systems in place to ensure they are handling 'legal' wood under the guidelines of wood legality. MPI would provide periodic monitoring of these certifying organisations.
- Wood harvested from FSC and/ or PEFC certified forests would be recognised as meeting the criteria for wood legality, as these systems are expected to accommodate and go beyond the intended wood legality requirements.

#### *Option Three: Regulation with full Government oversight*

- Government would introduce a legislated definition of 'wood legality' for the industry, relevant to exotic plantation forests.
- Guidance on how to achieve compliance will be provided.
- Government would act as the regulator, providing all regulatory, auditing and assurance services.
- Wood harvested from FSC and/ or PEFC certified forests would be recognised as meeting the criteria for wood legality, as these systems are expected to accommodate and go beyond the intended wood legality requirements.

Consultation has helped identify how options two and three might better work through the ability of third-party organisations to also undertake verification work. While industry stakeholders were inclined to maintain the status quo where possible, industry understood the issues and risks and determined it was not a viable option for the future.

### Import Options<sup>6</sup>

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<sup>6</sup> Note these options are not intended to 'stand-alone' – which would likely be inconsistent with New Zealand's international trade obligations. Rather they are intended to be linked with the related domestic/export options.

#### *Option One: Status Quo*

- Government will continue to support voluntary efforts to reduce the trade and import of illegally harvested wood, including:
  - encouraging more organisations to join the New Zealand Imported Tropical Timber Group, who are committed to importing tropical timber that comes from 100 percent verified legal sources, and 80 percent of that made-up from certified product (i.e. FSC and/ or PEFC);
  - continuing to support the All of Government Timber and Wood Products Procurement Policy, and reviewing its effectiveness; and
  - international engagement in forestry forum that work to address illegal logging and trade.

#### *Option Two: Regulation for targeted species*

- Government would introduce regulation for imported wood products, which specifically applies to species considered to be 'high-risk'.
- This would allow for the Minister of Forestry or Director-General of MPI to add or remove species from the regulated list, based on recommendations by officials.
- This would likely apply to species of wood and on consignments over a designated volume or value.

#### *Option Three: Regulation for all imported wood products*

- Government would introduce regulation for all imported wood products entering New Zealand.
- This would apply to all consignments over a designated volume and/ or value.
- Certain product types may be excluded based on a risk assessment process.

Consultation reinforced the view that voluntary measures around imported wood products will always have gaps where a few will undermine the efforts of the many.

Option Three is similar to the current Australian system, and would be tailored to New Zealand circumstances. There was general acceptance that the Australian system was a feasible starting point, although there were mixed views around the threshold value that should trigger mandatory due diligence and what HS codes New Zealand should regulate. These issues would be addressed during the development of the regulations.

### **3.2 What criteria, in addition to monetary costs and benefits have been used to assess the likely impacts of the options under consideration?**

MPI's assessment of the options for addressing wood legality has used the following criteria:

#### *Effectiveness:*

Meets the intended policy outcomes and objectives, including:

- a. Meeting market access requirements of New Zealand's international trading partners;
- b. Enhancing New Zealand's reputation of trading in wood products which come from legal and sustainable sources; and
- c. Upholding international obligations to prevent the trade of illegally harvested wood products.

#### *Proportionality:*

- a. The regulatory burden (cost) is proportional to the benefits that the proposed change is expected to deliver.

*Certainty (including accountability):*

- a. Regulated parties have certainty about their legal obligations and the regulatory system provides predictability over time;
- b. Legislative requirements are sufficiently clear and able to be applied consistently and fairly;
- c. Regulators can justify their decisions and are subject to public scrutiny; and
- d. All participants in the regulatory system understand their roles, responsibilities and legal obligations.

*Durability:*

- a. The regulatory system can evolve in response to changing circumstances or new information on system performance;
- b. The regulator is able to adapt its approach to the attitudes and needs of different regulated parties; and
- c. Regulated parties have scope to adopt cost-effective and innovative approaches to meeting their legal obligations.

*Practicality/ Risk:*

- a. Meeting legislative requirements is feasible;
- b. The implementation risks are low or within acceptable parameters;
- c. Implementation can be achieved within reasonable timeframes; and
- d. The risk of perverse incentives and unintended consequences is low.

### **3.3 What other options have been ruled out of scope, or not considered, and why?**

MPI initially considered other options as part of the policy analysis, however these were removed during internal discussions prior to the industry engagement.

*Domestic/ Export*

An extra option which considered a much more scaled-back version of the status quo was discarded. This was removed as:

- It placed too much reliance on international third-party organisations for market access;
- Provided no market access pathway for small growers, with the potential to cause disruption for processors and/ or exporters who are unable to source enough certified timber to meet contractual obligations; and
- Undermines New Zealand's status and signature to a range of international groups working to eliminate global illegal logging and associated trade.

*Import*

MPI also considered compulsory labelling of wood products, which would act in a similar way to the Country of Origin Labelling for food items. However, it was determined that this would likely have little benefit compared to the cost of implementation. Country of origin in itself does not determine legality, and it could lead to unfair discrimination.

# Section 4: Impact Analysis

## 4.1 Wood Legality

**Marginal impact: How does each of the options identified in section 3.1 compare with taking no action under each of the criteria set out in section 3.2?**

The table below analyses policy options for both the domestic/ export and import market against the criteria listed in section 3.2. Option three in both instances scored the highest in the assessment.

On that basis, option three, for both domestic/ exports and imports, is being proposed as the preferred option. Moving to regulatory measures is the best way to provide the necessary levels of certainty that the sector is meeting its legal obligations. This will also protect the reputation of New Zealand as being a trusted source of legally harvested wood products, while providing the necessary reciprocity that our trading partners are looking for.

The lessons learned from a number of other jurisdictions implementing similar pieces of legislation, suggests a reasonable soft-start period (e.g. 12 – 24 months) would enable our domestic sector to meet the requirements, as well as for importers to ensure they are receiving the correct documentation.

Proactive Reviews



## Assessment of Domestic/ Export and Import Options for Wood Legality

		Assessment Criterion											
		Key: 0 – No change / Status Quo; + Moderate Improvement; ++ Significant Improvement; - Worse than the Status Quo											
		Criterion: Effectiveness	Criterion: Proportionality	Criterion: Certainty	Criterion: Durability	Criterion: Practicality / Risk	Overall Assessment						
	<b>Option One: Status Quo</b>	0	0	0	0	0	0						
<b>Domestic/ Export Options</b>	<b>Option Two: Regulation with third-party verification</b>	+	Implementation of law will provide trading partners with reciprocity. MPI may not have enough oversight to provide official Govt-to-Govt assurances.	+	Implementation costs should be low. There is some uncertainty in the costs through reliance on a third-party verifier, however these will still be largely outweighed by the benefits of the system.	+	Provides clarification for both domestic producers and international importers on the documentation expected from NZ. Less ambiguity with a whole-of-market export assurance document.	+	The legislation would be high-level, so the regulations and guidelines can respond to market needs. Less flexibility for organisations meeting legal obligations, however these will be kept minimal.	+	Some associated risks with using third-party verifier, mitigated by audit requirements. However, It should be straight forward to meet legislative requirements as guidelines will leverage off of current industry requirements.	+	This is a cost-effective approach that would provide sufficient reciprocity for trading partners. However, the risks associated with a scheme delivered by third parties make it less favourable than other options.
	<b>Option Three: Regulation with full Government oversight and administration</b>	++	Implementation of law and associated regulations provides sufficient reciprocity. Importing countries will be clear that New Zealand provides legal wood. It will provide assurance that wood imports meet legality assurance requirements.	++	Implementation costs should be low. MPI will look to recover the 'cost' rate, rather than cost plus profit. This will allow costs to remain as low as possible in relation to the significant market access benefits realised by this system.	++	Provides clarity around the legal obligations that the sector has, as well as the responsibilities of the entire supply chain and the regulator.	+	Regulations can be readily adapted to respond to market demands. A 'soft start' period will allow the regulator to make any necessary changes during implementation as well. Less flexibility for organisations meeting legal obligations, however these will be kept minimal.	++	Legislative obligations will leverage off of current industry requirements, making is straight forward to ensure compliance. Implementation risks are low as proposal has been worked through with industry.	++	A cost-effective option that will provide more certainty for market access going forward. While costs may increase over the status quo for some parties, it will be more enduring and provide greater certainty.
<b>Import Options</b>	<b>Option Two: Regulation for targeted species</b>	+	Will provide effective border control and enforcement for timber species at most risk of illegal logging. Potential to allow other illegally harvested species into New Zealand which are not captured.	++	Due diligence costs will be low, as a lot of the required documentation/ evidence should be readily available. Targeting specific species also utilises resources more efficiently.	-	Regulated parties may lack certainty on their legal obligations due to the diverse nature of imported product. It may be difficult to determine the exact species in the products, or they may contain a mix of multiple timber species.	++	Looking at targeted species will allow flexibility in the system, as well as the ability to add or remove species based on the global environment. Regulated parties can create cost-effective approaches due to the nature of due diligence systems.	+	Practical guidelines will make it feasible for regulated parties to meet the requirements. Some risks associated with the exclusion or inclusion of particular species, and lack of information currently available.	+	Provides a cost-effective approach to tackling the trade of illegal wood products. Some risks in the inclusion/ exclusion of species. There is also limited information (what is available is unreliable) on the species coming into New Zealand in current import declarations.
	<b>Option Three: Regulation for all imported wood products</b>	++	Very effective means of addressing the risk of illegal timber imports.	+	Due diligence costs will be low, as a lot of the required documentation/ evidence should be readily available. Value threshold will ensure small importers do not incur regulatory costs.	+	Utilising 'prohibited' codes will ensure importers are aware of their due diligence requirements. Most import volume comes from a smaller number of importers who are highly experienced.	++	Regulated wood product codes will reflect the level of risk, and be subject to amendment. Regulated parties can create cost-effective approaches due to the nature of due diligence systems.	++	Guidelines will make it feasible for regulated parties to meet the requirements. The majority of import volume will come from recurring businesses aware of their obligations.	++	Provides a cost-effective solution, which would meet the expectations of international trading partners. It would allow sufficient flexibility to make changes, and a value threshold would avoid small, one-off importers.

## Section 5: Cost Recovery

### 5.1 What is the policy rationale for cost recovery?

#### Overview:

There are four key principles that are used to guide the application of cost-recovery and underpin MPI's approach. These are:

- **Equity:** Funding for a particular function, power, or service, or a particular class of functions, powers, or services, should generally, and to the extent practicable, be sourced from the users or beneficiaries of the relevant function, power, or service at a level commensurate with their use or benefit from the function, power, or service;
- **Efficiency:** Costs should generally be allocated and recovered in order to ensure that maximum benefits are delivered at minimum cost;
- **Justifiability:** Costs should be collected only to meet the reasonable costs (including indirect costs) for the provision or exercise of the relevant function, power, or service; and
- **Transparency:** Costs should be identified and allocated as closely as practicable in relation to tangible service provision for the recovery period in which the service is provided.

#### Wood Legality:

It is proposed that the on-going costs of maintaining, auditing and issuing assurances for wood legality will be managed on a cost-recovery basis. This is due to the benefits primarily being a private good. It is intended that domestic processors, exporters and importers would meet the compliance and auditing costs associated with the system.

The primary legislation would establish a principles-based framework that would enable cost-recovery, using a range of methods, including fees and levies. The details of cost-recovery would be set out in the secondary regulations that would be released subsequent to the enabling legislation, or in parallel. These regulations, as well as the ability to cost-recover set out in the primary legislation, would be subject to public consultation prior to being finalised and gazetted. MPI will examine the approaches undertaken by other countries, and in New Zealand in developing the design of the cost-recovery system.

#### Outline of services

Service	Recipient/ Beneficiary	Provider	Who should pay and why?	Cost-recovery structure and amount	Good Type
Registering an organisation's due diligence system as meeting legal requirements.	Processors and Exporters.	Regulator (MPI).	The recipient, as it ensures their system meets new legislative requirements, and is a pre-requisite to being able to operate in the market.	One-off fee of approx. \$550 (based on other system MPI administers).	Private

Periodic auditing of an organisation's due diligence system and cross-checking of information.	Processors and Exporters.	Regulator (MPI) or recognised organisation.	The recipient as it is a requirement to ensure that legislation obligations have been met. Allows organisation to continue operating.	Hourly rate of \$150 is charged for audits. The total cost for each audit would be subject to time involved.	Private
Random auditing of an organisation's due diligence system	Importers	Regulator (MPI) or recognised organisation	All importers will contribute to the auditing costs, as preventing the import of illegal timber will benefit everyone (regardless of who gets audited).	Ongoing levy as a percentage of the import consignment value (based on current assumptions, a consignment worth \$1 million would incur \$100 in auditing fees).	Club
Issuing of export assurance documents.	Exporters.	Regulator (MPI)	The recipient as this is an additional document that not all exporters need. This is likely to apply on an annual or biennial basis.	One-off fee of approx. \$300 (based on current assumptions). This fee may be repeated if an organisation has their document rescinded and has to re-apply.	Private
Recognition of an external organisation to undertake auditing services.	Auditing organisation	Regulator (MPI)	The recipient, as this will then allow them to charge regulated parties for these services.	Ongoing cost of approx. \$1,200. This will cover a full days' work, and will require renewal on an annual basis.	Private
Enforcement action in cases of non-compliance.	Processors, Exporters and Importers.	Regulator (MPI)	The recipient where it is found they are non-compliant. All organisations may be required to cover the costs of investigations which ultimately conclude that there has been no misconduct – as these are valuable to ensure the robustness of the system.	Ongoing cost at an hourly rate of \$150. The amount of time will differ depending on the amount of rework that is required.  A levy may be required to recover investigation costs.	Private & Club

### Assumptions

MPI has a standard hourly charge rate of approximately \$150 (GST inclusive) per hour. This would apply during periodic auditing of regulated domestic processors and exporters. It is anticipated that audits would initially be undertaken on a 2-yearly basis, however this period may increase or decrease depending on compliance by the regulated party. An hourly rate will be used as the amount of work undertaken by the auditor may differ significantly depending on the size of the company, or the number of issues identified in the due diligence system, therefore it would not be fair to charge this at a set rate.

For importing organisations, we anticipate a small clearance fee or levy which is directly proportionate to the value of the imported goods. As there are numerous importers over the wide range of proposed regulated product codes, it would not be feasible to audit all of them, especially as some may be a one-off importer with no subsequent imports in following years. The value of the possible import codes that could be regulated were \$1.75 billion in the year ended June 2019, so we can assume that any levy rate applied will be equitable and minimal to cover the associated auditing costs. For example (based on an assumption of 500 audits per year at 2 hours per audit), if MPI were to audit an import consignment worth \$1 million, then the cost-recovered charge for that would be \$100.

Proactive Review



## 5.2 High level cost recovery model

The principle elements of the harvested wood legality system that will require cost recovery are:

- Administrative support to oversee the 'MPI approved' organisation applications, and to provide feedback and support where these do not meet the legislative requirements;
- The costs involved in the periodic auditing services that the regulator provides, which will include the quality checking of due diligence systems, as well as cross-checking the information required against the information held by the relevant local authority; and
- The time involved in processing the applications and the issuing of export assurance documentation.

The cost structure that MPI currently delivers through its plant export services provides a good starting point for the proposal, as well as the hourly rate that has been provided. There may be some additional costs associated with disputes as a result of non-compliance, however this would likely be covered under the hourly rates that are charged for auditing services.

The associated cost recovery involved with this system will be to solely cover the cost of MPI staff that are involved in the work. A high-level indicative estimate for each service would be:

- \$550 as a one-off cost for exporters and processors to ensure that their due diligence systems align with their legislative requirements;
- \$150 - \$600 (1 - 4 hour's staff time) for the periodic audits conducted by the regulator. This will be directly proportional to the size of the organisation and may increase if issues are found which require some significant work;
- \$300 (2 hours work) as a one-off cost for each export assurance document; and
- An ongoing levy at a rate of approximately 0.0001 of the import product value, per import consignment. This assumes 500 audits at 2 hours (noting further work is needed to confirm this would be an appropriate working estimate).

## 5.3 Cost recovery consultation

### ***Consultation to date:***

Targeted stakeholder consultation commenced with a hui in Northland on 22 November 2019, where Minister Jones announced a suite of initiatives that Te Uru Rākau was undertaking, which included proposals on wood legality.

Officials undertook a series of regional workshops over December 2019, taking place in Kerikeri, Rotorua and Balclutha. Workshop participants received a comprehensive information pack which set out the problem, and proposed a range of regulatory and non-regulatory options, identified the costs/ risks and benefits of these options, and highlighted the approach to cost recovery as a basis for discussion and subsequent written submissions. The workshops were well attended, and provided feedback from a range of

key stakeholders. Over this time, discussions were also held with industry representatives, to gain their insights on key aspects of the proposals.

Over January 2020, officials sought to undertake further engagement with the forestry sector, which included:

- Talking with representatives from the Eastland Wood Council;
- Holding a workshop with industry technical experts to gain feedback on, and develop operating models; and
- Engagement with leaders from industry associations to test the emerging preferred approach based on stakeholder feedback to date.

During the first regional workshop held on 5 December 2019, and at all engagements since, officials have encouraged written feedback on the proposals. A dedicated email address was established for this purpose, and the cut-off date for submissions was 31 January 2020.

The industry have actively engaged on the policy proposals that officials have developed, and this was reflected in the conversations during the workshops. There was mixed support for some of the policy options, and officials have drawn on the discussions to develop the preferred approach. Key feedback included:

- Support for a national wood legality definition in legislation with supporting regulations; and
- A strong view that any new costs need to be well justified, and that these must be kept at a minimum as they will be passed down to the forest owner.

***Consultation – Next Steps:***

Officials will continue to work closely with the sector through their representative organisations in the drafting of the primary legislation and the associated regulations. There will be an opportunity for consultation on an exposure draft of the Bill, prior to the introduction of the Bill back to Cabinet. It will also be open for public submissions as part of the Select Committee process. In addition, the associated regulations will go through public consultation prior to being finalised and gazetted.

## Section 6: Conclusions

### 6.1 What option, or combination of options is likely to best address the problem, meet the policy objectives and deliver the highest net benefits?

#### *Domestic/ Export*

The preferred option for domestic/ exported wood is for the establishment of a legislated definition for wood legality and associated regulations, with MPI acting as the regulator and providing oversight of the system. This solution provides:

- A cost-effective approach that will keep additional costs at a minimum while also ensuring market access for domestic and export wood products;
- Sufficient reciprocity for our trading partners, who can be clear on the system that govern wood legality in New Zealand;
- Legal obligations are clear and concise, while also leveraging the current systems and paperwork that the sector utilises daily; and
- Sufficient flexibility to adapt the regulations to market shifts, as well as giving regulated parties enough time to update their systems.

While this approach will create some added costs, these are outweighed by the benefits.

#### *Import*

The preferred option for imported wood includes regulation for all imported wood products entering New Zealand, regardless of species or origin. MPI would act as the regulator and provide auditing services to ensure that organisations are meeting their legal obligations.

The benefits of this option include:

- Providing sufficient flexibility to adapt the regulated product codes for wood products and threshold value to respond to market needs;
- Adequately meets New Zealand's commitment to preventing the trade of illegally harvested wood products, and stands up to international scrutiny;
- Significant international benefits by decreasing the potential trade in illegally harvested wood products. This can assist in decreasing global carbon emissions and increasing biodiversity; and
- Providing flexibility for importers to meet their legal obligations.

This approach adds regulatory costs for importers and these would likely be passed on to consumers, however if the costs are kept relatively low compared to the overall value of the imported product, it is unlikely to have a significant impact. The voluntary nature of the status quo means they are not obliged to meet wood legality assurance requirements. However, a reliance on self-regulation by New Zealand is not sustainable in the long-term given the increased global focus of environmental issues, including the legality of harvested wood.

Officials are confident that the decisions on the preferred option has been made on the basis of a sound evidence. Wood legality is a global issue that is now well understood internationally, and discussions within New Zealand on the topic have spanned at least the past two decades. As New Zealand is not the first country to establish this type of legislation and system, there are a range of international examples and lessons that can be applied.



### Stakeholder Engagement & Feedback

Industry stakeholders have actively engaged on the policy proposals that officials have developed, and this was reflected in the conversations during the workshops. There was mixed support for some of the policy options, and officials have drawn on the discussions to develop the preferred approaches. Key feedback included:

- Support for a national wood legality definition in legislation with supporting regulations for New Zealand; and
- A strong view that any new costs need to be well justified, and that these must be kept at a minimum as they will inevitably be passed down to the forest owner.

The consultation process was constrained by the initial requirement to provide proposals for Cabinet approval in April 2020, which necessitated a more targeted approach to stakeholder engagement. Despite this constraint, MPI staff undertook a series of regional workshops (either directly or through video-conferencing), engaged with the major industry associations, consulted industry experts, and sought on-line feedback.

### 6.2.1 Wood Legality - Summary costs and benefits of the preferred approach

Affected parties (identify)	Comment: nature of cost or benefit (e.g., ongoing, one-off), evidence and assumption (e.g., compliance rates), risks	Impact \$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts	Evidence certainty (High, medium or low)
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#### Additional costs of proposed approach compared to taking no action

Domestic processors and exporters	Regulated parties will be required to develop and maintain due diligence systems, and retain records for 5 years which are subject to auditing. These will be periodic costs to ensure compliance, however parties may be subject to more regular checks in cases of non-compliance.	\$400 - \$500 per annum (assume ~1000 total regulated parties)	Medium
Importers	Regulated parties will be required to develop and maintain due diligence systems, and retain records for 5 years which are subject to auditing. They will be subject to random auditing costs to ensure compliance.	\$0.0001 on every dollar of regulated import product value (assuming 500 audits, and 2 hours per audit – total of \$150,000)	Low
Regulators	Initial one-off cost during the implementation of the legislation and providing necessary marketing (cost over 2 years).	\$1.5 million (staff and operational)	Low



	<p>This will also include developing resources and building internal systems to manage this new workload.</p> <p>The regulator must also carry out periodic audits of regulated parties, and provide export assurance documentation where required (these costs will be met through cost-recovery from charges paid by regulated parties).</p>	\$3 - \$6 million (database design and build)	
Wider government	It is intended that NZ Customs will be required to pass on importer information and to collect a fee on the regulator's behalf.	\$5,000 per annum	Low
Other parties	<p>Forest owners, forest managers and others in the forestry supply chain (prior to the regulated party) will have obligations to add extra information over the status quo, and to ensure this is passed along to the regulated party.</p> <p>There is also the possibility that the associated costs of the proposed system could be passed down to the consumer.</p>	\$150 per harvest site (assuming ~1000 harvest sites per year)	Medium
<b>Total Monetised Cost</b>	<p><i>\$1.5 million over two years for staff and operational costs</i></p> <p><i>\$3 – \$6 million to design and build the required database</i></p> <p><i>\$805,000 on-going yearly costs among all parties involved.</i></p>	Low	
<b>Non-monetised costs</b>	<i>Not Applicable</i>		

#### Expected benefits of proposed approach compared to taking no action

Regulated parties (Domestic processors, exporter and importers)	Provides a cost-effective approach that will keep additional costs at a minimum while also ensuring ongoing market access for exported forest products. Their legal obligations are clear and concise, while leveraging the current systems and paperwork that are currently utilised.	\$50 million per annum	Medium
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Regulators	<p>The regulator will have well defined legislative accountabilities.</p> <p>The legislation will provide sufficient flexibility for the regulator to adapt its regulatory approach in response to market developments, when required.</p>	\$50,000 per annum	Low
Wider government	The system will have reputational benefits for New Zealand internationally.	Medium	Medium
Other parties	<p>Forest growers would have assurance of market access, diversifying the risk for growing trees. This should also assist with investor confidence, subsequently helping to raise the value of their land.</p> <p>The legislation will also provide sufficient reciprocity for trading partners, who can be clear on the systems that govern wood legality in New Zealand.</p>	\$75 million per annum	Medium
<b>Total Monetised Benefit</b>	<i>\$125,000,050 per annum</i>	<i>Medium</i>	Medium
<b>Non-monetised benefits</b>	<p><i>Reducing the demand for illegal and unsustainable harvesting of global wood products will assist in reducing carbon emissions and benefiting criminal groups. This will also place New Zealand in a better position to lobby other governments to follow suit and strengthen New Zealand's reputation for addressing illegal harvesting and the associated environmental and economic impacts.</i></p> <p><i>Ensuring New Zealand operators meet minimum standards will protect the reputation of the industry, as well as worker safety through greater emphasis on meeting health and safety requirements.</i></p>	<i>Medium</i>	Medium

### 6.3 What other impacts is this approach likely to have?

s 9(2)(g)(i)

## Section 7: Implementation and operation

### 7.1 How will the new arrangements work in practice?

#### Overview

New primary legislation will be required to enable the establishment of a national wood legality framework. The legislation could be incorporated by amendment to the Forests Act 1949 or through a new Act to establish a flexible, durable regulatory regimes that will achieve the policy objectives. We anticipate PCO will advise on the preferred option and for this to be incorporated into final drafting instructions.

The Act will establish the regulatory framework for harvested wood legality and provide for the creation of wood legality standards through regulations.

The Minister of Forestry proposes legislation covering harvested wood legality would be introduced to the House in mid-2021.

#### Implementation Timeframes

The high-level timeframe for the Bill and associated regulations is outlined in the following table:

<b>Milestone</b>	<b>Proposed Date</b>
Final policy approvals to draft legislation obtained from Cabinet.	July 2020
Drafting instructions sent to the Parliamentary Counsel Office.	Early September 2020
Release of an exposure draft of the Bill (if planned).	December 2020
Bill provided to the Ministry of Justice for an assessment of consistency with the New Zealand Bill of Rights Act 1990.	March 2021
Cabinet approves introduction of the Bill.	May 2021
Cabinet agrees policy decisions for associated regulations	May 2021
Introduction of the Bill.	May 2021

Report back from select committee.	November 2021
Date by which final drafting instructions for any associated regulations will be sent to the Parliamentary Counsel Office.	December 2021
Date of enactment.	April 2022
WTO consultation on regulations completed (minimum 60 days)	March 2022
Regulations Gazetted	July 2022
Date of commencement <sup>7</sup> .	February 2023

### **Key Agencies' Roles & Responsibilities**

MPI, as the regulating agency, will lead the development of the Bill and associated regulations. Agencies with a substantive interest will be invited to provide comments on the Cabinet paper. MPI will also consult with external agencies, NZ Customs who has a role to play, in the development of the regulations.

## **7.2 What are the implementation risks?**

<b>Risks</b>	<b>Mitigation</b>
9 (2)(h)	9 (2)(h)
s 9(2)(g)(i)	s 9(2)(g)(i)
Implementation requirements are not feasible and able to be met by the regulated parties.	Officials have been working closely with key industry stakeholders to design a workable system, and will continue to work with them as well as wider government in the development of the regulations. Officials have sought to leverage the current systems that are already available in the sector and to adapt learnings from international experience where applicable.

<sup>7</sup> Subject to transitional arrangements, and provision of the 6 month period required to meet CPTPP transparency requirements and address any bilateral issues with trading partners.



<p>s 9(2)(g)(i)</p>	<p>s 9(2)(g)(i)</p>
<p>Regulated parties will be unaware of their legal obligations under the new law, resulting in non-compliance.</p>	<p>The intention will be to establish a 'soft-start' period subsequent to the law coming into effect, which will allow for organisations to adapt their systems and ensure ongoing compliance with new legal obligations. A reasonable marketing and promotional campaign will also be required to ensure sufficient publicity.</p> <p>As learnt from other countries developing import requirements, a lot of importers are not aware of new obligations as they come from a diverse background and may be a one-off importer who may not view their imported good as being a 'wood product'. Officials intend to work with customs to develop 'prohibited codes', so an importer must check a box to say they have carried out due diligence before it is able to clear customs.</p>

Proactive

## Section 8: Monitoring, evaluation and review

### 8.1 How will the impact of the new arrangements be monitored?

The new legislation will provide the Minister of Forestry with oversight of the legislation.

The Ministry for Primary Industries will have authority under the Act to:

- Monitor and audit the due diligence systems and compliance of regulated parties;
- Issue export assurance documentation that determines an organisation is meeting its compliance obligations; and
- Use judgement when deciding whether sanctions are applicable/ necessary in cases of non-compliance (i.e. flexibility around accidental non-compliance).

MPI may also look to recognise external organisations which meet its requirements to verify an organisation is meeting its legal obligations.

### 8.2 When and how will the new arrangements be reviewed?

MPI has recommended that it review the effectiveness of the wood legality framework five years after the regulations come into effect, to ascertain that:

- The governance and compliance structures are operating efficiently;
- The measures are adding value to the forestry supply chain; and
- The structures provide the flexibility that is needed to meet changing market and operating conditions.

The review process will include seeking and assessing input from industry stakeholders on the performance of the system.