



The Lacey Act

HELPING TO KEEP THE US WOOD INDUSTRY STRONG

As amended in 2008, the Lacey Act is the primary US policy instrument to prevent the trade of illegal wood and paper products in the US market. To keep illegal materials out of the market—and thereby level the playing field for responsible businesses—the Lacey Act contains three main provisions:

1. Bans all trade of plants and plant products taken, possessed, transported or sold in violation of any relevant source country, US state or tribal law
2. Requires submission of a declaration form upon import, listing each plant species' scientific name, country of harvest and volume, as well as the monetary value of the goods

Note: While the declaration requirement is being phased in by Harmonized Tariff Schedule of the US (HTSUS) code, the ban on all illegal wood and paper products has been in effect since May 2008 regardless of whether or not the particular product is on the Schedule of Enforcement.

3. Establishes civil and criminal penalties for violations, including forfeiture of goods and vessels, fines and imprisonment

- A violation is triggered when an illegally sourced plant is traded in US interstate or foreign commerce.
- Penalties are assessed on a case-by-case basis depending on the value of the goods and what the individual or company knew or should have known by exercising “due care.”*
- Penalties include
 - Civil: up to \$10,000
 - Misdemeanor: up to \$100,000 (\$200,000 for corporations) and one year in prison
 - Felony: up to \$250,000 (\$500,000 for corporations) and five years in prison

**Due care is a legal concept representing the amount of effort a sensible person could be expected to exert in a similar situation to ensure that no laws are broken. The concept is used to evaluate culpability.*



Illegal practices jeopardize the benefits forests provide for people, wildlife and nature.



THE PROBLEM OF ILLEGAL LOGGING AND TRADE

Forests are critical for people, wildlife and the environment. They purify the air we breathe and filter the water we drink. They build soil and prevent erosion. They sequester carbon and help regulate the Earth's climate. But forests around the world are threatened by illegal practices.

In all types of forests and across all continents, timber is being harvested, transported, processed and traded in violation of international, national and local laws, with far-reaching environmental, social and economic consequences.

Global Impacts of Illegal Logging

- Robs developing country governments of billions of dollars in lost revenues
- Restricts local communities' access to natural resources and disrupts livelihoods
- Degrades wildlife habitat and diminishes ecosystem services
- Releases climate change-exacerbating carbon dioxide
- Contributes to organized criminal activity

Impacts of Illegal Logging on US Industry

- Depresses market prices
- Disadvantages companies that produce and sell legally sourced forest products
- Weakens the US wood products industry via lost export opportunities and price premiums

As the world's largest consumer of industrial timber and pulp for paper, as well as one of the top importers of wood from countries considered high risk for illegal logging, the US is in a key position to drive responsible forestry and trade worldwide.



Lacey Act Enforcement

In 2009, the US Department of Justice (DOJ) investigated Gibson Guitar Corporation for potential violation of the Lacey Act involving the import of unfinished ebony from Madagascar. Madagascar has maintained a ban on the harvest of ebony and the export of unfinished ebony products since 2006 due to the species' precipitous decline. The DOJ alleged that Gibson continued sourcing ebony fingerboard blanks from Madagascar despite management's knowledge of the country's ebony ban and of a government seizure of illegal wood from one of its suppliers' exporters.

In resolving this investigation and a similar allegation concerning Indian ebony and rosewood, the DOJ and Gibson reached a criminal enforcement agreement in 2012, which included

- payment of a \$300,000 penalty
- a contribution of \$50,000 to the National Fish and Wildlife Foundation

- implementation of a compliance program
- withdrawal of claims to wood seized during the investigations

Timber Legislation Abroad

The European Union and Australia have enacted legislation similar to the US Lacey Act amendments.

The EU Timber Regulation (EUTR), which came into force in March 2013, prohibits wood and wood products taken in violation of the source country's laws from entering the EU market. Operators who place timber or timber products on the EU market for the first time must implement a due diligence system (DDS) with three main elements:

1. Information

Document species name, harvest country, supplier details and compliance with national legislation.

2. Risk Assessment

Consider complexity of supply chain and prevalence of illegal harvesting of species in source country.

3. Risk Mitigation

Institute adequate and proportionate measures and procedures; require additional info and verification.

Similar to the Lacey Act, penalties for violating the EUTR should be effective, dissuasive and proportional to the offense. They may include fines, confiscation of the goods in question and even immediate suspension of authorization to trade.

Australia's Illegal Logging Prohibition Act (ILPA)

which was passed in November 2012, applies not only to importers, but also to processors of domestically harvested timber. Due diligence requirements similar to those of the EUTR were established in a 2013 amendment regulation and came into force in November 2014. Penalties may include fines and prison time.

Recommendations for Implementing Due Care

- Know your source:
 - Research suppliers online and visit them in person.
 - Question suppliers about the traceability and legality of their wood.
 - Review suppliers' documentation.
 - Establish long-term relationships with trusted suppliers.
- Heed warning signs such as suspiciously low prices, lack of paperwork and payment by cash only.
- Institute rigorous legality and traceability confirmation systems.
- Maintain records of your efforts.
- Ask for FSC-certified wood.

What US Companies Are Saying

DOMTAR CORPORATION

“As a trailblazer in North American sustainability leadership, Domtar has been committed to the intent of the Lacey Act for decades. In combining existing policies, processes and procedures into the Domtar Due Care Program as a result of the 2008 amendments, we enable our customers to exercise their own due care obligations. The Lacey Act is crucial in combating global deforestation, forest degradation and related impacts to local communities, wildlife and ecosystems. It minimizes the risk of illegal paper imports into North America, which helps maintain one of the last US manufacturing industries and thousands of high paying jobs across the country.”
— **Paige Goff**, *Vice President, Marketing and Sustainability*

HEWLETT-PACKARD COMPANY

“Hewlett-Packard Company (HP) is committed to compliance with all applicable laws and regulations. HP supports initiatives, such as the US Lacey Act, that aim to combat trafficking in illegally taken wildlife, fish or plants. HP is firmly rooted in a culture of global citizenship, including a deep commitment to environmental leadership. As a leader, HP has adopted an Environmentally Preferable Paper Policy that defines the global environmental criteria and principles that HP follows when buying, selling or using paper and other plant-based products.”
— **Jennifer S. Reece**, *Global Social and Environmental Responsibility Program Manager*

INTERNATIONAL PAPER COMPANY

“International Paper is a strong proponent of domestic and international efforts to combat illegal logging and trade. As the largest procurer of fiber in the world, we are focused on preventing illegally harvested wood products from entering US and global marketplaces. We support the US Lacey Act and the EU Timber Regulation, important laws that help combat illegal logging and prohibit the trafficking of illegally harvested products while protecting the competitiveness of legally harvested trees. In addition to implementing our own third-party verified due diligence system, International Paper has worked to prevent changes that would weaken the US law.”
— **Sophie Beckham**, *Forest Stewardship and Sustainability Manager*

THE MAGELLAN GROUP, LTD.

“The Magellan Group believes that the amendments to the Lacey Act are helping reduce the international trade in illegal timber, which in turn protects our business interests and helps the environment. Without the Lacey Act, our company would be at a definite disadvantage. Since we choose to import only FSC-certified exotic species, the Lacey Act levels the playing field by requiring our competitors to source only legally traded wood products.”
— **Ross Yeager**, *Managing Partner*

THE PROCTER & GAMBLE COMPANY

“P&G’s sustainability objective is to only use fiber from legally harvested sources. We believe that an effectively implemented Lacey Act will help us and others in our industry meet that objective.”
— **Dr. Len Sauers**, *Vice President, Global Sustainability*



WWF Can Help



WWF's Global Forest & Trade Network (GFTN) is composed of local offices working actively to provide direct, on-the-ground technical support on timber legality, forest management and chain-of-custody certification, risk assessment and mitigation, supplier engagement, and compliance. With offices in over 25 countries, GFTN is uniquely positioned to provide global expertise and facilitate market links between companies committed to responsible forest management and trade. For additional information, visit gftn.panda.org.



GFTN TOOLS AND TRAINING

Learn more about the Lacey Act with our training module: http://www.gftn.panda.org/resources/gftn_online_courses/?219771/Lacey-Act-Course

Discover how to develop and implement a responsible purchasing program with our *Guide to Legal and Responsible Sourcing*: <http://sourcing.gftn.panda.org/>

Mitigate sourcing risk when importing from countries in Southeast Asia, Africa and Russia with *Exporting in a Shifting Landscape*: <http://www.gftn.panda.org/resources/?193890/Exporting-in-a-Shifting-Legal-Landscape>

ADDITIONAL RESOURCES

USDA Animal and Plant Health Inspection Service (APHIS): http://www.aphis.usda.gov/plant_health/lacey_act

Forest Legality Alliance (FLA): <http://www.forestlegality.org/policy/us-lacey-act>

FLA Declaration and Risk Tools: <http://declaration.forestlegality.org/>; <http://risk.forestlegality.org/>

Chatham House Illegal Logging Portal: <http://www.illegallogging.info/>

NEPCon Global Forest Registry: <http://www.globalforestregistry.org/>

IUCN Red List and CITES Appendices: <http://www.iucnredlist.org/>; <http://www.cites.org/eng/disc/species.php>

FSC Marketplace: <http://marketplace.fsc.org/>

PHOTOS: Front page, top to bottom: La Rosaria Monarch Butterfly Reserve, Mexico © Paul Bettings/WWF-Canada; Antipoaching group leader near felled Korean pine, Siberia © Vladimir Filonov/WWF; Truck with Illegal timber © WWF-Indonesia/Samsul Komar; Orangutan and baby, Indonesia © WWF-Indonesia/Jimmy Syahirsyah; Page 2: Logger recording details of felled tree at FSC-certified Pallisco logging concession, Cameroon © Brent Stirton/Getty Images/WWF-UK; Page 3: Timber truck en route to a paper and cellulose mill, Brazil © Edward Parker/WWF; Back page: WWF staff, Cameroon © Brent Stirton/Getty Images/WWF-UK; FSC symbol spray-painted on processed timber © Edward Parker/WWF

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