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Recommendations to Halt the Illegal Timber Trade: Fully Utilize the Bipartisan Lacey Act Amendments of 2008

Illegal logging and associated trade has been ranked as the third-largest global transnational crime after counterfeiting and drug trafficking, generating between US\$52–157 billion per year. Illegal logging threatens some of the world's most biologically diverse and vulnerable forests, contributes to climate change, harms Indigenous peoples and local communities, and undermines the legal forest products trade by significantly depressing world timber prices. In many tropical countries, over half of deforestation is illegal, and recent reports from the Brazilian Amazon put deforestation at record high levels. Left unaddressed, persistent illegality and impunity undermine all conservation and climate efforts, including the recent pledge by the United States and 140 countries, covering 90% of the world's forests, to halt and reverse forest loss by 2030.

In 2008, the United States, the world's largest consumer of forest products, became the first country to ban trafficking of products containing illegally sourced wood. The Lacey Act Amendments of 2008 were adopted with bipartisan support and have contributed to reduced imports of illegally sourced wood products by 32%–44%. The amendments have demonstrated their potential for impact, yet significant delays in full implementation and sporadic enforcement continue to limit their effectiveness. The Biden administration and Congress must prioritize steps to ensure this powerful tool achieves its original goals to close the U.S. market to trade in illegal timber and wood products and deliver benefits for forests and the climate, Indigenous peoples and local communities, and businesses that play by the rules.

The administration and Congress should commit to full funding and implementation of the bipartisan Lacey Act Amendments of 2008 and take the following actions:

1. A White House announcement to halt illegal timber imports and prioritize implementation, compliance, and enforcement of the Lacey Act Amendments of 2008.
2. The U.S. Department of Agriculture's Animal and Plant Health Inspection Service (USDA APHIS) finalizes Lacey Act plant import declaration phase-in by the end of 2022.
3. Congress provides the necessary oversight and funding for Lacey Act Amendments staffing, training, and technology, including expedited deployment of technology to analyze declarations and coordinate enforcement across agencies.
4. The U.S. government (USG) redoubles engagement with producer and other countries and other markets.

The Lacey Act Amendments of 2008

The 2008 amendments to the Lacey Act prohibit commerce of plants and derivative products — including timber and wood products — that have been illegally harvested or traded. Additionally, the law requires importers of nonexempt plant products to declare the species and country of harvest in an effort to increase wood supply chain traceability and transparency, improve compliance, and focus law enforcement efforts.

Implementation and enforcement of the 2008 amendments have helped to reduce the flow of illegal timber into the U.S. by 32%–44%, according to a 2015 analysis. A landmark case in 2015 resulted in Lumber Liquidators receiving the first U.S. felony conviction related to trade in illegal timber.

This and other cases have sent powerful signals and sparked change, especially in the industries involved. The Lacey Act declaration requirement and compliance activities have begun to drive transparency, change in sourcing practices, and deterrence of the harvest and trade of illegal timber and plant products that end up for sale within the U.S.

However, a handful of enforcement actions is insufficient to curb the illegal timber trade. A 2019 study conducted by World Wildlife Fund, World Resources Institute, and the U.S. Forest Service (USFS) used wood anatomy testing to determine the accuracy of wood species claims for 73 wood products purchased from U.S. retailers. Testing revealed that 55% of the products had incorrect species claims — a level of inaccuracy significant enough to warrant immediate support for stronger Lacey Act implementation and enforcement.

Importers of all products covered by the Lacey Act prohibition on illegal harvest and trade are incentivized to practice due care to avoid such illicit commerce. However, the second component of the law, the Lacey Act declaration requirement, *still only applies* to approximately 42% of the value of wood products imported into the U.S. The declaration requirement was initially legislated to take effect 180 days after the 2008 amendments went into force and was subsequently mutually agreed to be phased in gradually in four stages by the fall of 2010. USDA APHIS has slowly phased in the declaration for some product categories in 2009, 2010, 2015, and 2021. However, today \$45 billion of imports subject to the prohibition in the Lacey Act remain, in practice, uncovered by the declaration requirement. This includes nearly all imports of wooden furniture, pulp and paper, particleboard, and fiberboard.

Urgent attention from the administration and Congress is essential to ensure the U.S. is a leader in reducing illegal timber product imports and addressing forest degradation and destruction.

Recommendations to Fully Implement the 2008 Lacey Act Amendments:

1. A White House announcement to halt illegal timber imports and prioritize implementation, compliance, and enforcement of the Lacey Act Amendments of 2008. The White House should announce that halting the illegal timber trade is an important part of the administration's leadership to address the climate crisis and nature loss, counter corruption, and level the playing field for responsible businesses, such as U.S. wood products companies, that support the 2008 amendments. White House direction is needed to revitalize U.S. leadership and overcome fragmentation in the implementation and enforcement of the Lacey Act Amendments of 2008.

USDA APHIS leads implementation of the Lacey Act's plant declaration import requirement. In addition, U.S. Customs and Border Protection (CBP), USFS, the U.S. Fish and Wildlife Service (FWS), the U.S. Department of Justice, the U.S. Department of State, and the U.S.

Agency for International Development (USAID) are vital for enforcement and international engagement. The White House should announce a strategy and budget for full implementation and enhanced enforcement of the Lacey Act Amendments of 2008, including the full phase-in of the plant declaration requirement.

2. USDA finalizes Lacey Act plant import declaration phase-in by the end of 2022. USDA APHIS should immediately publish a detailed schedule for the phase-in of the plant declaration requirement for all outstanding plant and wood product categories — including wood furniture, pulp and paper, particleboard, and fiberboard — by the end of 2022. APHIS should expeditiously provide phase-in notification to industry to meet this timeline and prioritize categories of highest U.S. import volume and at high risk for illegality. APHIS should also finalize reporting requirements for the identification of fiber species in composite wood and wood products that do not pose an undue economic burden for U.S. pulp and paper mills.
3. Congress provides the necessary oversight and funding for Lacey Act Amendments staffing, training, and technology, including expedited deployment of technology to analyze declarations and coordinate enforcement across agencies. Oversight, funding, and coordination from the administration and Congress are necessary to reinforce the shift to the use of legal wood products by all companies. Resources and congressional oversight are needed to phase in plant declaration requirements for all product categories; improve USG use of technology, such as real-time analysis of declarations and timber testing to validate declared species and origin; improve coordination around collection and dissemination of critical data with key agencies, such as CBP; and assign enough agents at ports and the compliance officers necessary to perform additional data analysis and outreach for monitoring and enforcement purposes. Agencies should be routinely flagging suspect shipments for greater scrutiny, generating action leading to enforcement and improved due care practices.
 - \$12 million to USDA APHIS for Lacey Act Amendments of 2008. In 2022, the House Appropriations Committee signaled that it is “concerned with the pace of enforcement” by USDA APHIS, providing additional funds and requesting a report “detailing a phase-in schedule for remaining products, prioritizing products of highest U.S. import volume and at high risk for illegality.” Congress should build upon this and related language by the Senate committee, with funding and direction for APHIS to complete the declaration phase-in by the end of 2022 — focusing on highest risk and highest volume first — and follow through on its enforcement mandate to conduct regular audits, develop and implement tools and technology for analyzing import declaration data (e.g., Arbor Harbor tool), flag high-risk imports, build staff capacity, and step up compliance activities.
 - \$15 million to the FWS Office of Law Enforcement for Lacey Act Amendments of 2008, consistent with previous requests, to support enforcement, international attachés, and the forensics lab.
 - \$15 million to CBP for Lacey Act Amendments of 2008, consistent with previous requests, to support enforcement stops, cases, audits, and related enforcement activities, including listing Illegal Logging and Associated Trade as a Priority Trade Issue for increased enforcement attention.
 - \$20 million to USFS International Programs, consistent with previous requests, to include the expansion of wood identification technology development and

deployment to domestic Forest Service research stations and to Forest Service International Programs to support the Wood Identification Screening Center.

- \$5 million to the Department of Justice Environment and Natural Resources Division for Lacey Act Amendments of 2008 for activities, including conducting investigations and pursuing cases.
 - \$15 million to the State Department and USAID for Lacey Act Amendments of 2008 to scale up policy development, capacity building, and international engagement with other countries to address the illegal timber trade.
4. USG redoubles engagement with producer countries and other markets. Efforts to eradicate forest-related crimes such as illegal logging and associated corruption are essential to meet U.S. goals for climate, conservation, and the promotion of good governance. The USG should devote significant new attention to assist with capacity building for producer countries to improve governance, monitoring, and enforcement and work with other consumer countries to align commodity due diligence requirements and close their borders to illegal imports.