

NO QUESTIONS ASKED

THE IMPACTS OF U.S. MARKET DEMAND FOR
ILLEGAL TIMBER - AND THE POTENTIAL FOR CHANGE

ENVIRONMENTAL INVESTIGATION AGENCY



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EXECUTIVE SUMMARY

Illegal logging has been recognized as a major global problem in environmental, social and economic terms. Moreover, the role that market demand and corresponding trade in illegally sourced wood products plays in driving illegal logging has been clearly articulated in official reports, well-documented exposes and formal policy statements by G-8 nations. Illegal logging is not a problem that dwells in faraway forests and can be blamed on impoverished local people. Export-oriented illegal logging is such a destructive activity precisely because it does not benefit the communities or governments who should, by right, reap the benefit from the harvest of their natural resources. Instead, it profits a small group of corrupt officials and criminal timber barons at the expense of people and the environment, human rights and the rule of law. And it is a problem of international trade.

The United States, the world's largest consumer of wood products, is a central player in driving the trade in illegally sourced timber. While reliable trade data for illegal goods is inherently scarce, estimates suggest that U.S. consumption of high-risk timber and wood products reaches 10% of the annual import stream – \$3.8 billion in high-risk timber and wood products in 2006, not including pulp and paper. The astronomical growth of trade with China, a global intermediary for illegal wood from Russia, Southeast Asia, and Africa, is a major factor.

But action by American policy makers should not depend on knowing exactly how many dollars worth or board feet of this wood enter our borders each year. For critically endangered species, villagers in conflict timber zones, or indigenous cultures whose lands are invaded by loggers, even a small amount of cubic footage adds up to great damage. Moreover, U.S. companies lose an estimated one billion annually due to the market distortions caused by illegally-harvested timber, and illegal logging's undercutting effects have contributed to the loss of jobs and revenue in timber-dependent American communities in recent years.

It is our money, unwitting American consumers' money, which fuels the unbeatable economics of illegal logging. And the United States currently lacks the legislative and policy tools to effectively tackle the root causes of this problem. Because the reality is this: even the most blatantly stolen timber is legal once it reaches American shores, since we have no laws to prevent the importation or sale of illegal wood. Companies along the supply chain don't ask questions about the wood they buy because they don't have to. No one – neither consumers nor governments – is asking them to do so. The problem is so pervasive that EIA has learned the U.S. Capitol building itself came close to hanging Honduran mahogany doors at high risk for illegal origin.

A successful response to this situation must come from both ends. The international community must support, and demand, on-the-ground efforts by governments to stop illegal logging and to investigate and prosecute the timber barons within their borders. But producer countries cannot cut off the flow of illegally-sourced wood products while the United States and its market allies continue to nourish it with billions of dollars and a no-questions-asked import policy. Violence against both forests and the forests' defenders will not end unless consumers and companies begin to ask the necessary questions: where does our wood come from? Was it harvested and exported legally? How can we be sure?

Asking these sorts questions will require a systemic shift in the largely unregulated global timber industry. The good news: this is possible. By getting the laws right here in the United States, we can create powerful incentives for industry to trade in legal timber, and thereby send a signal whose positive ripple effect will be felt from retail shelves to frontier forests worldwide. Such laws are already being considered by other consumer nations, but the U.S.'s huge market share must be addressed. By passing legislation to prohibit the import or sale of illegally-sourced timber and wood products, the United States could bring the world to a tipping point in the fight against illegal logging and associated trade.

I. INTRODUCTION: THE ROOTS OF THE PROBLEM

What are we doing wrong?

Illegal logging - timber harvesting in contravention of a country's laws - has been acknowledged as a major environmental, social and economic problem by the governments of both timber-producing and timber-consuming nations, as well as a host of international institutions. The World Bank estimates that illegal logging costs developing nations close to \$15 billion annually in lost assets and revenues - over eight times the amount of money spent on sustainable management of the world's forests.¹ The role of developed-country demand and corresponding trade in illegally-logged timber products has also been clearly articulated in official reports and well-documented exposes.²

In the most definitive political statement on the matter to date, the G-8 nations at the Gleneagle Environment and Development Ministerial in March 2005 took up illegal logging and climate change as the two principal environmental concerns on the agenda. In the ensuing declaration, the leaders of the world's biggest consumer countries stated the following:



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We agree that working to tackle illegal logging is an important step toward the sustainable management of forests and sustainable development. We recognize the impacts that illegal logging, associated trade and corruption have on environmental degradation, biodiversity loss, and deforestation and hence climate systems. Illegal logging also damages livelihoods in the poorest countries, causes loss of revenues to Governments, distorts markets and trade, and sustains conflicts... We agree that tackling illegal logging requires action by both timber producing and consuming countries. We will act in our own countries. We will take steps to halt the import and marketing of illegally logged timber...

The United States is not blind to this problem. Even before Gleneagle, the Bush administration had created a "Presidential Initiative Against Illegal Logging." Since 2003, the U.S. Agency for International Development has spent over \$58 million combating illegal logging globally.³

Yet the cutting continues. New independent reports emerge regularly about rapacious logging from Papua New Guinea to Peru, eastern Russia to Mozambique. The factories of China's wood manufacturing centers each month churn through thousands of logs imported from countries with express log export bans.⁴ Despite the millions spent to combat logging in Indonesia, to take one high-profile example, a 2007 United Nations Environment Programme (UNEP) report forecasts that illegal logging remains one of the primary reasons that 98% of that nation's forests may be lost within 15 years.⁵

The illegal logging story is also one of violence and social conflict. Snapshots from just the past year: Two *campesino* anti-logging organizers are murdered by police in Olancho, Honduras, December 2006.⁶ A Philippines government operative who conducted illegal logging surveillance is shot in front of his house in April 2007.⁷ A young Greenpeace activist is murdered in San Juan Atzingo, Mexico, May 2007, while gathering information on logging gang activity.⁸ The same month, a team of Indonesian government officials and citizens monitoring illegal logging activity at Tesso Nilo National Park, Sumatra, is ambushed and beaten.⁹ In Dahar, Somalia, July 2007, an armed clash over illegal forest cutting leaves one man dead and two others wounded.¹⁰

We are clearly not getting at the root of this problem. Why? What are we doing wrong?

Poor governance, high profits, and no questions asked

Illegal logging and associated trade are criminal activities that occur in the context of weak and corrupt governance in timber-rich countries and shipping and manufacturing hubs. These activities are financed and fueled by ever-growing demand from international markets that don't discriminate legal from illegal wood products. The monetary benefits of timber trafficking are high, and the risks of any legal or financial penalty are low. Wood buyers don't ask questions because they don't have to. No one – neither their customers nor their governments – is asking them to do so.

In country after country, illegal logging is financed and conducted by criminal syndicates and mafias with high-level connections, untouchable in courts of law. Such impunity does harm not only to the forests and our climate (see Section 4 below), but to human lives and livelihoods. As the snapshots above and the country case studies in this report suggest, the timber barons who run logging and trafficking operations are willing to use forced labor, political intimidation and violence to ensure their uninterrupted flow of product.

How do these timber barons maintain their immunity with police and judges and politicians? How do they extend their reach into ever more inaccessible and pristine forests? The answer: money and more money. The most serious forest crime is committed for exports, not firewood. The profits that lie in exporting valuable hardwoods or softwoods can be staggering: merbau stolen from Indonesia's Papua province in 2005 was worth US\$120 per cubic meter in the port, twice that much upon arrival to China – and US\$2200 by the time it wound up as solid wooden flooring in an American store.¹¹ Impoverished indigenous communities in the Peruvian Amazon are swindled into selling, for a mere \$5.30 per cubic meter, mahogany trees that go for over \$1700/m³ on international markets.¹²

Illegally-logged timber that does not fetch luxury-good prices is also a goldmine, simply because the costs of harvesting it are so low. A 2004 study by the Center for International Forestry Research (CIFOR) found that in Indonesia, legal wood cost a large forestry firm on average \$85/m³ to deliver to a sawmill, while illegal wood cost \$32/m³. For small concession holders the difference was even more striking: \$46 versus \$5 per cubic meter.¹³ Ignoring the laws that make forestry sustainable and beneficial to a nation, nearby communities, employees or ecosystems is indeed a money saving proposition.

“Logging at these scales is not done by individual impoverished people, but by well-organized elusive commercial networks.”

Achim Steiner,
President, United Nations
Environment Programme



“The problem is that somebody asks me to smuggle... No buyer, no smuggling.”
Franky Chua, Singapore-based timber broker, counting money in front of piles of wood and EIA/Telapak undercover investigators, 2003. © EIA

Table 1: Differences in the value of reported imports and exports of Chapter 44 (timber and wood products excluding furniture and paper) between the U.S. and various timber producing countries, 2005. Although UN Commtrade data should be read with caution, a substantially lower exported than imported value suggests under-reporting and loss of governmental revenue.

| Partner | Trade Value (U.S. Reporting) | Trade Value (Export Country Reporting) | % Difference |
|-----------|------------------------------|--|--------------|
| Guyana | \$10,803,466 | \$935,719 | -1055% |
| Gabon | \$7,136,065 | \$3,746,366 | -90% |
| Cameroon | \$17,874,736 | \$10,045,712 | -78% |
| Honduras | \$29,918,639 | \$18,163,856 | -65% |
| China | \$2,640,250,233 | \$1,911,848,994 | -38% |
| Nicaragua | \$5,488,346 | \$4,124,818 | -33% |
| Thailand | \$169,220,312 | \$141,128,311 | -20% |
| Brazil | \$1,821,278,401 | \$1,556,274,918 | -17% |
| Malaysia | \$401,950,389 | \$350,705,140 | -15% |
| Peru | \$64,311,181 | \$58,354,865 | -6% |
| Germany | \$826,104,368 | \$779,543,000 | -6% |
| Canada | \$14,702,853,231 | \$14,783,048,465 | 1% |
| Mexico | \$344,661,672 | \$398,173,960 | 13% |

Owning up to our role

This report tells the story of the United States' central role in this picture. The United States, as the world's largest consumer of wood products, drives the trade in wood legal and illegal alike – because we do not attempt to differentiate between the two in our laws, policies or consumer behavior.

Illicit trade is, by its very nature, difficult to quantify. But analyses suggest that as much as 10% of the wood products our country imports is material of suspicious origin (see Section 2 below). Even the most blatantly stolen timber is legal once it reaches American shores, since we have no laws that acknowledge law-breaking in other nations by prohibiting a company to knowingly import, buy or sell illegal wood.

A successful response to this situation must come from both ends. The international community must support, and demand, on-the-ground efforts by governments to stop illegal logging and investigate and prosecute the timber barons within their borders. But countries like Indonesia and Peru and Papua New Guinea cannot cut

off the flow of illegally-sourced wood products while the United States and its market allies continue to nourish it with billions of dollars and a no-questions-asked import policy. Violence against both forests and the forests' defenders will not end unless companies and consumers begin to ask the necessary questions: where does our wood come from? Was it harvested and exported legally? How can we be sure?

Asking these sorts of questions will require a systemic shift in the largely unregulated global timber industry. The good news: this is possible. By getting the laws right here in the United States, we can create powerful incentives for trade in legal timber, and thereby send a signal whose positive ripple effect will be felt from retail shelves to frontier forests worldwide.

Types of illegalities in the timber sector

Illegal harvesting practices:

- Harvesting or converting forest without authorization
- Cutting in parks or protected forests
- Cutting protected species
- Cutting under or over-sized trees
- Cutting in prohibited areas like river banks, slopes, etc
- Cutting outside concessions boundaries
- Cutting more than annual allowable harvest
- Use of bribes to obtain concessions or permits

Illegal transport and trade:

- Export or import of protected species without proper documentation
- Export or import of logs subject to export ban
- Unauthorized domestic or international timber movement
- Under-declaration of values, volumes, or grades on exports or imports
- Misclassification of species to avoid taxes, duties, restrictions
- Classification of lesser-used species as common species, to gain market access
- Operation of a processing facility without license
- Using illegally obtained wood in processing
- Not obeying labor or other environmental regulations

Source: Adapted from Chen (2006), EIA internal sources.

2. ILLEGAL LOGGING AND ASSOCIATED TRADE: CRIMINAL ACTIVITIES, SUPPORTED BY U.S. DEMAND

Illegal logging is an issue of crime and of trade. It flourishes in an environment of poverty and weak governance, as does any sort of trafficking or crime that produces massive profit inflows. Only an understanding of the entire commerce chain allows us to identify the appropriate tools to address the role that the U.S. system and American importers and buyers play in supporting this problem.

Legal or not, it's a lot: U.S. demand for timber and wood products

The United States is the world's single biggest importer and consumer of wood products. According to FAO data, in 2005 the U.S. imported 17.2% of global "forest products" exports, which include pulp and paper but exclude furniture and other secondary manufactured products.¹⁴ This figure rises to 20% once furniture is included.¹⁵

Just how much is this? U.S. wood product imports amounted to some \$38.8 billion in 2006, according to official data from the U.S. International Trade Commission.¹⁶ This figure includes logs, sawn timber, plywood, veneer, joinery, and \$15.7 billion in wooden furniture. The country imported another \$20.8 billion in paper products and wood pulp.¹⁷

These figures have grown dramatically: according to ITC data, from 2000 to 2006, U.S. wood product imports overall increased by 58%, with furniture imports increasing by 78%.

How much of this consumption involves wood material of high-risk origin¹⁸? As Table 1 shows (below), our top trading partner in many categories is Canada, where legal logging practices are generally considered to be regulated and enforced (if not necessarily 'sustainable' or reduced-impact). Likewise, the softwood forestry in Germany, Chile, Sweden, New Zealand, and Brazil, much of it plantation-based, is not considered high-risk for illegal activity.

However, other categories and countries send up red flags. China is the first or second trading partner for four of the U.S.'s top five wood products import streams, including more than half of all furniture imports (9401 + 9403), the largest stream by far. China, as described below, is a global intermediary for high-risk wood, transforming illegal timber from Southeast Asia, Africa, and Russia into manufactured products for major consumer markets in the U.S., Europe and elsewhere. Malaysia, Indonesia, Brazil (Amazonian region¹⁹), Vietnam, Peru and Russia are also major sources of high-risk material.²⁰

While estimating the quantity of illegally-sourced imports is an inexact science at best, what few figures do exist show the problem's large scale. Most studies use percentages of illegality derived from source country estimates – sometimes, official government estimates, in other cases independent analyses – to calculate the percentage of the global market and hence the U.S. import stream likely to be suspicious.

The authoritative 2004 Seneca Creek study, commissioned by the American Forest and Paper Association estimated that 8-10% (30 million cubic meters) of global primary wood product production – logs, sawn



Since 2000 there has been a 78% increase in U.S. imports of both wood furniture and joinery, including flooring. © EIA

Table 2: U.S. wood product import streams greater than US\$300 million in 2006.

| import streams | | sums by 4-digit HTS code | | top exporting countries (value in millions) |
|-------------------------------------|-------|--------------------------|----------------|---|
| description | HTS | 2005 | 2006 | |
| wooden furniture | 9403* | 10,316,787,155 | 10,765,402,742 | China (4900+); Canada; Vietnam; Malaysia; Indonesia; Italy |
| sawnwood (softwood) | 4407 | 8,267,423,547 | 7,612,178,244 | Canada (6000+); Germany; Chile; Sweden; New Zealand; Brazil |
| wooden-framed seats | 9401* | 3,604,252,911 | 3,914,786,191 | China (2100+); Mexico; Italy; Canada; Malaysia; Indonesia |
| joinery (doors 27%, "other" 52%) | 4418 | 2,691,319,323 | 2,840,524,158 | Canada (1700+), China, Brazil, Chile, Mexico, Indonesia |
| plywood | 4412 | 2,302,721,593 | 2,570,673,894 | China (982), Canada, Brazil, Malaysia, Indonesia, Russia |
| particleboard & OSB | 4410 | 2,963,521,244 | 2,168,468,378 | Canada (2048); Mexico, Germany, Brazil, Ireland, China |
| continuously shaped* | 4409 | 1,588,314,630 | 1,740,815,462 | Brazil (460), China, Chile, Canada, Mexico, Malaysia |
| fibreboard | 4411 | 1,385,802,928 | 1,350,612,917 | Canada (411), Chile, Spain, Germany, Belgium, China |
| "other" wood products | 4421 | 1,292,190,467 | 1,284,639,813 | Canada (445), China, Brazil, Mexico, Taiwan, Italy |
| sawnwood (hardwood; ~40% tropical) | 4407 | 720,888,923 | 710,161,504 | Canada (257), Brazil, Peru, Malaysia, Ecuador, Germany |
| marquetry, caskets, statuettes, etc | 4420 | 519,612,084 | 550,517,995 | China(394), Thailand, Mexico, Indonesia, India, Vietnam |
| veneer | 4408 | 575,049,433 | 542,873,919 | Canada (372), Brazil, Germany, Italy, China, Ghana |
| wooden frames (pictures) | 4414 | 405,414,738 | 445,282,267 | China (252), Thailand, Indonesia, Mexico, Canada, India |
| roundwood (all) | 4403 | 347,944,982 | 356,283,816 | Canada (318), Germany, Chile, Brazil, China, France |

**note: only 6-digit HTS classes that denote wood products were included in the data search (e.g. 940161 and 940169; 940330-940360). "Continuously shaped" products include flooring, siding, molding, dowel rods, etc.*

timber, and plywood panels – involved illegal logging, amounting to a value of approximately US\$5 billion of the \$23 billion world trade in these products.²¹ This figure corresponds with both the Royal Institute of International Affairs and the World Bank, which have estimated that illegal activities account for 10% or more of global trade.²²

The Seneca Creek study found that among U.S. imports, 25% of hardwood plywood may be from illegal sources, along with 10% of sawn timber, and 1% of logs. (Globally, a high percentage of log imports are illegal; however, the United States imports a most of its unprocessed roundwood from Canada.)

Another recent in-depth analysis of global timber trade statistics done for the OECD Roundtable on Sustainable Development estimates that U.S. imports of high-risk wood in 2006 were approximately 28 million cubic meters of round-wood equivalent (RWE), which includes furniture, pulp and paper, and secondary manufactured products. Almost two-thirds of this came from China, followed by Malaysia, Indonesia, and Latin America (primarily Brazilian and Peruvian hardwoods).²³ This figure indicates that 10% of the U.S.'s imports, and 2% of the entire annual global trade in wood-based products, is derived from materials at high risk of illegal origin.

Statistical evidence and moral responsibility

Of course, nobody declares his product to be "illegal" on a customs form. But while it is inherently difficult to calculate the amount of illegal material entering U.S. ports, the impact of our national demand is easy to see on the ground. The United States is the world's biggest market for cheap manufactured furniture

“Expecting or asking one country to combat illegal logging while at the same time receiving or importing illegal logs of course does not support efforts to combat these forest crimes. In fact ...allowing import and trade [in] illegally cut timber and associated products could also be considered as an act to assist or even to conduct forest crime.”

Mohamad Prakosa,
Indonesia’s forest minister, 2003

and plywood, on one hand, and for luxury products such as hardwood flooring, furniture, doors and windows on the other. In both cases, the lack of questions asked has consequences.

The demand for semi-disposable cheap wood products encourages companies to cut costs and boost production – and illegally-sourced raw materials are the cheapest of all, taken without any of the costs of managing a forestry operation in compliance with forestry and environmental regulations, appropriate permits, or laws protecting workers’ safety. These prices are something that America’s domestic producers simply cannot match. This demand drives the large-scale illegal over-cutting of natural coniferous and hardwood forests from eastern Russia, Indonesia, Honduras, Brazil and elsewhere.

This deforestation contributes directly to climate change, as well as to topsoil exposure and subsequent erosion of the sort that ruins waterways and has contributed to flooding and landslides. Illegal logging has been acknowledged as a contributing factor in floods that cost thousands of lives in Indonesia, the Philippines, China and elsewhere in the past decade.

Conversely, American consumers’ desire for a beautiful entryway door, or solid wood flooring, drives the economics that make profitable the ransacking of ever-more-remote frontier forests for the remaining large specimens of hardwoods like mahogany (*Swietenia macrophylla*), merbau (*Intsia spp.*), cedar (*Cedrela spp.*) or teak (*Tectona grandis*). This logging is incomparably destructive in both human and ecological terms, as described in Section 4 below.

Action by American policy makers or American consumers should not depend on knowing exactly how many dollars worth or board feet of this wood enter our borders each year. For critically endangered species like Sumatran rhinos or African lowland gorillas, a few hundred trees cut in the wrong place can mean the difference between survival and population crash. For villagers of northern Burma, several hillsides of old-growth teak mean the perpetuation of a bloody military occupation. For the voluntarily isolated Mashco-Piro people of Southeastern Peru, loggers’ invasion to steal a few dozen mahogany trees can mean contact with disease that wipes out their entire tribe. For their neighbors downstream, the same number of mahogany trees, harvested sustainably over time, could have funded clinics, schools and sanitation. Even where the total board feet are small, the damage can be great.

The following quantitative and qualitative snapshots from around the world are not a comprehensive survey of the global illegal problem. They do show the connection between U.S. consumption of wood products, the illegal logging of irreplaceable forests, and the perpetuation of social conflict and human rights abuse. China is an unavoidable central link in this chain; however, as discussed below, China’s impact must be understood in the context of its role as “the world’s factory.”



The world’s last remaining orangutan habitat is threatened by illegal logging. © Dave Currey/EIA/Telapak

3. HOTSPOTS AND HUMAN COSTS OF ILLEGAL LOGGING AND WOOD PRODUCTS TRADE

Unless otherwise noted, the range presented of estimated percentages of illegally-sourced wood in each country's export stream is based on data from the Seneca Creek Associates study (2004) and globaltimber.org (2006). Both of these sources use a combination of field data, primary sources and figures published by third parties to derive their estimates. EIA used the ITC database to derive figures reported for direct exports to the U.S. in 2006 (rounded to thousands of dollars). The figure includes all timber, manufactured wood products, and furniture; pulp and paper are listed separately.

China: High-Risk Exporter and Importer

Direct wood products exports to U.S. 2006: US\$10,459,496,000

Pulp and paper: 1,864,759,000

Estimated % of illegally-sourced wood in export stream: 32% - 40%

With regards to wood products, as with so many other types of manufacturing, China occupies a unique node in the middle of the global timber supply chain. Although China has considerable forested area of its own, logging bans and exponential production growth mean that it currently imports almost 50% of its wood fiber requirements.²⁴ The percentage is thought to be considerably higher in the export-oriented plywood, furniture, and flooring sectors, where tropical species are prominent. This proportion will only grow; Forest Trends estimates that forest products imports are likely to double in the next ten years.²⁵

China is now the world's largest importer of unprocessed wood material (logs and sawnwood), and growing fast. The country imports 20% of the world's logs²⁶: 20 million m³ and US\$2.7 billion in the first half of 2007 alone, an increase of 20% in a single year. Tropical species accounted for 60% of hardwood log imports.²⁷

China also imported at least four million m³ in hardwood sawnwood last year.²⁸ Seventy percent of this is tropical, with Malaysia, Indonesia, Thailand and Brazil as leading suppliers, but China also imported almost one million cubic meters in sawnwood from the United States.²⁹

Chinese demand touches most of the world's remaining great forests. Certainly, a growing portion of its imports are for domestic consumption. But what role does United States demand play in fueling Chinese production?

Zhangjiagang, China: the world's largest tropical log trading port. © Sam Lawson/EIA/Telapak

China is also now the world's largest exporter of wood products, exporting over \$17 billion in timber products in 2005. This represents almost 500% growth in



less than a decade³⁰ – and the U.S. is the biggest customer by far. In the last 10 years, the United States has increased its imports of Chinese wood products 1290% by value.³¹ The U.S. imported 40% of China’s wooden furniture in 2005, a trade stream worth \$US8.8 billion.³² We also imported 21% of China’s plywood exports this year.³³

One expert estimates that China imports over \$US one billion annually in illegally-harvested logs alone, largely from Russia, trailed by Papua New Guinea, Congo Brazzaville and Gabon.³⁴ Comparing export figures to illegality estimates, the same data analysis suggests that the world’s largest flows of illegally-sourced wood products are furniture and plywood exported from China to the U.S.

EIA and other organizations’ investigations show systemic disregard for the legality of raw materials in the Chinese wood imports sector. In 2005, EIA/Telapak undercover investigators posing as buyers spoke with various Chinese traders who boasted of using smuggling and document falsification techniques to evade the Indonesian log ban.³⁶ In 2004, huge discrepancies between Chinese and Malaysian trade data showed that 58% of the log imports supposedly arriving from Malaysia were actually smuggled overseas from Indonesia – 2.7 million m³ of timber, a total of almost 30% of Indonesia’s entire legal harvest for the same year.³⁷

As its wood products industry grows exponentially, the impact of Chinese demand and its traders’ aggressive tactics are cause for alarm. Some of the hotspots include:

- *Burma*: The world’s final remaining stands of old-growth teak (*Tectona grandis*) are being stripped from Burma’s forests to finance a long-standing war between the repressive military regime and the ethnic Kachin rebel army along the country’s border with China.³⁸ The cross-border trade in teak and other valuable hardwoods reached as much as \$350 million in 2005, according to Global Witness, although recent reports indicate that the Chinese government is taking action to close down this border traffic.³⁹ Teams of Chinese loggers cross over to cut what they can, while they can, and take it back across the border. The trade is greased at every step of the way by bribes to either government or rebel forces; a single convoy of log-bearing trucks may pay thousands of dollars.⁴⁰ Burmese teak is prized for its quality and beauty, and furniture fetches a high price on the export market to the U.S. and Europe. Although a number of companies have pledged not to purchase Burmese teak, the lack of credible chain-of-custody systems in the Chinese furniture industry can make it difficult to ensure that the material does not come from a conflict-torn corner of Burma.

“Predominantly, the Burmese timber winds up as patio furniture for Americans. Without their demand, there wouldn’t be a timber trade.”

Activist, Burma

- *Cambodia*: Logging in Cambodia is controlled by a network of timber barons linked to the Prime Minister, his wife, and other politicians and military officers. As laid out in devastating detail by Global Witness, these barons are felling in State Forests, cutting protected tree species upon which local people depend for income, clearing vast areas of primary forest under dubious permits for large-scale plantations, establishing illegal factories, and robbing the Cambodian treasury of millions of dollars in revenues through blatant fraud, tax evasion, and smuggling.⁴¹ Members of this network are also implicated in at least three murders and two attempted killings of people working to combat forest crime. In August 2007, a Cambodian journalist’s home was burned not once but twice after he defied a government ban on reporting about illegal logging.⁴² China is the primary recipient of illegal Cambodian timber. Despite official Cambodian statistics that record no plywood or sawn timber exports in recent years

(most recent statistics available are from 2003-2004), international trade data show China importing approximately US\$50 million in plywood and sawn timber between 2003 and early 2007.

- *The Congo Basin:* Large Chinese companies' illegal logging activities in this region range from evading taxes on forest concessions in Gabon and Cameroon; cutting five times the allowable harvest in Republic of Congo; and exporting unprocessed logs in violation of government log export bans.⁴³ In Gabon, where the government has mandated that 85% of trees should be processed locally, over 80% are exported to China as logs.⁴⁴ This country's illegal timber exports are estimated to have cost Gabon \$10.1 million in 2002.⁴⁵ In 2003 China imported 46% of Gabon's total wood exports.⁴⁶ More generally, China's share of West Africa's log exports increased from 25% to 42% between 1998 and 2003, all from a region where illegal timber harvest hovers at over 50%.⁴⁷
- *East Africa:* The coastal forests and woodlands of Tanzania are disappearing due to overharvesting of tropical hardwoods, much of it illegal and destined for export markets. China is the largest and fastest-growing market: in the second half of 2005, China imported 100% of the logs exported from Tanzania, and 75% of processed hardwoods. Furthermore, trade statistics show that China imported ten times more timber products from Tanzania than what appeared on the country's official export records – in other words, a loss of 90% of the government's revenue, estimated at \$58 million dollars annually. The deforestation is having noticeable effects on topsoil erosion and water quality in the main logging districts.⁴⁸ Trying to combat this trade, Tanzanian authorities are planning official visits to several major consumer countries to ask for help in reducing demand and fighting illegal exports.⁴⁹

In Mozambique, Chinese buyers' credit and political influence drives the extraction of tropical hardwoods from slow-growing semi-arid and dry forests at a rate that could lead to exhaustion within 10 years. A system of corrupt links between Chinese traders, loggers and government forestry authorities facilitates the illegal extraction and ongoing export of unprocessed logs, despite regulations created in 2002 to prohibit log exports. Numerous small operators, financed with credit from their buyers, cut four to five times their quota on dubious harvesting licenses.⁵⁰

“The impression you get there is that illegal logging has become an everyday economic affair and common practice. Everything is covered with slabs of processed timber; there are saws everywhere with Chinese workers, who as soon as we approach them forget Russian, and Chinese too. Everybody sees it and nobody does anything.”

Yuriy Petrovich Trutnev,
Russian Natural Resources Minister,
on visit to Eastern Russia, early 2007

- *Russia:* Nowhere has China's wood manufacturing explosion been felt more strongly than in the forests of Russia's Far East, whose vast expanses of Korean pine and temperate hardwoods are home to the world's largest cat species, the Amur tiger. In this remote borderland, factors including the lack of law enforcement, organized crime's control of much of Russia's economy, and China's ravenous appetite for wood material have intersected to create a booming timber business in exploding border towns like Manzhouli and Suifenhe, which grew 500% in the last decade.⁵¹

Russia alone supplied approximately 26.4 million m³ in 2005 – 49% of China's total timber product imports and fully 80% of its logs.⁵² In the first half of 2007, imports had risen 18.0% over the previous year.⁵³ Much of this wood is softwood that is used domestically. However, hardwoods – particularly birch, as well as oak, ash and linden – form about 12% of the trade,⁵⁴ and are in high demand for veneer and export-caliber plywood in northern manufacturing centers. Companies including Wal-Mart, Armstrong and Ikea are supplied by plants located in this border region.⁵⁵

Russian oak, birch and pine logs from just across the border crowd the railyard in Suifenhe, China. Some 80% of China's unprocessed log imports come from Russia.
© EIA.



On the Russian side, the horizon is retreating before this onslaught of demand. Having stripped much of the forests along the border, loggers are moving further interior and into officially protected areas.⁵⁶ One common scheme involves the issuance of bogus licenses for “sanitary harvesting” of diseased or dead trees in protected zones.⁵⁷ In May 2007, the head of Russia’s Federal Service for the Regulation of Use of Natural Resources (Rosprirodnadzor) in the far eastern Chita region was fired due to his abject failure to control the illegal logging situation.⁵⁸

Indonesia

Direct wood products exports to U.S. 2006: US\$966,536,000

Pulp and paper: 232,239,000

Estimated % of illegally-sourced wood in export stream: 70 - 80%

In perhaps no other country has illegal logging been destructive on such a massive scale – or the focus of so much concern. In June 2006, the U.S. government was spending more than \$7 million on initiatives to combat illegal logging in Indonesia, with the private sector chipping in another \$13 million via 30 different projects throughout the country.⁵⁹ And yet a 2007 U.N. Environment Programme (UNEP) report forecasts that 98% of Indonesia’s forests could be lost within 15 years, with lowland forests disappearing even sooner.⁶⁰ Indonesia’s own Environment Minister recently estimated that 73% of logging in his country is still illegal.⁶¹

Illegal logging in Indonesia is organized crime that continues to operate with almost total impunity for the higher echelons. Despite millions of dollars invested in combating illegal logging by the national and foreign governments, despite a series of crackdowns, arrests, policy initiatives and extensive public attention to an issue that has cost the country over US\$20 billion, a recent survey by EIA and Telapak confirmed that almost no high-level financiers, senior military or government officials have even been prosecuted, much less convicted, of logging-related crime.⁶² The country’s forestry minister himself has proposed Supreme Court review of several judges involved in handing down not-guilty verdicts, openly questioning a judicial system that continues to free criminals in the face of strong police evidence.⁶³

These crimes are not only towards the forest. Among the world’s most infamous timber barons are Abdul Rasyid and his nephews Sugianto, Agustiar and Yadi, whose Tanjung Lingga suite of companies has reaped hundreds of millions of dollars from illegal logging of ramin and other species at Tanjung Puting National Park. In 2000, Rasyid’s employees assaulted two EIA and Telepak investigators with head blows, threatened them with death, and had them thrown in jail for three days. In November 2001 Rasyid ordered an attack on investigative journalist Abi Kusno Nachran after his information led to government seizure of three illegal timber shipments. Abi Kusno was hijacked on the road by a gang of hired thugs who hacked him with machetes in the back, arms, and head, and left him for dead.⁶⁴

CASE STUDY Merbau: The limits of a crackdown

In early 2005, an EIA-Telapak report revealed an enormous trade stream of illegal merbau (*Intsia sp.*) coursing out from the Indonesian province of Papua – over 300,000 cubic meters a month being smuggled to China and India. In the wake of this report, the Indonesian government instigated a crackdown that involved over 1500 enforcement officials from across the archipelago. Officials seized almost 400,000 m³ of timber, confiscated hundreds of bulldozers, ships and barges, and named some 186 suspects from low-level loggers to the typically impervious financial backers. The effect of this crackdown was felt immediately on global markets, as the price of merbau doubled in Shanghai over six months.

However, two years later, the aftermath of Operasi Hutan Lestari has proved disappointing. Indonesia's judicial system has proven incapable of punishing any real masterminds of the forest crimes in Papua: by early 2007, only 13 convictions of low-level operators had been secured, the longest sentence only two years. The auctions of the confiscated timber, which should have generated close to US\$220 million, eventually netted the government a scarce US\$4 million after police rigged most sales. And lacking any demand-side impetus to more permanently staunch the flow of illegal merbau to consumer import markets, syndicates are back in operation and the price of this wood has fallen once again.

Source: EIA/Telapak. The Thousand Headed Snake. 2007.

All cases against Rasyid, who until recently was a member of the Central Kalimantan Parliament, have been dropped due to “lack of evidence.” He has now diversified away from timber into equally destructive oil palm activities - a natural progression, given that 66% of the oil palm plantations currently proliferating across the Indonesian landscape are established on degraded former logging sites.⁶⁵

As part of the effort to staunch the illegal flow of its resources, Indonesia enacted a log export ban in September 2001. Following this, many syndicates changed their methods by cutting the stolen wood into sawn timber and concealing it in shipping containers.⁶⁶ In response, Indonesia enacted a sawn timber export ban in October 2004 with strengthening and elaboration of limited exceptions in February 2006.

Yet despite a law that makes most sawn timber exported from Indonesia expressly illegal, U.S. trade data show that 1,570 shipments declared on customs forms as Indonesian sawn timber, worth some \$30 million, entered U.S. ports between Nov. 2004 and Nov. 2006: more than 2 shipments per day.⁶⁷ Eleven U.S. ports comprised 89% of these shipments, with only three ports – Los Angeles, Long Beach and Tacoma, WA – responsible for 51%. This concentrated flow demonstrates how increased enforcement in the U.S. could be both simple and effective to address an obviously illegal trade stream.

Indonesia, with substantial urging and support from the international community, has taken a variety of steps aimed at curbing illegal logging and associated trade. These include major enforcement actions (see Box: Merbau above), development of a precedent-setting legality standard, entrance into MOUs with several consumer nations, and negotiations with the European Union on a licensing system to exclude illegal timber

“I want to appeal to the citizens of the whole world: look for the stamp of approval of legal wood products.”

Rachmat Witoelar,
Indonesia's environment
minister, 2007



Piles of illegal merbau cut by PT Marindo Utama Jaya in western Papua province, 2005. © Telapak/EIA

from the EU import stream. But between ongoing impunity for the nation's timber barons – many of whom reside safely in mansions in Singapore, which lacks an extradition treaty with Indonesia – and ongoing demand for cheap wood material from consumer markets like China, Japan, and the U.S., the battle against illegal logging is far from won.

Malaysia

Direct wood products exports to U.S. 2006: US\$1,173,887,000

Pulp and paper: 17,505,000

Estimated % of illegally-sourced wood in export stream: 20 - 35%

Malaysia is the world's largest tropical timber exporter. As the country's domestic natural forests have dwindled, it has maintained its production through increasing reliance on imports and re-exports of Indonesian wood – often illegal.⁶⁸

Malaysia has illegal logging problems within its own borders, where UN data shows that the country's deforestation rate has leapt by 86% in the last seven years, and the Plantation Industries and Commodities Minister recently blamed “gangsters” for growing domestic illegal trade.⁶⁹ But its concessions system is relatively tightly controlled; the larger problem with Malaysia has been its role in trafficking illegal wood from its southern neighbor.

In 2004, it was estimated that 70% of Malaysia's log imports were of suspicious origin.⁷⁰ The smuggling problem is so widespread that a member of the Malaysian Parliament has been implicated. MP Said bin Yusof, who told authorities to “close one eye” to illegal timber shipments coming in from Indonesia, was found to have major financial holdings in two companies involved in this import trade.⁷¹



Unloading illegal Indonesian timber at Kuala Linggi port. © Sam Lawson/ EIA/Telapak

Despite improved laws and enforcement in some regions, and official actions such as the passage of reciprocal Indonesian log and flitch import bans in 2002-03, trafficking and transshipping remains widespread. As recently as 2006, EIA investigators observed large amounts of banned Indonesian squared logs and sawn timber traveling across the Molucca Strait from Indonesia to Peninsular Malaysia.⁷¹ At least one trader even still claimed to regularly ship ramin wood, a CITES-protected species essentially banned for export from Indonesia.

Malaysia's smuggling of endangered ramin (*Gonostylus spp.*) has been particularly egregious. The country's own peat swamps were over-harvested into commercial depletion throughout much of its range by the 1990s. Yet in 2003, a year after the CITES Appendix II listing which effectively banned Indonesian exports of ramin, EIA/Telapak investigations found huge quantities of fraudulently labeled “origin Malaysia” ramin being smuggled across the Indonesian border and sold into international markets. The amount discovered by even these limited investigations represented at least double the entire amount of ramin that Malaysia could produce annually – a wholesale theft.⁷³ Even now, in 2007, Malaysia's unwillingness to establish a scientifically-based, reasonable export quota for ramin led the EU's Scientific Review Group, which makes trade decisions on CITES-listed species, to temporarily suspend Malaysian ramin imports.⁷⁴

CASE STUDY Capitol Hill: Open doors for illegal wood?

EIA has learned that the U.S. Capitol building itself almost installed Honduran mahogany doors at high risk for illegal origin – and still could. Had 2007 appropriations come through for this project, we would be left to wonder whether the doors opening onto the U.S. House of Representatives were made using endangered trees stolen from an internationally protected reserve. The case of these and other luxury doors exported from Honduras demonstrates the lack of incentives that currently hamper U.S. companies who want to source legal wood.

Illegal logging in a UNESCO Biosphere Reserve

Rio Plátano UNESCO Biosphere Reserve encompasses 800,000 hectares of the vast Honduran Mosquitia rainforest. Its forests, rivers and incredible biodiversity also sustain the livelihoods of some 40,000 Miskito and Tahwaka indigenous people. The park is a centerpiece of the Mesoamerican Biological Corridor, a project into which donors including the United States have poured hundreds of millions of dollars.

The Mosquitia region has become a hotbed of illegal traffic for timber, wildlife and drugs. Government investigators must travel this zone with a police or military escort due to threats.¹ It is largely mahogany (*Swietenia macrophylla*) and cedar (*Cedrela odorata*) that traffickers are after – mahogany being the world's most valuable timber species, fetching close to \$2000/m³ on international markets. The government's Independent Forest Monitoring Program estimates that in 2006, one million board feet were extracted illegally, an amount that could have garnered some US\$5 million on the export market, as well as sizable tax revenues: instead, they conclude, "the sales of this wood have not contributed to improving the conditions of the people who live near the forest."²

Honduran shores to luxury doors

Where does this wood go? Much of it ends up in free trade manufacturing zones such as San Pedro Sula, where a small but thriving group of companies sends millions of dollars yearly in high-end doors, window frames, and furniture to the U.S.³ One of these factories, Millworks International S.A. de C.V., makes custom-made doors for at least two American companies: Marvin Windows & Doors, a Minnesota-based company which began selling luxury Entry Doors from mahogany and cedar in 2006, and Roatan Mahogany Millworks in Coral Gables, Florida.⁴ Roatan specializes in exclusive mahogany doors and windows for the likes of Donald Trump's Palm Springs Mar-a-Lago estate.

Roatan's website tells us that "Two-thirds of Honduras is covered tropical forests [sic] and has conservation and export laws to ensure continuity of its forest resources into the next century. Products supplied by Roatan come from managed forests and are approved by International Environmental Associations."⁵ It does not specify which associations these may be.

The chain of illegality

While not all the wood used by Millworks International or other factories is illegal, there is simply not enough legal Honduran mahogany on the market to meet demand (at least one company has begun importing Bolivian mahogany for this reason).⁶ Honduran authorities have documented repeated instances of mahogany or cedar cut in Rio Plátano being sold to intermediaries or companies in San Pedro Sula, including Millworks.

In 2006, after a major crackdown on illegal mahogany logging in the Biosphere, large piles of confiscated timber were given I.D. markings by a government enforcement team. Much of this wood then disappeared before it could be sold in official auctions (which are, themselves, usually rigged). Subsequent investigations turned up several thousand cubic meters of this wood – US\$94,400 worth – in the Millworks storage yards.⁷ Millworks had purchased the stolen Biosphere wood through the middleman Maderera Sipres – a notorious supplier to the San Pedro Sula manufacturers, which has been under past government investigation for possessing large quantities of illegal mahogany and cedar.⁸



Biosphere mahogany, with falsified markings, in the Millworks lumberyard. © CONADEH

Millworks claims it cannot be held responsible for Maderera Sipres' purchase of the marked Biosphere wood. But this case of clearly illegal chain-of-custody shows that the incentives to purchase cheaper wood are far stronger than the incentives to purchase legal wood. This dynamic directly undermines positive forestry efforts. Field sources state that Millworks usually doesn't buy the wood sold by community cooperatives working on sustainable harvesting projects – perhaps because the suspect mahogany bought from so-called “coyotes” costs one-third the cooperatives' price.⁹

Links to Capitol Hill

In 2005, according to website information confirmed by EIA investigations, Roatan Mahogany Millworks was contracted by the architecture firm Beyer Blinder and Belle to develop plans for building bullet-proof replicates of the existing antique mahogany doors on the House chamber in the U.S. Capitol. The Architect of the Capitol has since confirmed that the budget to construct and install these doors was not approved for 2007. Had it gone through, Roatan and its manufacturer Millworks International would have been the most likely source.

Sources: 1. Eva Sanchis, “Traficantes Amenazan Selva de Honduras”, 22 May 2007, *El Diario NY*. 2. CONADEH, 2007, Proyecto Monitoreo Forestal Independiente en Honduras: Informe No. 36: Mecanismos utilizados en el Mercado Ilegal de Madera de Caoba de la Reserva del Hombre y la Biosfera del Río Plátano. 3. EIA, “The Illegal Logging Crisis in Honduras,” 2005. 4. *ibid*. 5. Roatan website <http://mahoganydoor-sandwindows.com/honduran.php> 6. EIA investigations 2005. 7. CONADEH report #36. 8. EIA, 2005. 9. Sanchis, 2007.

Honduras

Direct wood products exports to U.S. 2006: US\$48,968,355

Pulp and paper: 411,915

Estimated % of illegally-sourced wood in export stream: 50% (softwoods); 80% (hardwoods)

The Honduran timber industry is a powerful and legendarily corrupt economic sector even in this, one of the most corrupt countries in the Western hemisphere by most indicators, as well as one of the most impoverished.⁷⁶ The timber industry in Honduras is controlled by a group of powerful barons that include Jose Lamas, the country's richest man; Guillermo Noriega, “best friend” to head of one of the main political parties; and Juan Pablo Zúñiga Colindres, a multi-millionaire who has been jailed for both drug and timber trafficking.⁷⁷

The United States is Honduras's largest market for wood products, importing over \$47 million in each of the last two years in pine lumber and secondary products including mop handles and tomato stakes, as well as valuable hardwood products like mahogany doors and windows.⁷⁸

A panoply of illegal logging and timber trafficking techniques has been documented by EIA and other organizations, from fraudulent permits, phony community “cooperatives”, and bribe-fueled transport to cutting openly in national parks. The illegal timber trade is used to smuggle narcotics and launder drug money. Export tax evasion is also rife: EIA investigations in 2005 indicated that the country’s principal firms alone export around 300,000 m³ a year, but the Honduran government reports only 170,000 m³ in total exports.⁷⁹

Honduras has a thriving industry in worked hardwood products made from coveted woods like mahogany and cedar from the country’s lowland rainforests. Unfortunately, much of the raw hardwood material



Heraldo Zúñiga, one of two activists allegedly murdered by police at the behest of timber barons, December 2006. © CIP/MAO

supporting this industry is taken illegally, from the protected areas and indigenous lands of the Mosquitia region, such as Rio Plátano Biosphere Reserve. The U.S. market is destination for of these high-value products, which end up as doors or furniture in unwitting Americans’ homes (see Case Study: Capitol Hill).

Illegal logging in Honduras is associated with serious human rights abuses. For more than a decade, the grassroots Environmental Movement of Olancho (MAO) has fought logging on their community lands by companies owned by Lamas, Noriega, and other barons. MAO’s struggle has earned the group’s members death threats and intimidation. Between 1996 and 2007, eight members are alleged to have been killed, and on December 20th, 2006, Heraldo Zúñiga and Roger Ivan Murillo

Cartagena became the latest victims, shot up against a town hall wall.⁸⁰ International outcry over the killings led to the arrest of four local policemen. However, the logging interests behind the crime remained unscathed. One such interest is the Sansone company, whose employees MAO has repeatedly denounced for death threats.⁸¹ Sansone is Honduras’ second-largest exporter, sending broom and mop handles as well as lumber to U.S. and Caribbean markets.

Peru

Direct wood products exports to U.S. 2006: US\$83,753,287

Pulp and paper: 952,852

Estimated % of illegally-sourced wood in export stream: 30-40% overall⁸²

Peruvian trade is strongly driven by American demand: in 2006, over 40% of Peru’s overall exports (US\$216 million by value) went to the U.S.,⁸³ and in recent years a full 89% of its mahogany.⁸⁴ Peru is the world’s principal exporter of mahogany, particularly since Brazil’s 2001 export ban. In 2006, this valuable wood comprised 20% of the country’s total timber exports by value (a far smaller quantity by volume).⁸⁵

The extent and impact of illegal mahogany logging in the Peruvian Amazon is grave, previously estimated by some sources as reaching 90% of all extraction.⁸⁶ Concession inspections carried out by the Peruvian forestry oversight agency in 2005-06 found that 72% of the annual operative plans reviewed presented “irregularities” – nonexistent or over-estimated volumes of mahogany and Spanish cedar, which indicate extensive laundering from protected forests.⁸⁷ International concern over Peru’s incomppliance and lack of political will vis-à-vis regulating trade in mahogany⁸⁸ – an Appendix II-listed species under the Convention on International Trade in Endangered Species –caused the CITES Standing Committee in June 2007 to

mandate that the country implement a series of actions, including reduction of its export quota to only that wood which has been “verified and approved” by the government.⁸⁹

But official words on a page bear little relation to the reality of the “red gold” rush occurring in Peru. In the southeastern department of Madre de Dios, home to the world’s highest remaining concentration of old growth mahogany, researchers have documented the ransack of timber from both Alto Purús National Park and indigenous lands. Loggers are penetrating the protected territories of several voluntarily isolated, ‘uncontacted’ tribes, resulting in a rise in violent encounters with casualties on both sides.⁹⁰ Advocates fear that contact with loggers will end in deadly conflict or transmission of an infectious disease such as influenza or pneumonia, which could kill the entire tribe. (In the Urubamba region nearby, uncontacted peoples suffered an estimated 30-50% population loss after gas company employees and loggers entered in the late 1990s⁹¹). Already, at least two such groups have appeared at Brazilian outposts, fleeing loggers on the Peruvian side.⁹²

Local timber barons, increasingly linked with drug traffickers, take brutal advantage of the poverty and isolation of Amazonian communities from Iquitos to Puerto Maldonado.⁹³ Trees that are not cut directly from a national park are cut on titled indigenous lands. Capitalizing on communities’ lack of knowledge about timber industry practices and prices, loggers negotiate grossly unjust or illegal contracts, breaking promises of payment and ensnaring people in a cycle of debt peonage and further cutting by exchanging their timber for exorbitantly priced food and goods.⁹⁴ In a region where a single mahogany tree, at U.S. market value, could build and staff a village clinic, loggers pay less than 0.02% of the international price and harvest the trees to depletion in one season, leaving trunks to rot if they have even minor imperfections.⁹⁵

In an even more aggressive form of exploitation, logging bosses demand that this debt be paid off by work in logging camps, where once men arrive they are trapped in an accumulating debt cycle that often pulls family members in as well. Workers are forcibly kept in these camps by threats of physical abuse, withholding of identification documents, and gun-toting security guards.⁹⁶ Prostitution linked to payment of logging debts is a regular phenomenon; in some camps, women are allegedly paid for their sexual services with leftover pieces of mahogany wood to sell for low prices in the city.⁹⁷

These logging practices are types of ‘forced labor’, or modern day slavery. A study conducted by the International Labor Organization in 2004 estimated there to be some 30,000 people living at the time under forced labor conditions linked to logging in the departments of Madre de Dios and Ucayali.⁹⁸

“Every foot of mahogany exported today from Peru leaves in its wake a dark story of corruption, swindles, exploitation, theft, and destruction.”

Jose Alvarez,
president of Center for Amazonian
Studies, Iquitos



An illegal logging road and cache of mahogany trees deep within the Murunahua Territorial Reserve for uncontacted. The risk of catastrophic contact with invading loggers is so high that in March 2007 the Inter-American Court of Human Rights ordered the Peruvian government to implement precautionary measures to protect the uncontacted groups of Madre de Dios. © Chris Fagan/Round River Conservation Studies

Liberia

Direct wood products exports to U.S. 2006: 0

Estimated % of illegally-sourced wood in export stream: previously, up to 80%

Logging in both Liberia and neighboring Sierra Leone has contributed to human rights abuse both in the forest and on battle-zone urban streets. By the time Liberian warlord-turned-dictator Charles Taylor fled the chaos he had created in 2003, he had granted vast areas of the country as timber concessions to political patrons. The logging industry operated with impunity and total disregard for the law, as documented at great personal risk by activists such as Silas Kpanan' Ayoung Siakor and Global Witness.⁹⁹

The industry provided Taylor with both on-the-record and extra-budgetary financing, as well as giving a convenient logistical cover to extensive arms trafficking.¹⁰⁰ Gus Kouwenhoven, president of the biggest of the companies, Dutch-owned Oriental Timber Company (OTC), has since been convicted of war crimes in the Netherlands for violating the arms embargo against Liberia by arranging arms shipments into its timber ports.¹⁰¹ OTC was one of several whose operations were sites of documented human-rights abuses including forced labor, violence and intimidation against village landowners, beatings, and sexual exploitation of local women by employees and members of the armed private militias who protected the logging concessions.¹⁰²

Another of Taylor's patrons was Leonid Minin. Minin was a Ukranian mafia leader and arms smuggler later exposed for concealing as timber transactions his shipments of missiles, grenade launchers, rockets and ammunition to Sierra Leone's Revolutionary United Front, an army renowned for tactics like chopping off the hands of its opponents.¹⁰³

Even after the UN imposed an overdue embargo on Liberian timber in 2003 (two years after similar 'blood diamond' sanctions), ongoing illegal wood trade from Liberia's ports and across the border into Cote d'Ivoire was documented, providing ongoing financial support and arms to militia groups.¹⁰⁴

In February 2006, new president Ellen Johnson-Sirleaf cancelled all of Liberia's Taylor-era logging concessions¹⁰⁵ and, in October 2006, the U.N. Security Council lifted the embargo.¹⁰⁶ The U.S. government has put four million dollars into a Liberian Forestry Initiative to support sectoral reform. It remains to be seen whether the country's fragile institutions will be able to enforce a legal paradigm in the face of growing demand, from China and elsewhere, for the hardwoods of West Africa's last remaining intact tropical rainforests.

4. THE ENVIRONMENTAL AND ECONOMIC COSTS

Illegal logging activities catalyze a chain reaction of environmental damage with major consequences for climate change and biodiversity loss. Some of the greatest damage results precisely from the export-oriented extraction of highly valuable timber species from "frontier forests" – the most pristine and extensive forests left on earth.

Frontier logging

Mahogany, meranti, merbau, ramin, Russian oak, okume: these lyrical names are some of the hardwood species worth hundreds or even thousands of dollars for a single trunk's worth of veneer, floorboards, or even fiber to be churned into wooden toothpicks. Today, the giant, often slow-growing specimens of these species remain only in remote and intact forests: in national parks set aside to protect habitat for low-density

large mammals like tigers or orangutans, and in the world's few remaining vast tracts of wilderness such as the Amazon, the boreal forests of Russia, the islands of New Guinea and Borneo, and the Congo basin. The value of these species on international markets provides sufficient incentive for logging syndicates to finance trespass in parks and indigenous territories, falsified harvest and shipping permits, and construction of miles of trails or crude roads into the wilderness to access high density stands or even individual trees.

Illegal logging within protected areas exacts a toll on the biodiversity and ecological services of forests declared by governments and the international community to be the most special places on Earth. No clear statistics exist that quantify the extent of illegal logging in national parks around the world, but according to an EIA survey of existing data sources, of the 19 World Heritage sites in Latin America and the Caribbean that contain significant areas of forest, at least nine have problems with illegal logging.¹⁰⁷ The Indonesian government, based on satellite imagery analysis, states that 37 of its 41 national parks are beset by illegal logging.¹⁰⁸

Inside and outside protected areas, this “frontier logging” for valuable species triggers a cascade of subsequent environmental degradation. Logging trails destroy hundreds of other trees to reach a few commercially valuable individuals. The creation of infrastructure and temporary logging camps brings an influx of people and economic activity into remote regions. In the short term, this leads to over-hunting of bushmeat or commercial wildlife poaching in surrounding forests; in the long term, settlements can become permanent and habitat for far-ranging species like tigers, jaguars, orangutans or forest elephants shrinks behind the agricultural frontier.

Intensive illegal logging can disturb ecological dynamics enough to make waterways dry up and cause forests to be more susceptible to spreading fires. The uncontrolled cutting of Honduras's rich pine forests, for

Illegal Logging and Climate Change

The UK's recent Stern Review on the Economics of Climate Change found that deforestation accounts for 18.3% of global carbon emissions annually – more than the entire transport or industrial manufacturing sectors.[1] Much of this deforestation results from the conversion of forest cover to pasturelands and agricultural plantations. Illegal logging is an integral part of this picture, contributing to deforestation both through the direct removal of forest cover, and critically through the chain of land use change triggered by logging – infrastructural development, subsequent settlements, fires.

Uncontrolled logging is, in this way, the 'gateway activity' that leads to a cycle of harm for the forests and the global climate. A recent analysis of logging in the Democratic Republic of Congo, for example, found that logging roads and other infrastructure “produce a level of [carbon] emissions 2.5 times greater than that from the extraction of the commercial timber itself.”

Sources: 1. Stern Review on the Economics of Climate Change, 2007.
2. Greenpeace, Carving Up the Congo, 2007.

*Burning in lowland rainforest, Rio Platano Biosphere Reserve, Honduras.
© D. Sims/EIA/CIP*



example, has caused what communities document to be the loss of approximately half the water sources in the populous Olancho district.¹⁰⁹ This deforestation and burning is a major cause of global greenhouse gas emissions (see Box: Illegal Logging and Climate Change).



A logger cutting in Tanjung Puting National Park. Here and in other lowland forest areas throughout Indonesia, the ripple effects of high-impact logging techniques have multiplied the ecological damage caused by the ramin plunder.

© A. Ruwindrijarto/EIA/Telapak

Ramin (*Gonystylus spp.*), a blond hardwood used in commonly sold products such as baby cribs, picture frames, and dowel rods, provides an example of this chain reaction. Ramin has been cut so extensively from its native peat swamps that it was listed on Appendix II of the Convention on International Trade in Endangered Species in 2004, and a 2005 report by the Malaysian and Dutch governments concluded that ramin logging should be completely phased out.¹¹⁰ Unfortunately, the valuable trees continue to be illegally cut and smuggled from Indonesia.

The access trails and extraction techniques used in logging uproot or severely damage many trees for each ramin individual cut, fragmenting and degrading the swamp habitat.¹¹¹ Canals dug to pull logs out drain the swamps. The unplanned logging increases the

number of forest gaps and ground fuel loads. These changes raise the frequency and severity of fires, which may spread unintentionally from nearby agricultural activities, but often are set to make way for industrial agriculture. In Indonesia this means oil palm plantations, which have metastasized across the landscape in the wake of logging disturbance: in the past decade, satellite images show that oil palm area has increased 40 times over since 1992 (4000%), and that 66% of new plantation has been established on previous logging sites.¹¹² If peat swamp emissions were included in official calculations, Indonesia would be the world's third-largest greenhouse gas emitter because of the fires that rage annually across its carbon-rich peat swamps.¹¹³

Forests at home

American forests are not immune to the indirect impacts of illegal logging worldwide. Cheap illegally sourced raw materials and poorly regulated forest sectors are one of a suite of economic factors leading to the far lower cost of wood product manufacturing overseas. These dynamics have caused a comprehensive restructuring of the U.S. forestry and wood products industry over the past 15 years, which has contributed to a significant reduction in harvest activity in U.S. federal forests,¹¹⁴ and the increased sale and conversion of intact forest timberlands to small parcels for real estate development. A U.S. Forest Service Study predicted that over 44 million acres of private forestland will be sold off over the next 25 years – an area twice the size of Maine.¹¹⁵ This fragmentation and conversion is worrisome from an ecological perspective.

The U.S. will also, of course, see climate change's impacts with increasing ferocity. A report by the U.N. Intergovernmental Panel on Climate Change (2007) estimated that the US economy will face many billions of dollars in associated costs, ranging from increased national disasters to the reconstruction of coastal cities. The timber industry will see \$1-2 billion in losses by the end of the century from damage to its standing stock, as forests will suffer from increased wildfires, insect infestations and disease.¹¹⁶

The costs to U.S. economy, industry, and society

The dramatic gap in cost between illegally-harvested wood and wood harvested in compliance with U.S. forestry laws has a significant economic impact. U.S. companies lose an estimated one billion annually due to the market distortions caused by illegally-harvested timber: \$460 million in export opportunities every year from market displacement, and between \$500-\$700 million due to the downward price pressure on US exports.¹¹⁷

Given losses of this scale, it should not be surprising that illegal logging is one among several factors that have contributed to the substantial loss of jobs and revenue in timber-dependent communities. From January 2001 to October 2006, the US logging industry lost 15,000 jobs (a -19.5% change); US wood manufacturers lost 50,000 jobs (a -8.6% change); and the US paper and paper products industry lost 135,000 jobs (a -22.5% change).¹¹⁸

These dynamics are receiving more and more attention from the U.S. government. Illegal logging will be on the agenda of the next round of Strategic Economic Discussions with China in December 2007. Chinese hardwood plywood, which accounts for over 50% of all U.S. imports, is the subject of U.S. customs investigation due to extensive evidence of mislabeling and misrepresentation.¹¹⁹ The impact of illegal logging on the hardwood plywood and wood flooring markets is currently under investigation by the U.S. International Trade Commission, with a report due in 2008.¹²⁰ And the Department of Commerce has included Indonesia's lax enforcement of logging laws as part of countervailing duty investigations into subsidies to that country's paper companies.¹²¹

5. NO REASON FOR QUESTIONS: THE LACK OF DEMAND-SIDE TOOLS

Under current U.S. law, with very few exceptions, wood imports are legal by default – no questions asked. There is no underlying legal framework, within either domestic law or trade agreements, that prohibits the import or sale of illegally sourced wood products from any other nation. As a result, the millions of dollars invested by the U.S. government, non-governmental organizations and private companies in anti-illegal logging programs in supply side nations are being undermined by our own market and legal system.

To illustrate: suppose an Indonesian customs official calls up an officer in the U.S. Customs and Border Patrol office and tells him that a shipment of meranti logs, taken from a National Park in Sumatra, exported in direct violation of the Indonesian log export ban, were going to arrive into Los Angeles on a known ship on a known date. What could be done – seizure and confiscation of the shipment? Penalties for the broker or importer? Nothing. No U.S. government agency has the authority to take any enforcement action.

“Unless and until traffickers face diminished incentives to trade - less demand, lower margins, higher risks - it is more or less futile to talk about other remedies.”

Moses Naim, editor-in-chief,
Foreign Policy, *Illicit* (2005)

Existing mechanisms and their limits

The one exception to this lack of legal tools is the Convention on International Trade in Endangered Species (CITES), an international agreement that was created to ensure sustainable trade of flora and fauna. Legal international trade of species listed within its three Appendices requires use of export and import permits,

which U.S. officials check and verify. CITES is a critical tool, but it is exceedingly limited for addressing the larger problem of illegal logging: EIA's analysis of trade data shows that the chief timber species now regulated under CITES – ramin and mahogany lumber (any mahogany products are exempt) – account for less than 0.2% of wood imports to the United States.¹²²

The Bush administration has not ignored the illegal logging issue altogether. It has, however, chosen to act through programs oriented at addressing the problem entirely from a supply side perspective. These programs are coordinated through the “President’s Initiative Against Illegal Logging” (PIAIL), created in 2002 and housed within the White House Center for Environmental Quality. The Initiative has coordinated capacity building, forest monitoring, and other governance-enhancing initiatives, and represented the U.S. government in several World Bank-facilitated Forest Law Enforcement and Governance dialogue processes.

The chief timber species now regulated under CITES, our only legal tool for regulating timber imports, account for less than 0.2% of wood imports to the United States.

Facing pressure to address the massive illegal logging problem in Indonesia before any trade deal is put in place, in November 2007 the office of the U.S. Trade Representative signed a Memorandum of Understanding (MOU) with Indonesia on “Combating Illegal Logging and Associated Trade.” This bilateral agreement, one of several that Indonesia has signed with consumer countries, follows PIAIL’s supply-side emphasis and promotes capacity building and information sharing. EIA joined major conservation organizations WWF, The Nature Conservancy, and Conservation International in a written statement calling for activities under the MOU to include stronger demand-side measures.

Other U.S. and international legal tools created to fight organized crime have been advanced as ways to combat illegal logging. These include the National Stolen Property Act (NSPA), money laundering laws including the Patriot Act, and the U.N. Convention on Transnational Organized Crime. Unfortunately, U.S. laws related to stolen property were not designed to effectively tackle the wood products trade. Despite significant efforts, for example, the Department of Justice has found the NSPA unsuitable for bringing a case related to illegal logging overseas. While anti-money laundering laws continue to hold promise, their use related to timber trade has been minimal thus far.

The pending U.S.-Peru trade agreement, the first FTA to include provisions directly related to timber trade and forest governance, is a potentially fruitful mechanism for stopping illegal timber flows. The agreement gives the United States the right to request or participate in inspections of logging concessions if the government has reason to believe there may be illegalities occurring, and to if to detain questionable shipments of timber products, pending verification that the products were harvested and traded legally. These provisions are an encouraging development within the free trade paradigm. That said, bilateral measures will always be vulnerable to circumvention by transshipment via third parties

The private sector response

The private sector has long acknowledged that illegal logging is a grave problem. The American Forest and Paper Association, The Hardwood Federation, and the International Wood Products Association among others have issued policy statements condemning illegal logging as a harmful activity in its own right and for their constituents’ economic interests. The AF&PA-commissioned study by Seneca Creek Associates (2004) remains one of the most authoritative sources on the issue today.

In the absence of a legal structure, a number of U.S. businesses have taken steps to voluntarily clean up their international wood supply. Companies may develop their own policies and procedures, or work with consultants or expert organizations to develop internal control systems and find trustworthy business

After EIA revealed their marketing of dowel rods from illegal Indonesian ramin laundered through Malaysia, and contacted both Home Depot and Lowe's with this information, both big boxes shifted their sourcing to other species and removed the products from their shelves. They later did the same with merbau flooring after EIA's 2005 expose of the illegal trade from Indonesian Papua. © EIA



partners. An increasing number of accredited assessors offering legality verification services can aid these corporate efforts to ask the necessary questions. Entities such as SmartWood, SGS, SCS, and Soil Association now conduct third-party assessments that serve, in theory, to verify that a particular wood product was harvested legally and that all the various firms involved in

its supply chain have systems in place to track that wood. Other noteworthy private sector actions include:

- *Retailer commitments:* Both The Home Depot and Lowe's have made public commitment to sell legal and, when possible, sustainable timber. Although these giant retailers lack comprehensive tracking systems to ensure the legality of all their products, they are capable of quick response when specific evidence surfaces.
- *Step-wise programs:* Organizations including WWF (Global Forest and Trade Network), SmartWood (SmartStep), and Tropical Forest Trust offer so-called "step-wise programs" that assist companies interested in improving their procurement, on the demand side, or in the case of timber companies their forest management. These programs set goals and a timeline for a firm to work towards legal and, ultimately, independently-certified sustainable wood sourcing. The number of companies committed to a step-wise program has grown dramatically in recent years: the GFTN program for example, which started in 2003, now works with 361 entities in 30 countries, with participants accounting for around 12% of global timber trade.
- *Financial institution policies:* Citibank, JPMorganChase, and Bank of America, all subject to intense campaigning by the Rainforest Action Network, have each issued voluntary guidelines stating that they will not knowingly make loans to companies engaged in or supporting illegal logging practices.¹²³

Despite these examples of positive actions, the incentives built into our current system discourage businesses' attempts to adhere too strongly to lofty stated goals. In the same way that producers in high-risk regions who attempt to harvest sustainably are out-competed by brokers selling stolen wood from the community next door, companies that wish to implement legality checks or buy certified wood find themselves at a cost disadvantage relative to competing importers, manufacturers, or retailers who buy wearing purposeful blindfolds. A "don't ask, don't tell" policy is entirely rational from a business perspective.

The current lack of legal incentives to clarify chain of custody is, in the long run, going to hamper U.S. export competitiveness.¹²⁴ The trend in major consuming markets beyond US borders is clearly moving towards official standards for legality and even sustainability (see Section 6). Moreover, when one considers that wood competes with steel, plastic, and other raw materials in the market for construction and home furnishings, it becomes clear that a positive market image is an advantage.

6. U.S. LEGISLATION: THE TIPPING POINT?

The commitments expressed by G8 leaders at the 2005 Gleneagles summit crystallized a growing awareness that demand-side measures are needed to truly curb the roots causes of illegal logging. A variety of policies and initiatives are now being implemented or considered to encourage demand for legal timber.

As long as the U.S. lacks similar policies to prohibit illegally sourced wood, our market is an enormous open door for suspicious material, undermining other countries' attempts to address the problem. Conversely, if the world's largest wood products market were to signal that it was closing this door, many people believe this action could provide the 'tipping point' to bring real change in global logging and tracking practices.

Initiatives around the World

Legislative and policy efforts to curb demand for illegal timber include:

- *Procurement policies:* The governments of Japan¹²⁵, New Zealand¹²⁶, and six European Union countries (Netherlands, Germany, UK, Denmark, Germany and France) have all adopted procurement policies in the past seven years that mandate public contractors to use demonstrably legal, and in some cases sustainable, wood material. Together these markets represent 46% of the E.U.'s wood imports.¹²⁷ The policies differ substantially in clarity, requirements, and scope, but the trend is towards wood that is third-party certified or has a documented legal chain of custody.
- *FLEGT:* The European Union's Forest Law Enforcement, Governance and Trade initiative, established in 2003, creates a framework for the negotiation of Voluntary Partnership Agreements (VPAs) between the E.U. and major producing countries. The VPAs will form the basis for a licensing system that will allow only timber verified as legal to enter European markets. Indonesia, Malaysia, Ghana and Cameroon are currently in formal VPA negotiations.
- *Legislation:* in mid 2007, the European Union completed a public consultation process to gather comments regarding several different legislative options to address illegal timber imports. The options include promoting voluntary initiatives; prohibiting the trade or possession of illegally-sourced timber, or requiring that only legally-harvested timber (with chain-of-custody documentation) be placed on the market. Results from this process are scheduled for release in the fall. Australia is also debating the possibility of legislation.

The future will only see more emphasis on traceable supply chains. In Europe, market data has begun to show a price differential and increased demand for certified products, reflecting the effect of new policies and of public attention to the issue.¹²⁸

What kind of law is needed?

If we understand illegal logging in the context of corruption, criminal trafficking and international trade as laid out in this report, it follows that in order to effectively address the problem, we need to change the equation of risk and return. As Moses Naim, the editor of *Foreign Policy*, wrote in a recent book about the rising global trade in illicit goods ranging from nuclear warheads to pirated software to timber: "Unless and until traffickers face diminished incentives to trade – less demand, lower margins, higher risks – it is more or less futile to talk about other remedies."¹²⁹

Legislative action in consumer countries is not a replacement for, but a reinforcement of, domestic

enforcement in producer countries. The intent is to close market access for illegal timber and wood products to the most lucrative, hard-currency destinations for these products, encourage people to ask questions, and level the playing field for businesses that want to do the right thing.¹³⁰

In EIA and other experts' analysis, an effective law to address the demand side of the illegal logging problem should be judged by how well it can meet the series of criteria outlined in Table 3 below. These criteria relate to supporting producer country efforts, raising the risks for illegal activity, creating the incentive for due diligence without unduly burdening businesses, and being feasible to implement.

Experts have analyzed various legal options available to consumer countries, looking at their likely effectiveness in combating illegal logging, their compliance with the WTO, and their ease of implementation. These options include¹³¹:

- The use of pre-existing legislation such as stolen property laws
- A ban on timber product imports from certain high-risk countries
- A ban on imports of timber products not accompanied by credible proof of legality
- A licensing scheme, such as the VPAs under FLEGT, which permits trade in verified legal products from a given country
- A requirement for suppliers to show credible proof of legality for all products at the point of sale
- A law making it illegal to import, sell or possess illegal timber products

While each has strengths and weaknesses in terms of feasibility, flexibility, and consequences, support has increasingly converged around a subset of these options. In June 2007, representatives of both producer and consumer countries who attended the G8 Dialogue on Illegal Logging recommended that consumer countries commit to advancing the following legislative concepts: (1) a global licensing scheme, based on the VPA model, for controlling trade in illegally-logged products, and (2) a "Lacey style" legislative option making it illegal to import, sell or possess wood products that have been sourced illegally, in accordance with the laws of producer countries.¹³² (See Box: Amending the Lacey Act for background on this option.)

Initial results of the European Union's public consultation also suggest substantial interest in creating a requirement that all timber placed for sale in the EU market have demonstrable proof of legality.¹³³

In March 2007, Representative Earl Blumenauer (D-OR) led the introduction of bipartisan legislation into the U.S. House of Representatives amending the Lacey Act. In July 2007, Senator Ron Wyden (D-OR) introduced a similar bill to the U.S. Senate with support from a broad coalition of industry, labor, and environmental groups.
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Amending the Lacey Act to address illegal logging

The Lacey Act, passed in 1900, is one of the United States' primary tools for prohibiting interstate and international trafficking in protected wildlife. The Lacey Act is unique in that it uses the violation of an underlying state or foreign law to 'trigger' a Lacey violation. Specifically, the Act prohibits the import, export, transport, sale, receipt, acquisition or purchase of wildlife or fish (and products) that were taken, possessed, transported or sold in violation of any state or foreign law that is "relating or referring to fish, wildlife or plants." Currently, however, coverage of plants under the Lacey Act is very limited.

Legal experts have long identified full coverage of domestic and foreign plants as a necessary 'fix' to the Lacey Act in general. But only in the last few years has the potential synergy between this sort of amendment and anti-illegal logging enforcement efforts become clear. Including plants and plant products under Lacey would prohibit the commerce of illegally-sourced wood products from other countries or within the U.S.'s own borders. It would establish civil and criminal penalties for persons who knowingly violate the law, and allow for seizures of illegal wood products in U.S. ports or elsewhere with straight liability civil forfeiture proceedings.

The Lacey Act is enforced by the Fish and Wildlife Service, with support at the border from the Department of Homeland Security, and the Department of Agriculture's Agricultural Plant Health Inspection Service (APHIS). Despite these agencies' limited budgets and personnel, and the lack of any citizen suit provision, the Lacey Act statute's clear prohibitions and strong penalties have made it the most comprehensive and potent weapon "in the fight against widespread and highly profitable illegal wildlife traffic."

EIA, after extensive analysis based on over 20 years of field experience, believes that amending the Lacey Act is a powerful and elegant way to address illegal logging and worldwide associated trade from the demand side. The Lacey Act, in essence, changes the incentives for wood products companies to ask questions. And in the complex supply chain that characterizes contemporary international trade in timber and wood products, these questions will ripple down the chain from American companies who intend to abide by their domestic laws, to the contracts they sign with Chinese manufacturers, to the inquiries these manufacturers' suppliers make with their Indonesian or Cameroonian or Russian sources.

Moreover, the Lacey Act does this without being a radical departure from existing law, or an unduly burdensome trade measure. For one-hundred years it has functioned to catch the worst of the worst, the serious offenders, and therefore has high burden of proof standards to prove "intent" for any criminal penalties. It does not require specific proof of legality for each shipment. Rather, an amendment of the Lacey Act sets up a reasonable set of penalties and subsequently relies on American companies' essential integrity, creativity, and desire to comply with the law, to set in motion the necessary steps that will transform the market for wood products into a place where questions get asked.

Source: For more information on the Lacey Act's history, see: Anderson, Robert (1995) "The Lacey Act: America's Premier Weapon in the Fight Against Unlawful Wildlife Trafficking," Public Land Law Review, Section IV, 1; available at: <http://www.animallaw.info/articles/arus16publlr27.htm#5>



The Lacey Act is a tool for supporting the governance and enforcement efforts of other countries. For decades the Fish and Wildlife Service and the National Oceanic and Atmospheric Administration have cooperated with customs and government agencies around the world to bring wildlife traffickers to justice. © EIA

Table 3: Characteristics of an Effective Legal Mechanism to Combat Illegal Logging and Associated Trade

| Characteristics of an Effective Law | Does a Lacey Act Amendment Have These Qualities? |
|---|--|
| Acknowledge and support existing laws in producer countries | Yes. Basic structure of law is to recognize foreign law violations as the trigger for Lacey Act violations. |
| Be capable of address the manifold types of illegality in the timber sector | Yes (with caveat). Lacey Act cases are triggered by breaking any underlying law, if this can be proven. Caveat: the bills currently before U.S. Congress present language whose scope is focused on laws related to illegal harvest and trade. For example, labor laws are not covered. |
| Support and strengthen existing domestic enforcement efforts in producer countries | Yes. Prosecution under Lacey requires cooperation with producer country law enforcement agencies; proceeds from forfeiture are sometimes shared with foreign governments to defray costs. |
| Raise the risk for abetting illegal activity | Yes. Lacey creates financial and criminal penalties for violating underlying laws; penalties vary based on extent of company’s prior knowledge. |
| Create incentives for companies and buyers to perform due diligence and improve tracking and monitoring systems | Yes. Companies shown to be exercising “due care” – internal policies and tracking systems, independent certification, participation in stepwise programs, etc. – protect themselves from risk of most possible charges. |
| Decrease foreign traffickers’ market access and profit margins | Yes. Increased incentives to ask questions make U.S. companies more likely to seek out trusted legal sources. |
| Increase transparency and information available to law enforcement officials | Yes. Currently proposed Lacey amendments introduce a declaration requirement that includes species, country of harvest, and other information that enables more targeted law enforcement and data collection. |
| Give businesses guidance on what constitutes ‘legal’ | Yes. Currently proposed Lacey amendments articulate the range of laws that will be considered underlying violations. Major illegalities such as cutting in protected areas or exporting despite log bans are all covered, while laws unrelated to illegal logging or plant protection are excluded. |
| Avoid penalizing or unduly burdening businesses that are trying to do the right thing | Yes. The “knowledge and intent” requirements and “due care” provisions, as well as existing case law precedent and U.S. law enforcement agencies’ limited resources, all mean that Lacey targets the worst offenders. |
| Be flexible over time, given the complexities of the global timber trade | Yes. Lacey does not tell businesses how to avoid violating the law – it leaves the “how” up to them. Currently proposed declaration requirements are limited to basic information, and are designed to be re-evaluated after an initial period of two years. |
| Be feasible to implement, for both business and the government | <p>Yes. The fisheries and wildlife trade industries have worked with Lacey for a century, and developed appropriate contracts and due diligence measures such as payment-upon-customs-clearance.</p> <p>The government, with intelligence-led enforcement work, could make effective use of a limited number of inspectors in key ports to cover a large percentage of wood products trade.</p> <p>This law functions as much by market signal as by daily enforcement, by increasing the risks for wrong-doing and sending a ripple of questions down the international supply chain.</p> |

The power of the market signal

Passage of U.S. legislation to curb imports of illegal timber would have a rapid and significant effect on the global market. The ripple effect of this market signal would be powerful regardless of the current limited capacity of U.S. law enforcement officials to confiscate shipments or make criminal cases.

A legal framework would give industry the license to remove its blinders and take real action on a problem that they have long acknowledged but which, until now, the playing field has been too uneven to address. Emerging data supports the notion that, if proper policies are in place, the market rewards suppliers who do things right: there is, for example, evidence of a 2-3% price premium in European markets for legal verified timber from Africa, and as much as a 30% premium for certified sustainable timber.¹³⁵

The Chinese wood products industry's ability to evolve is a key piece of the puzzle. By all accounts, the current state of the Chinese industry presents a considerable challenge to companies and other stakeholders

CASE STUDY Ramin Baby Cribs: Rapid industry response

The response of retailers, importers and manufacturers to documented illegalities or penalties under law demonstrates the capacity for rapid change in sourcing in the private sector. In 2003, EIA/Telapak documented several firms exporting baby cribs made of illegal ramin to the U.S. With this illegal flow brought to U.S. authorities' attention, agents were able to seize several illegal ramin shipments in 2004. (The U.S. government has authority to take such action for timber species listed on CITES. Unfortunately, these species in total account for less than 0.05% of total U.S. wood products imports.) When EIA/Telapak investigators went back to China in 2004 and met with a major producer of baby cribs, he had completely switched his wood sourcing for baby cribs from endangered ramin wood to legal New Zealand plantation pine.

trying to create supply chains that ensure exports of legal or sustainable wood.

A recent evaluation by Tropical Forest Trust of the potential for guaranteeing legal supply in Chinese wood products pointed to obstacles that included the high number of intermediate steps in supply chains; companies' lack of capacity, and desire to pay, for wood control tracking systems; and the lack of incentives to source legally or to implement tracking systems, due to lack of demand from overseas customers for verifiably-legal materials.¹³⁶

TFT's evaluation, however, emphasizes that Chinese manufacturers are extremely adaptable and quick to imitate other firms' business models if they prove successful. The study concludes, "it only takes a few examples of 'first-movers' who are seen to be gaining an advantage by changing the way they operate for more companies to move in that direction."¹³⁷

These shifts may be easier at first in certain industries than in others: flooring and certain furniture makers, for example, are less dependent on local intermediaries for tropical raw materials. Plywood and particleboard manufacturers face complex supply networks whose legality will take time to sort out. But it is worth noting that an increasing amount of furniture exported from China today is made by manufacturers with strong ties to U.S. retailers, subject to the laws and pressures of the American market.¹³⁸

Chinese companies, looking to both cut costs and control for quality, as well as quell international concerns, are increasingly interested in shortening and better monitoring their supply chains. Over 300 companies now have FSC chain-of-custody certification.¹³⁹ The growth of American- and European-owned wood product retailers like B&Q and The Home Depot in the Chinese markets is also expected to improve industry incentives for better legality.¹⁴⁰ Increased demand for legal sourcing from even a few more major American retailers – for example, Walmart, which imports an astonishing 10% of China's entire annual export stream¹⁴¹ – has the potential to cause a seachange, clearly showing Chinese manufactures that the time for adopting new tracking and sourcing practices has arrived.

7. CONCLUSION

A 2006 study funded by the U.S. Department of Justice's National Criminal Justice Reference Service, which reviewed potential approaches to addressing illegal logging, stated in its conclusions, "By establishing a mechanism through which to exclude illegally sourced timber from U.S. markets, the U.S. can accomplish two worthy goals: it will support the reformist efforts of producing countries abroad, while supporting the timber producing sector at home."¹⁴²

EIA concurs. A successful response to illegal logging must come from both ends. The international community must support, and demand, on-the-ground efforts by governments in producing countries to curb illegal logging and investigate and prosecute the timber barons within their borders. But countries like Indonesia and Peru and Papua New Guinea cannot cut off the flow of illegally-sourced wood products while the United States and its market allies continue to nourish it with billions of dollars and a no-questions-asked import policy. We need to harmonize our domestic policies with the impacts of our consumption.

It is for this reason that legislation to prohibit the import and sale of illegal timber is so vital at this juncture. Not only is there consensus among environmentalists, governments, businesses and public citizens that illegal logging and timber traffic is a serious problem, but there is remarkable agreement about what needs to be done. We need an appropriate demand-side legal framework that will empower enforcement agencies with new tools and resources, and that will level the playing field for companies who want to do things right. We need the largest wood products market in the world to own up to its role in the illegal logging problem and begin to ask the necessary questions.



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8. RECOMMENDATIONS

The 110th Congress of the United States should enact legislation to prohibit the import, possession or sale of illegally-sourced timber and wood products:

The House should pass H.R. 1497, the Legal Timber Protection Act.

The Senate should pass S. 1930, the Combat Illegal Logging Act.

The U.S. government should create a dedicated task force to implement this legislation.

The United States government should establish bilateral agreements with major timber producing and wood products manufacturing nations, which complement the amended Lacey Act by establishing specific mechanisms to exclude illegal timber and wood products from the trade stream and which provide capacity building and information sharing for implementation. China should be a priority in this process.

European Union governments should enact similar legislation to prohibit the sale of illegally-sourced timber and wood products, in order to complement and back-stop the Voluntary Partnership Agreements currently being negotiated under the FLEGT process.

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Members of Father Andres Tamayo's church, Olancho, Honduras. Tamayo won the Goldman Environmental Prize in 2004 for fighting illegal logging.
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OPPOSITE: Broom and mop handles stacked for export to the United States. Our market power can be harnessed for positive change, or it can continue to perpetuate crimes against the forest and its defenders. © D.Sims/EIA/CIP





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