

What We Do

The efforts of many emerging nations to protect biodiversity are undermined by various forms of illegal logging—felling of trees in contravention of national and local laws. To address these challenges, the World Resources Institute (WRI) and the Environmental Investigation Agency (EIA) launched the Forest Legality Alliance in 2010 with support from the U.S. Agency for International Development (USAID) and private donors. The Alliance is an international, multi-stakeholder initiative designed to achieve better forest governance, sustainable management of forests and biodiversity conservation by reducing the demand generated by global market pressures for illegally harvested forest products, increasing transparency in forest product supply chains, and supporting supply chain efforts to deliver legal wood and paper.

The Alliance seeks to help all actors along supply chains—both large and small—understand and respond to emerging demand-side, forest-product legality policies by leveraging the professional expertise, market power, networks, and resources of Alliance members.



DEAR FOREST LEGALITY ALLIANCE MEMBERS,

The last few months have been a busy and exciting time for the Forest Legality Alliance. Most important of all recent events was the settlement of the Gibson Guitar case, which sets a precedent for future Lacey Act enforcement cases. Shortly after the settlement, FLA released a webstory highlighting the implications of this settlement. The [webstory](#) (on p.2) generated over 1,000 hits in the first month and was referenced by a [New York Times](#) article. In addition, the RELIEF Act, which aimed to reduce the scope and lessen the requirements of the Lacey Act, has been pulled from the House floor, further demonstrating wide support for the Lacey Act.

The FLA recently hosted a conference in Mexico City, in collaboration with our partner, Reforestamos Mexico, to discuss legality issues in Latin America and the impact of illegal trade on small and medium-sized enterprises. The event also aimed to provide information to wood producers and exporters about forest products' legality requirements in the international marketplace. The two-day event was attended by over 100 participants from nine countries. See p.3 for a detailed discussion of the [outcomes of this event](#).

The Alliance will be hosting its 6th Semi-annual Membership Meeting on December 10-11th at the World Resources Institute's headquarters in Washington, D.C. These meetings provide a forum for FLA members to openly discuss the latest developments and issues surrounding illegal timber trade and compliance with national legislations. Registration details and the event agenda will be sent to FLA members shortly.

As always, we are open to ideas for guest speakers for the meeting in December. We are also always looking for guest contributors to the newsletter—if your organization has a useful new tool, publication, or event that may be of interest to members, please do not hesitate to let us know.

All the best,
THE FLA TEAM

Gibson Guitar logging bust demonstrates Lacey Act's effectiveness

By Caitlin Clarke (WRI) and Adam Grant (WRI)



On August 6, the U.S. Department of Justice announced that it reached a criminal enforcement agreement with Gibson Guitar Corp., resolving three years of investigation into two allegations that Gibson violated the Lacey Act by purchasing and importing illegally harvested wood materials into the United States from Madagascar and India. Because this is the first major set of investigations to be publicly resolved under the new amendments to the Lacey Act, the agreement will help set precedence important to the U.S. and the global wood products industry.

The Threat of Illegal Logging

The U.K. think tank Chatham House estimated in 2010 that rates of illegal wood harvesting worldwide have declined by almost one-quarter since 2000, thanks in large part to consumer-country policies such as the Lacey Act. However, illegal logging remains a significant threat to many of the world's most biologically diverse forests. A recent World Bank report estimates that illegal logging generates \$10 to \$15 billion annually in unregulated, untaxed funds. The illegal trade robs developing countries of their national patrimony, undermines broader law enforcement efforts, harms legal companies' efforts to compete in the market, and helps fund criminal gangs. As one of the world's largest consumers of forest products, the United States is in a position to contribute to the solution by enforcing the Lacey Act and trading only in legally sourced products.

What is the Gibson Guitar Agreement?

The Department of Justice and Gibson Guitar agreed on significant facts related to Gibson's purchase of ebony from Madagascar and established penalties. The company must:

- Pay a penalty of \$300,000;
- Pay a community service payment of \$50,000 to the National Fish and Wildlife Foundation to be used "to promote the conservation, identification and propagation of protected tree species used in the musical instrument industry and the forests where those species are found;"
- Implement a detailed compliance program designed to strengthen its compliance controls and procedures; and
- Relinquish its civil claims to Madagascar wood seized by the Government during the course of the criminal investigation, including Madagascar ebony valued at \$261,844.

The government will not pursue criminal charges against Gibson or its employees in the two cases (Madagascar and India), provided that

Gibson fully carries out its obligations under the agreement and commits no future violations. Importantly, Gibson accepted responsibility for its actions in Madagascar. The company acknowledged that it did not act on prior knowledge that legal ebony was difficult or impossible to source from Madagascar, that the investigation into the harvest and export of these woods "served important environmental and law enforcement objectives," and that its duties under the amended Lacey Act include "reasonable corroboration of the circumstances" of the harvest and export of musical instrument parts from foreign countries.

The Agreement on Due Care

"Due care" is a legal standard used in considering penalties under the Lacey Act, generally held to be "that degree of care which a reasonably prudent person would exercise under the same or similar circumstances". Due care is meant to be flexible and company-specific, but many companies have been clamoring for additional clarity since the Lacey Act was amended. Gibson's compliance program contains a number of details for other companies to consider when creating their own due care systems, such as:

- Annual training for all purchasing staff
- Communication with suppliers
- Adherence to a detailed procurement checklist
- Verification of foreign laws and licenses with in-country legal professionals and/or knowledgeable third parties (e.g., NGOs)
- Going beyond the checklist by doing independent research to identify risky sources
- Performing risk assessment at the species level, using resources such as CITES, IUCN Red List, national threatened/endangered species lists, and UNEP World Conservation Monitoring Centre data
- Requesting sample documentation from suppliers to ensure that information provided satisfies Lacey Act requirements
- Maintenance of records
- Disciplinary action for staff who fail to follow policies on legal wood procurement

Gibson's Lacey Act Compliance Program offers helpful pointers for companies working to strengthen their own due care programs in the hopes of avoiding the kinds of activities that landed Gibson in trouble.

Lessons Learned from the Gibson Agreement

The penalties imposed on Gibson demonstrate that demand-side forest legality policies can be effectively enforced by national governments, a message that should encourage policymakers in the European Union and Australia, who are currently working on similar legislation. It also shows that the U.S. government is serious about the Lacey Act as a means to protect the world's forests from illegal exploitation.

The case offers important lessons for companies, too. In the future, avoiding the legal and reputational headaches associated with a public Lacey Act violation will come down to careful use of due care. More information on due care [are available here](#), and a number of other organizations have compiled guides relevant in particular parts of the world or for certain industries. The FLA has also created tools to help make compliance with the Lacey Act and similar policies easier for importers. These tools include the [Risk Information Tool](#), [the Lacey Customs Declaration Form Tool](#), and [the Guide to Sustainable Procurement of Wood and Paper-Based Products](#).

As the Gibson case powerfully illustrates, the Lacey Act has teeth. Now it's up to companies to put policies in place that ensure their products are sourced legally.

An inside look at Latin America's illegal logging

By Ruth Nogueroń (WRI), Eduardo Arenas Hernández Jr. (Reforestamos Mexico), and Ana Domínguez (Reforestamos Mexico)

FLA in Latin America

In August this year, the Forest Legality Alliance and Reforestamos Mexico co-hosted the event "Legal Forest Products and International Trade: A Regional Perspective." The event brought together more than 100 participants from private companies, civil society organizations, Mexican and U.S. government agencies, trade associations, and academia. The group focused on two key objectives: first, to examine how legality issues and the forest products' trade impacts Latin America's small and medium-sized enterprises, particularly in Mexico, Guatemala, Honduras, Peru and Colombia; and second, to provide information to wood producers and exporters about forest products' legality requirements in the international marketplace.

Illegal Logging in Latin America

México currently faces governance, market, and institutional challenges when it comes to regulating its forest products' trade. The Mexican government estimates that more than half of the country's reported industrial timber production happens illegally. In addition, Mexico imports wood products from countries where illegality is also a problem, and imported wood is processed and re-exported, spreading products tainted with illegality.

Mexico isn't alone. Illicit logging takes place in several other Latin American nations. In Honduras, between 75 to 85 percent of the country's hardwood production and 25 to 35 percent of its pine production occurred illegally. Between 30 and 50 percent of Guatemala's annual commercial timber production was of illegal origin. The World Bank estimated in 2006 that about 42 percent of the Colombia's timber production was of illegal harvested. The region's illegal logging is a serious problem that impacts a range of stakeholders, particularly forest communities and small- and medium-sized businesses, which rely on timber for their livelihoods and income.

Participants at the recent FLA event identified several underlying causes for Latin America's illegal logging. Some drivers originate outside the forest sector, like the demand for cheap products, the extensive paperwork required to obtain logging permits, the corruption of bureaucratic processes, accessing credit to establish forest operations. Data gaps limit government officials and other stakeholders from getting an accurate picture of the region's forest products' trade, preventing them from focusing and harmonizing actions to curb illegal activity.

Combating Illegal Logging in Latin America

Curbing the illegal logging trade is a complex challenge. Some of the possible avenues for action include:

1. Simplifying and increasing the transparency of administrative procedures while ensuring key safeguards are strengthened in the administrative procedures to obtain logging permits, approving management plans, operative plans, etc.
2. Establishing close partnerships between product buyers and suppliers. Take Taylor Guitar: Over the past 10 years, the company established direct trade relationships with forest cooperatives in



Honduras, with help from two NGOs, Fundación Madera Verde and GreenWood. Taylor purchases legally harvested mahogany directly from the cooperatives. The company even re-designed some of its guitar models to make it easier for Honduran communities to cut the wood using basic equipment.

3. Increasing the capacity of forest communities to generate value-added timber products in more efficient ways. This will eliminate a step in the supply chain and increase the ability of the communities to benefit directly from the forests. This strategy could include trainings in using and maintaining machinery, technical skill-building, financial management, and administration to prepare communities to deal directly with the buyers.
4. Enacting better public policies that promote the use of legal forest products. These policies could include public procurement policies that prefer certified wood or products of verified legal origin.
5. Reducing the demand of products from illegal sources in national and international markets. Legislation like the U.S. Lacey Act and the European Union Timber Regulation can accomplish this goal. Enforcing federal laws like these can deter illegal logging activity throughout the world.

The event concluded with a discussion of currently available initiatives and resources that can both promote the demand of legal timber and paper products and equip supply chains to deliver legitimate products. These include the European Forest Law Enforcement, Governance and Trade plan; the use of modern technologies to track wood throughout the supply chain, and some of the FLA's resources. The Alliance's [Risk Information Tool](#), for example, provides users with background information about producer countries so that they can assess illegal logging risks. The [Declaration Tool](#) guides users through filling out the Lacey Act Declaration form, while the [Procurement Guide](#) provides an overview of key issues buyers of forest products should know about. For a larger list of available resources, please visit the [FLA website](#).

Moving Forward

Utilizing available tools and engaging in discussions like those had at the recent FLA event are good first steps towards curbing illegal logging. Many actors are putting a lot of efforts to resolve illegal logging in the region, and opportunities for inter-regional dialogue among many stakeholders are always useful.

To that end, the FLA will continue its work in Latin America. We plan to organize more outreach events throughout the coming year, and we will be releasing two case studies on better practices for businesses to manage the risk of sourcing illegal wood in products from Latin America. By continuing the discussion and sharing information, we can hopefully begin to make the region's forests safer for both trees and people.

Legislation Updates

RELIEF Act

In June, the House Natural Resources Committee passed the Retailers and Entertainers Lacey Implementation and Enforcement Fairness Act (RELIEF Act, HR. 3210) in a vote along partisan lines, with one Republican voting against. The bill proposed to further narrow the scope of applicable foreign laws covered under the Lacey Act and, if passed, would permit known violators to retain possession of illegal wood and wood products.

In mid-June, House leadership then announced that they would bring the bill to the floor for a full vote before the August recess. This announcement ignited an even stronger public response in opposition to the bill from over sixty major forest products companies, thirty-five leading conservation organizations and labor unions, over thirty top-selling musicians, and numerous environmental NGOs and supportive lawmakers. The plan to vote on the RELIEF Act was cancelled as Members of Congress came to fully understand the controversial nature of the bill, and the threat it posed to U.S. jobs and the fight against illegal logging.

Stakeholders continue to work with Congress and the Administration to ensure that implementation of the 2008 Lacey amendments is as smooth and efficient as possible in meeting the law's objectives without unduly burdening industry.

Australia legislation update

Nine months after its introduction in the Parliament, Australia's Illegal Logging Prohibition Bill 2012 passed through the House of Representatives on August 20th and is now waiting to pass through the Senate. The bill aims to prohibit the importation and sale of wood products made from illegal timber and the illegal harvesting of raw logs grown domestically. The bill would establish due diligence requirements, which entails the accurate documentation of product supply chain, and penalties for violations.

The passage of the bill was met with opposition from some Australian legislators and trade partners, including Indonesia, Canada, New Zealand, Tasmania, Papua New Guinea, and Malaysia, who argue that the bill would place excessive burden on their timber industry and was not passed with proper consultation.

Despite the opposition, the bill has received wide support from multiple political parties and timber companies. A proposed amendment during the House debate to delay the implementation until 2015 was defeated. Furthermore, the Greens Party argues that the bill needs strengthening, such as by more clearly defining the definition of illegal timber. The Party intends to propose amendments to the legislation in the Senate.

In the News

Environmental officers go back to their roots in joint INTERPOL and Brazilian Federal Police initiative

INTERPOL's Project LEAF gathered enforcement officers from eight Latin American countries and provided training on essential skills such as jungle navigation and use of satellite software. The project aims to build capacity for forest law enforcement to combat illegal forest activities.

Businesses are opposed to efforts to undermine the Lacey Act

Leading up to the House of Representatives voting on the RELIEF Act, businesses and companies spoke out against the Act, pointing out the negative impacts of illegal wood products to their businesses.

Seeing the wood for the trees: Genetic testing of wood can curb illegal logging

DoubleHelix Tracking Technologies, a Singapore-based company, uses DNA tests to track the origin of wood. The technology can be used to verify the accuracy of proof-of-origin documents.

E. Kalimantan police sound alarm over illegal timber flow to Malaysia

The East Kalimantan and Malaysian police are joining forces to stop the increasing flow of high-value and illegal timber logs across the Indonesia-Malaysia border.

Recent Publications

Wood for Good: Solutions for Deforestation-Free Wood Products

Green Carbon, Black Trade: Illegal Logging, Tax Fraud and Laundering in the World's Tropical Forests

Sustainable Community Forest Management: A Practical Guide to FSC Group Certification for Smallholder Agroforests

EU Timber Regulation FAQs:

- [FAQs on Due Diligence, Certification and Enforcement of the EU Timber Regulation](#)
- [FAQs on Importing and Exporting](#)

Upcoming Events

PEFC Stakeholder Dialogue: Strengthening the Link: Sustainable Biomass & Forest Certification

November 14th, 2012; Vienna, Austria

Illegal Logging and Legality Verification - the FLEGT/VPA as New Modes of Governance

December 6th-7th, 2012; Copenhagen, Denmark

6th Semi-annual FLA Members Meeting

December 10th-11th, 2012; Washington, DC, USA

The FLA newsletter hosts guest writers every quarter. If you are interested in contributing to our next newsletter with information and stories concerning illegal logging, the Lacey Act, international forestry policies, or any other related issues, please contact Loretta Cheung at LCheung@wri.org.

If you are interested in learning more about our organization, becoming a FLA member and continuing to receive this newsletter, please contact Caitlin Clarke at CClarke@wri.org or visit http://www.wri.org/fla/about_membership.php.