

**TESTIMONY OF
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**LEGISLATIVE HEARING ON H.R. 1497
The Legal Timber Protection Act**

**BEFORE THE
Subcommittee on Fisheries, Wildlife and Oceans
Committee on Natural Resources
United States House of Representatives
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Introduction

Thank you, Madame Chairperson and Honorable Members of the Subcommittee, for the opportunity to testify before the Subcommittee regarding H.R. 1497, the Legal Timber Protection Act, legislation to amend the Lacey Act Amendments of 1981 to address global illegal logging and associated trade in illegal timber and wood products. We speak today of a problem that, as the composition of this panel demonstrates, unites a diversity of stakeholders in common concern. I am the Executive Director for the Environmental Investigation Agency. EIA is honored to present this testimony as part of a broad coalition of environmental, labor, and industry organizations who all agree that illegal logging and associated trade is bad business – for the environment, for poor people worldwide, and for American companies – and that the time has come for the United States government to take action to curb our role in driving this problem.

The Environmental Investigation Agency (EIA) is a non-profit 501(c)(3) organization which has worked for 23 years to investigate and expose environmental crimes, and advocate for creative and effective solutions. EIA's analyses of the trade in illegal timber, wildlife, and ozone-depleting substances have been globally recognized.

Since 1999, EIA has used undercover methodologies in partnership with local organizations to document the environmental and social impacts of illegal logging, and its context of corruption and criminal activity, in countries including Indonesia, Malaysia, China and Honduras. Our experience has shown us unequivocally that the illegal logging which causes the most serious environmental and social harm is inextricably linked into international trade, and that any solution will therefore require action from both producer and consumer nations.

In this testimony we discuss:

- (1) The high environmental and human costs of illegal logging and associated trade worldwide, and the role played by U.S. market demand in supporting these illegal and criminal activities;
- (2) The lack of adequate tools to address this problem from a demand-side perspective;
- (3) The reasons why EIA and our broad coalition believe that amending the Lacey Act to prohibit the import and sale of illegally-sourced wood and wood products, and to require the declaration of certain basic information, is an effective and elegant way to address the problem.

For a more complete discussion of these points, please see our full report, "No Questions Asked: The Global Impacts of U.S. Market Demand for Illegal Timber – and the Potential for Change," available at www.eia-global.org.

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 profits that lie in exporting valuable hardwoods or softwoods is staggering: according to current field data, merbau stolen from Indonesia's Papua province is worth US\$250 per cubic meter in the port, \$600 or more upon arrival to China – and over US\$2200 by the time it winds up as solid wooden flooring in an American store.¹

The monetary benefits of timber trafficking are high, and the risks of any legal or financial penalty are low. Buyers of wood don't ask questions because they don't have to. No one – neither customers nor governments – is asking them to do so. 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.

The one exception to this lack of legal tools, the Convention on International Trade in Endangered Species (CITES), is exceedingly limited for addressing the larger problem of illegal logging: EIA's analysis of trade data and CITES permits shows that the chief timber species now regulated under CITES – ramin and mahogany lumber (any mahogany products are exempt) – account for less than 0.05% of wood imports to the United States.²

This problem is so pervasive that we find it even here in these historic rooms. EIA has learned that the U.S. Capitol building itself came close to hanging Honduran mahogany doors at high risk for illegal origin. Had sufficient 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 the internationally protected Rio Plátano Biosphere Reserve in Honduras.

The Environmental and Human Costs

“Illegal logging” refers to the extraction and removal of timber in contravention of applicable laws. Such activities include a spectrum of illegalities ranging from cutting within national parks to transporting without permits, from cutting on steep slopes and riverbanks to over-harvesting or harvesting protected species. The extent of these activities in forests around the world has serious consequences in terms of environmental degradation, social conflict and the rule of law.

Environmental degradation

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

Consumer demand for high-end hardwood products such as flooring, doors, windows or decks drives the economics of frontier logging. The prime specimens of large, slow-growing species such as mahogany (*Swietenia macrophylla*), merbau (*Intsia spp.*), ramin (*Gonostylus spp.*), Russian oak (*Quercus spp.*) or okume (*Aucoumia klaineana*), among others, remain only in remote and intact forests in Asia, Latin America, and Africa. Such forests are national parks set aside to protect habitat for low-density large mammals like jaguars, orangutans or forest elephants, or the world's few remaining vast tracts of

wilderness in the Amazon, the boreal forests of Russia, the islands of New Guinea and Borneo, and the Congo basin. The value of these timber species on international markets provides sufficient incentive for logging syndicates to finance trespass in parks and indigenous territories, falsify harvest and shipping permits, and construct miles of trails or crude roads into the wilderness to access high density stands or even individual trees. The extent and modus of such activities has by now been well documented by EIA and other watchdog organizations, as well as academic researchers and journalists.

This uncontrolled activity 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 while habitat for wildlife shrinks behind the agricultural frontier. This chain of events is even more damaging when it occurs in areas occupied by forest-dependent indigenous peoples.

On the other hand, consumer demand for semi-disposable inexpensive wood products encourages manufacturers to cut costs and boost production – driving the large-scale illegal over-harvesting of natural coniferous and hardwood forests from eastern Russia, Indonesia, Honduras, Brazil and elsewhere. This type of deforestation contributes directly to topsoil exposure and subsequent erosion. Intensive 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. It also has the capacity to disturb hydrological and ecological dynamics enough to cause water shortages and higher susceptibility to forest fires. The uncontrolled cutting of Honduras's rich pine forests, for example, has caused what communities document to be the loss of approximately half the water sources in populous western Olancho district.³

As the committee is well aware, deforestation and forest fires are a major cause of global greenhouse gas emissions. 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.⁴ Illegal logging is an integral part of this picture, contributing to deforestation both through the direct removal of forest cover and through the chain of land use change triggered by logging described here. Uncontrolled logging is, in a sense, the 'gateway activity' that leads to a cycle of harm for the forests and the global climate.

The human consequences are no less devastating. Revenue from illegal logging and export trade supports and perpetuates corruption and criminal activities, and is reaped in an atmosphere of fear, intimidation and human rights abuses. Illegal logging in some countries has been used to finance violent conflicts – much like the "blood diamonds" that funded wars in West Africa – while in others it is linked with wildlife and drug smuggling operations. The following examples from around the world hint at the scope of forest crimes both social and environmental in nature.

Examples: Global illegal logging hotspots, and the links to U.S. demand

Indonesia

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.⁵ 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.⁶

Illegal logging in Indonesia is organized, highly profitable 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 our Indonesian partner organization Telapak confirmed that almost no high-level financiers, senior military or government officials have even been prosecuted, much less convicted, of logging-related crime.⁷ The country's forestry minister himself recently 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.⁸

These crimes are not only towards the forest but also towards its defenders. 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 or ramin and other species at Tanjung Puting National Park. In 2000, Rasyid's employees assaulted two EIA and Telapak 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.⁹ All cases against Rasyid, who until recently was a member of the Central Kalimantan Parliament, have been dropped due to "lack of evidence."

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.¹⁰ In response, Indonesia enacted a sawn timber export ban in October 2004, with further strengthening and elaboration of limited exceptions in 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.¹¹ 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 relatively feasible and effective to address an obviously illegal trade stream.

EIA is hopeful that the Memorandum of Understanding signed by the two countries in November 2006 will facilitate such enforcement. As it stands, Indonesia is a shining example of the inconsistency of U.S. policy on illegal logging. The country's environment minister, Rachmat Witoelar, has publicly pleaded with consumer nations to stop buying Indonesia's illegal timber.¹²

Honduras

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.¹³

A host of illegal logging and timber trafficking techniques have been documented by EIA, 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 found that declarations may represent only around 50% less of actual timber exported.¹⁴

Illegal logging in Honduras is closely linked with social conflict and 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, intimidation and harassment through the judicial system. Between 1996 and 2007, eight members are alleged to have been killed for their activism; on December 20th, 2006, Heraldo Zúñiga and Roger Ivan Murillo Cartagena became the latest victims, put up against a town hall wall and shot.¹⁵ At least six members of the organization have fled the country in the past year, fearing for their lives. International outcry over the killings led to the arrest of four local policemen. However, there has still been no trial, nor investigation into possible logging interests behind the crime such as the Sansone company, whose employees MAO has repeatedly denounced for death threats.¹⁶ Sansone is Honduras's second-largest exporter, sending broom and mop handles as well as lumber to U.S. retailers as well as Caribbean markets.

Peru

Peru is the world's principal exporter of mahogany, particularly since Brazil implemented an export ban in 2001. In 2006, this valuable wood comprised roughly 20% of the country's total timber exports by value (a far smaller quantity by volume).¹⁷

The extent and impact of illegal mahogany logging in the Peruvian Amazon is grave. In the southeastern department of Madre de Dios, home to the world's highest remaining concentration of old growth mahogany, loggers are penetrating the protected territories of several voluntarily isolated, 'uncontacted' tribes, resulting in a rise in violent encounters with casualties on both sides.¹⁸ 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. The risk 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.

Local timber barons, increasingly linked with drug traffickers, take brutal advantage of the poverty and isolation of Amazonian communities from Iquitos to Puerto Maldonado.¹⁹ 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.²⁰ This includes men living in a cycle of debt slavery and women working as prostitutes in logging camps.²¹

The Forest Governance Annex to the pending U.S.-Peru trade bilateral contains important measures aimed at strengthening Peru's monitoring and enforcement of timber concessions. However, without a broader commitment to excluding illegal timber from all its trading partners, the U.S. runs the risk that illegal Peruvian mahogany will be sent to Mexico or China to become our doors and furniture just the same.

China

China has become the world's factory for wood products, as with so much else. Its booming demand for raw wood material to transform into furniture and plywood for Western markets is driving illegal logging around the world. China is 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 decade²² – 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.²³ We imported 40% of China's wooden furniture in 2005 (a trade stream worth \$US8.8 billion²⁴), and 21% of China's plywood exports last year.²⁵

All this production is fueled by imports. 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.²⁶ 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 described their smuggling and

document falsification techniques to evade the Indonesian log ban.²⁷ 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.²⁸

As the demand from its wood products industry grows exponentially, Chinese traders’ ask-no-questions ethos is cause for alarm. Beyond Indonesia and Papua New Guinea, some of the hotspots most affected by exports to China include:

- ◆ **Burma [Myanmar]:** 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 northeast border with China.²⁹ The cross-border trade in teak and other valuable tropical hardwoods reached as much as \$350 million in 2005, according to Global Witness. It primary ends up in high-end furniture.
- ◆ **Cambodia:** As laid out in devastating detail by Global Witness in their written testimony submitted for this hearing, timber barons directly linked to high government officials and military officers are felling in protected 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.³⁰ Members of this network are also implicated in cases of at least three murders and two attempted killings of people working to combat forest crime.
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 include 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.³¹
- ◆ **Tanzania:** 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.³²
- ◆ **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. Russia alone supplied approximately 26.4 million m³ in 2005 – 49% of China’s total timber product imports and fully 80% of its logs.³³ Companies including Wal-Mart, Armstrong and Ikea are supplied by plants located in this border region.³⁴ The Russian Natural Resources Minister described the situation in this way on a visit in 2007:
*“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.”*³⁵

Extent of U.S. impact

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.³⁶ This figure rises to 20% once furniture is included.³⁷ In dollar terms we are speaking of some \$56 billion, including all logs, timber, furniture, pulp and paper, or \$38 billion without pulp and paper.³⁸ 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 origin³⁹? Of course, nobody declares his product to be "illegal" on a customs form. But estimates converge on approximately 10% of our imports. A 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). Almost two-thirds of this came from China, followed by Malaysia, Indonesia, and Latin America (primarily Brazilian and Peruvian hardwoods).⁴⁰ See Table 1 for a breakdown of the top wood product import streams and source countries, which shows that a substantial portion of U.S. imports come from high-risk sources.

The OECD figure indicates that 10% of the U.S.'s imports, or 2% of the entire annual global trade in wood-based products, is derived from material at high-risk of illegal origin. This 10% figure is corroborated by Seneca Creek Associates' 2004 study for the American Forest and Paper Association, as well as the World Bank and the Royal Institute for International Affairs.⁴¹

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, as has been described in the case studies above. 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 support 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 from one riverbank can mean contact with disease that wipes out their entire tribe. Even where the total board feet are small, the damage can be great.

Amending the Lacey Act as a Demand-Side Solution

If we understand illegal logging in the context of corruption, criminal trafficking and international trade as laid out here and in our report "No Questions Asked," then it follows that in order to effectively address the problem, we need to change the equation of risk and return. We need to lower the incentives for illegal trade – through reducing demand and lowering profit margins – while raising the risks.

Legislative action on illegal logging in consumer countries is not a replacement for, but a reinforcement of, domestic enforcement in producer countries. On the demand end, the purpose of an effective law must be judged by how well it can perform the following broad functions: (1) close market access for illegal timber and wood products to the most lucrative, hard-currency destinations for these products, (2) create the incentive for high standards of due diligence, and (3) level the playing field for businesses that want to do the right thing, without unduly burdening them.⁴² An effective law must also be feasible to implement.

The legislation in question at this hearing does precisely this. 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. Further, it does not require specific proof of legality for each shipment. Rather, an amendment of Lacey 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.

EIA fully supports the intent of the Legal Timber Protection Act introduced by Congressman Blumenauer, Weller and Wexler. We recommend the inclusions of several modifications to the language that were agreed upon through intensive consultation with stakeholders among the industry, environmental, and enforcement communities, and introduced in the Senate by Senators Ron Wyden and Senator Lamar Alexander as S. 1930, the Combat Illegal Logging Act of 2007.

These modifications include a provision for basic declaration requirements that would include the species, country of origin, quantity and measure, and value of the plant import. These requirements are modeled after existing regulations for wildlife imports currently regulated by the Lacey Act, and resemble declarations for many other imported goods. They provide basic transparency for wood shipments. The declaration will have critical value for combating illegal logging by: 1) encouraging importers to ask basic questions regarding the origin of their timber and timber products; 2) providing information at the point of import that will allow U.S. authorities with limited resources to do efficient, targeted inspections and enforcement; and 3) helping enforcement agents to immediately identify "low-hanging fruit," such as timber expressly prohibited to be exported. The Act's declaration requirements will not be unduly burdensome to industry, including the manufacturing sector. Factories manufacturing wood products, in China or elsewhere, are capable of providing this information to buyers. They currently don't provide it because they have not been asked to.

Passage of this law will bring the United States in line with international efforts on this issue. The commitments expressed by G-8 leaders at the 2005 Gleneagles summit crystallized a growing awareness that demand-side measures are needed to effectively curb the roots causes of illegal logging. Today the consumer markets of the European Union, Japan, New Zealand, and Australia are implementing or considering a variety of policies and initiatives 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' necessary to bring rapid change in global logging and tracking practices.

Please see Table 2 for our comparison of the characteristics that legislation to effectively curb demand for illegally sourced timber and wood products should ideally possess, and the characteristics possessed by the amendments to the Lacey Act offered in the current legislation.

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 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 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 various obstacles, but emphasized that Chinese manufacturers are extremely flexible and quick to adapt to new 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."⁴³

EIA investigations have shown the untapped potential to improve timber sourcing in the private sector. The response of retailers, importers and manufacturers to documented illegalities or penalties under law demonstrates the capacity for rapid change in the industry. 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 the few 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.

Conclusion: the need for Congressional action

"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

Some people will try to argue that illegal logging is not a problem of international trade, that illegal logging is done by poor people trying to find firewood, that little of this wood even enters the export stream, much less the U.S. market. Without denying that deforestation is a complex issue linked with poverty, EIA respectfully submits that these arguments miss the point. The illegal logging which concerns us today is export-oriented extraction, of a scale that can only be organized by networks of financiers, brokers, and buyers. To take just one example from EIA and our partner Telapak's investigations, in 2005 we documented 300,000 cubic meters of logs of a species called merbau (*Intsia spp.*) being smuggled from Indonesia's Papua province into Hong Kong and China – every month. This is an amount worth \$600 million at western retail prices.

A successful response to this sort of illegal activity 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 illegal 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.

Thank you.

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 (coniferous)	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 (flooring, siding, molding, dowel rods, etc.)	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, non Ch. 94 furniture, 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 are included (e.g. 940161 and 940169; 940330-940360).

Table 2: 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 addressing 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>

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- ¹ Environmental Investigation Agency. 2005. *The Last Frontier*.
- ² USFWS reported total imports of mahogany in 2004 valued at \$59 million. EIA reviewed CITES ramin imports permits in 2002 and determined the total import value to be \$11 million. Both figures are likely to be lower for current years. Given total U.S. wood products imports of \$23.1 billion – excluding furniture – in 2006, total imports of CITES-listed species is roughly 0.3%.
- ³ Environmental Investigation Agency. 2005. *The Illegal Logging Crisis in Honduras*.
- ⁴ Stern Review on the Economics of Climate Change. 2007.
- ⁵ Barber, C., June 2006. *Combating Illegal Logging and Associated Trade in Indonesia: A Compilation of Activities Supported by the United States Government, Industry and Non-Government Organizations*, USAID.
- ⁶ Nellemann, C., et al. (Eds). 2007. *The last stand of the orangutan – State of emergency: Illegal logging, fire and palm oil in Indonesia’s national parks*. United Nations Environment Programme, GRID-Arendal, Norway.
- ⁷ Environmental Investigation Agency/Telapak. 2007. *The Thousand Headed Snake: Forest Crimes, Corruption and Injustice in Indonesia*.
- ⁸ Apriadi Gunawan. 4 May 2007. Sumatra courts irk police with 'iffy' verdicts *The Jakarta Post*.
- ⁹ Straits Times. 10 March 2002. Timber trader’s thugs did this to him. http://ecologyasia.com/news-archives/2002/mar-02/straitstimes.asia1.com.sg_asia_story_0,1870,107415,00.html
- ¹⁰ Environmental Investigation Agency/Telapak investigations.
- ¹¹ Port, Import, Export Reporting Service (PIERS) data.
- ¹² Reuters. 6 February 2007. Illegal Logging hits Asian forests, orangutans: U.N.
- ¹³ ITS data search.
- ¹⁴ EIA. 2005. *The Illegal Logging Crisis in Honduras*.
- ¹⁵ Amnesty International alert. Honduras: Environmentalists killed in Olancho department. AI Index: AMR 37/001/2007
- ¹⁶ Movimiento Ambientalista de Olancho. 22 Diciembre 2006. Comunicado No. 28.
- ¹⁷ Calculation based on market prices and annual mahogany quota compared to total trade statistics available from ADEX.
- ¹⁸ Fagan, C. and D. Shoobridge. 2007; Fagan, C. and D. Shoobridge. 2005. *An Investigation of Illegal Mahogany Logging in Peru’s Alto Purús National Park and its Surroundings*. http://www.parkswatch.org/spec_reports/logging_apnp_eng.pdf
- ¹⁹ See e.g. de la Cal, J.C. 19 August 2007. La Caoba Sale Cara. *El Mundo*
- ²⁰ Bedoya Garland, E. and A. Bedoya Silva-Santisteban. 2005. *Trabajo forzoso en la extracción de la madera en la Amazonía peruana*. Lima: OIT/Oficina Subregional para los Países Andinos..Documento de Trabajo 193.
- ²¹ See e.g. de la Cal, J.C. 19 August 2007. La Caoba Sale Cara. *El Mundo*
- ²² White, A. et al. 2006. *China and the Global Market for Forest Products: Transforming Trade to Benefit Forests and Livelihoods*. Forest Trends.
- ²³ Environmental Investigation Agency analysis of ITC data.
- ²⁴ Goodman, P.S. and P. Finn. 1 April 2007. Corruption Stains Timber Trade. *The Washington Post*, page A01.
- ²⁵ ITTO. 1-15 August 2007. *Tropical Timber Market Update*.
- ²⁶ Hewitt, J. 2006. Which 10 bilateral trade flows have most salience to international effort against “Illegal timber”? Available at www.globaltimber.org.
- ²⁷ EIA. 2005. *The Last Frontier*.
- ²⁸ Ibid.; Stark, T., and S.P. Cheung. 2007. *Sharing the Blame: Global Consumption and China’s Role in Ancient Forest Destruction*. Greenpeace International and Greenpeace China.
- ²⁹ Global Witness. 2003. *A Conflict of Interests: The Uncertain Future of Burma’s Forests*.
- ³⁰ Global Witness. 2007. *Cambodia’s Family Trees: Illegal logging and the stripping of public assets by Cambodia’s elite*.
- ³¹ Uganda Sunday Vision, 16 June 2007. *China’s Rise: Hope or Doom for Africa?* http://www.illegal-logging.info/item_single.php?item=news&item_id=2168&approach_id=1
- ³² Milledge, S., et al.. 2007. *Forestry, Governance and National Development: Lessons Learned from a Logging Boom in Southern Tanzania*. TRAFFIC.
- ³³ A. White et al. 2006,
- ³⁴ Environmental Investigation Agency/Telapak investigations, 2007; P. Goodman and P. Finn. 2007.
- ³⁵ quoted on BBC. 22 May 2007. *Siberian resource watchdog head sacked over illegal logging*. Source: “Novosti” news report by Russian Channel One TV.
- ³⁶ FAO data shows global exports of “forest products” were valued at \$185,724,802 in 2005, of which the U.S. imported \$31,997,857. This figure includes roundwood, sawnwood, wood-based panels (plywood, veneer, particleboard, fibreboard, MDF), wood pulp, paper and paperboard. The FAO figures for U.S. imports by value are lower than U.S.’s own ITC data.
- ³⁷ Contreras-Hermosilla et al. 2007. *The Economics of Illegal Logging and Associated Trade*. OECD Round Table on Sustainable Development
- ³⁸ ITC search for following HTS codes: Ch. 44, parts of Ch. 94, 94, 96. List available upon request.
- ³⁹ Given the nature of wood processing it is extremely difficult to identify if a given piece of wood is, itself, derived from illegal sources. The terms ‘suspicious’ and ‘high-risk’ origin are commonly used to denote material that has a high likelihood of having been cut, transported and/or traded illegally.

⁴⁰ These figures include furniture, pulp and paper, and secondary manufactured products . Analysis available in Contreras-Hermosilla et al. 2007, and at <http://www.globaltimber.org.uk/G8IllegalTimber.htm>

⁴¹ Seneca Creek Associates. 2004. Illegal Logging and Global Wood Markets: The Competitive Impacts on the U.S. Wood Products Industry; Royal Institute of International Affairs. 2003. "Scale of illegal logging." <http://illegal-logging.info/Scale.htm>;; World Bank. 2006. Strengthening Forest Law Enforcement and Governance: Addressing a Systemic Constraint to Sustainable Development. Report No. 36638-GLB. Available at <http://go.worldbank.org/FMKUFABJ80>.

⁴² Brack, Duncan. 2006. Excluding illegal timber from EU markets: Options for the EU and its Member States. http://www.illegal-logging.info/item_single.php?item=document&item_id=365&approach_id=26

⁴³Tropical Forest Trust. 2007.