

If a tree falls in the forest, is it a crime?

Written by Ricki Normandin
July 12, 2010



Illegal timber harvesting has major environmental, economic and social implications worldwide. It's estimated that 15 percent of the trillion dollar global wood products trade is connected to illegal sources.

Illegal wood, part one: Ruling it out

One of the best ways to stop illegal wood is to remove the products from the import supply chain. With the Lacey Act as a blueprint, that's what the Forest Legality Alliance has set out to help the wood products industry do.

Wood Business spoke to Adam Grant, Senior Associate, WRI, about the issues around illegal wood. He also explained how the newly formed Alliance can help the industry comply with the U.S. Lacey Act, which prohibits trade in illegally sourced plants and products, requires importers to submit a declaration and establishes penalties for violating the law. A European version, the Timber Regulations, will soon be in effect in the EU.

WB: What is impact of illegal logging on the U.S. forest products and wood products industry?

Adam Grant: The biggest impact is the competition against illegal products coming into America. It's a lot easier and a lot cheaper for forest products that have been harvested illegally and imported into the United States. It's unfair competition for the domestic market.

WB: Why is the Lacey Act so important for stopping the illegal wood trade?

AG: The Lacey Act is a conservation norm. It first came into place in the 19th century when it was implemented to try and conserve egrets in Florida. Over many years there's all sorts of work been going on in the tropical regions of the world, some of the more under threat forest regions, to try and help stop deforestation through illegal logging. Through this work there's a recognition that the demand for forest products is also driving the illegal forest products market.

The Lacey Act, and the new ruling called Timber Regulations in the European Union which is just like Lacey, says we recognize there's a problem at this end because we are actually purchasing the illegally harvested products, so we'll try and stop this through the (May 2008) amendment to the Lacey Act.

The important part of Lacey is that it's not an American law going out to the rest of the world that says you have to meet our requirements. What it states is that you have to make sure that the forest products you purchase are harvested under the sovereign laws of the country they were harvested in.

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It's about conservation and trying to support the countries around the world that are exporting forest products to implement their own laws.

WB: How will the Forest Legality Alliance help the industry deal with illegal wood products?

AG: The Alliance has been created to help industry understand what the requirements of these new laws are. It's been created by the Environment Investigation Agency, World Resources Institute and the U.S. Agency for International Development (USAID). (Other founding members are the American Forest & Paper Association, the Hardwood Federation, IKEA, the International Wood Products Association, NewPage Corporation, the Retail Industry Leaders' Association, Staples Inc., and the World Business Council for Sustainable Development.)

Of course, there's a recognition in the market place that legality up to this point, up to May 2008, was purely voluntary. This is one of the only industries in the world where it's not been illegal to buy illegal products. So the Lacey Act is the first international law that clearly states that you have to make sure what you're purchasing is legal.

During that process, there's a great lack of information on how to meet the requirements of Lacey, and now how to meet the requirements of Timber Regulations in the European Union. The Alliance has been set up as a conduit, or platform, or clearinghouse, of information that's going to create tools for industry to meet these requirements.

WB: What about stopping illegal wood at the source?

AG: The Alliance is also going to work at the supply side, with Indonesia or Brazil, for example, to try and help the suppliers also meet the requirements.

These questions are being asked up and down the supply chain, so if you import to the United States and you ask your supplier, can you answer these questions, and there's a lack of information from, for example, a furniture producer in Indonesia, the Alliance can also help those suppliers understand the requirements of Lacey.

WB: Are there penalties for buying illegal wood?

AG: Lacey has a structure of penalties and prosecution because it's been going for many years, over a hundred years now. For timber, under the amendment, there are penalties under prosecution. I think there are a few cases pending right now.

WB: Where does most illegal wood come from?

AG: Basically, around tropical regions where there's a lack of governance, there's a higher risk of illegal logging. We don't want to be in the game of painting the world red or green but to highlight where the risk is.

WB: What role, if any, can forest certification play in the supply chain?

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AG: It would help companies meet Lacey for "due care". Part of the requirement of Lacey is due care, to show that you've actually gone through a process where you've tried your best to find out where the products are coming from. For example, if you buy certified products or create the certified products yourself, you've shown a higher level of due care.

But, with Lacey, the law states that there's no one piece of paper that can clearly show legality. You would have to show a level of due care. Yes, certification would help but it's not a "get out of jail free" card.

WB: How much illegal wood gets into the U.S.?

AG: The benchmark figure for imports to the United States of illegal forest products is about ten percent of the trade.

Over several years now the trade has been a lot more convoluted. The supply chain is very complicated and many importers probably aren't fully aware of exactly where their forest products come from. So now there's a requirement to go back to those supply chains and try and fully understand it.

It's up to each importer to make sure that they've done a level of due care that illegal products aren't in their supply chain.

To help do that is where the Alliance fits in, to explain what's the best way to go through the supply chain and try and understand. Or find out how to rationalize the supply chain and get closer to the forest origin by going through the steps.

WB: This could be very difficult because we're not just talking about solid wood. It's panels, furniture, all kinds of products with wood in them. Has that been considered?

AG: Yes, this is going to be part of our work as well, to try and understand what the consequences of Lacey are on the industry, the unforeseen consequences, if you like.

We're going to work with big and small industry players and probably NGOs around the world to try and do a feasibility study, or index study, of supply chains, to see how this could impact them positively and negatively. We'll look at composite materials, for example, or companies buying a tiny bit of timber for producing something, to see what is the impact on that trade.

In that process, we go through a lot of the structures and we have a certain ability to feed back into the policy review to try and help improve the law over time.

WB: What's been industry's response to the launch of the Alliance?

AG: It's very early days but it seems pretty positive. People are keen for information.

There has been information out there in the past but it's very fragmented or it's very complicated, and it's been a voluntary market up to this point. That's where Lacey comes in,

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making it mandatory, and many people in the marketplace haven't to think about it these things up to this point. The Alliance is going to try and help them, try to explain what Lacey is and really give them a heads up to make sure they're fully aware of the law.

WB: What's the first step if a company is uncertain about illegal wood in their supply chain?

AG: We've created a website, which we'll continue to add to in the future, and they can visit that for information.

We're also going to create tools for industry to meet the requirements - a risk management tool, legality information tools, and a declaration tool that will help them fill out a declaration.

And if they wish, anyone is welcome to join the Alliance and be part of the process of implementation. If you come into the Alliance, you're more than welcome to be part of the working groups for any of those tools and guide how they're developed and how they meet your own requirements.

We have a document on the website that clarifies the Lacey Act ("Setting the Story Straight - The U.S. Lacey Act: Separating Myth From Reality") which we're going to keep up to date. We've also created a wood procurement guide which is linked to the site. It clearly explains what the issues are and gives a sort of matrix of world players in the market place.

We also really want to stress that the Alliance is not some sort of protectionist group of industry players. We also don't want people to turn away from using timber because that has its risks as well. We don't want people to say it's too difficult to use timber, we'll go toward other products instead. That's why we're here to help.

www.wri.org/fla

Editor's note: The image above is from an Environmental Investigation Agency illegal logging video. [Watch it here.](#)

Next page: Wood identification



Illegal wood part two: What kind of wood is this?

Identifying wood is an important part of discovering its origin and finding out if it's illegal. Dr. David Jones, Assistant Extension Professor in the Department of Forest Products at Mississippi

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State, is a wood characteristics expert and does wood identification work at the Forest Products Lab in Starkville, Mississippi. Wood Business asked him to explain how it works.

WB: What wood identification services does the Forest Products Lab offer?

David Jones: Generally we identify samples of solid materials, less of composites, like plywood and OSB. Turn around on sample ID depends on the current work load around the lab and other obligations along with the source of the wood (domestic or international). Some samples can be identified in minutes, while others take days to identify. It really depends on how common the wood is, if it is a typical sample - sometimes common woods can have uncommon characteristics - and how easy it is to identify the structures. There are currently two of us here that can do identification and, almost always, both of us have a look at the sample before making a decision as to what the wood is.

WB: Where do samples for identification come from?

DJ: The majority of samples come from individuals who have found an interesting piece of wood that they have made into a bowl or a turning and sent me the off cuts. I do a fair amount for companies also, mostly furniture companies, followed by government agencies - usually local governments that are restoring buildings or structures and want to replace the woods with the same species if possible.

I receive samples in all kinds of forms. Mostly finished pieces, but sometimes whole pieces of furniture like chairs, and occasionally just raw wood. I've received laminate flooring, veneer, and tool handles.

WB: Is it all imported wood?

DJ: A great deal of it is imported, but from that much of it is domestic wood that has been sent overseas and turned into parts and shipped back.

WB: What do clients need to know about their wood samples under the Lacey Act?

DJ: They need to know the country of harvest and the species name (Latin genus and species). This is tricky because many species have the same common name but are actually a lot of different species that have been categorized as a particular common name. Mahogany and ironwood are two good examples of this as there are many species that are considered mahogany, but not all of them are legal to bring into the US.

WB: Are there criteria other than the Lacey Act that you use?

DJ: Primarily I deal with the Lacey Act, but in a limited manner. If a client wants me to examine a piece of wood for another law then I can do that also, I just need to be made aware of it.

WB: What techniques and methods do you use to identify the species?

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DJ: I use the tried and true methods of a dichotomous key, known sample comparison, and now the internet. Using the dichotomous key I prepare a sample using a razor blade and a hand lens to identify key anatomical features to arrive at a species identification. If the hand lens does not give a good result then I will prepare slides and use a microscope to look at microscopic features of the wood. Once I have identified the sample using the key, I will compare it to a known sample and see if they are similar or not. This allows for a double check of the results, but is not always possible if I do not have a sample to compare it to.

I also use the internet, particularly the website insidewood.lib.ncsu.edu/about which is a great resource and has thousands of images to compare samples to along with a key devised by the International Association of Wood Anatomists. When samples are incredibly difficult this is where I will turn to.

If I can't make a positive ID I will let the person know that I can't and will let them know who may be able to help more. Some woods are only identifiable down to the genus as the anatomical features are limited, the softwoods can be the most difficult to ID past genus.

WB: What happens if the wood is illegal?

DJ: Most of the time I'm kept out of the issue of legality. The sample are often sent to me and I'm asked if it is species X or species Y like the supplier is claiming. If a governmental agency wants to know if it a legal species or not it would be the same, is this species X or Y and then they would make a determination.

The great deal of my ID work for companies is to determine if they are getting what they are paying for, more times than not they are not receiving what they are paying for.

If you have a sample of wood to identify you can contact Dr. Jones at pdjones@cfr.msstate.edu. He asks that you contact him first before sending the sample.

The website Dr. Jones mentions is a project of North Carolina State University. It also provides links to wood anatomy resources worldwide.