



US Lacey Act: a tool to fight illegal logging and promote better forest management

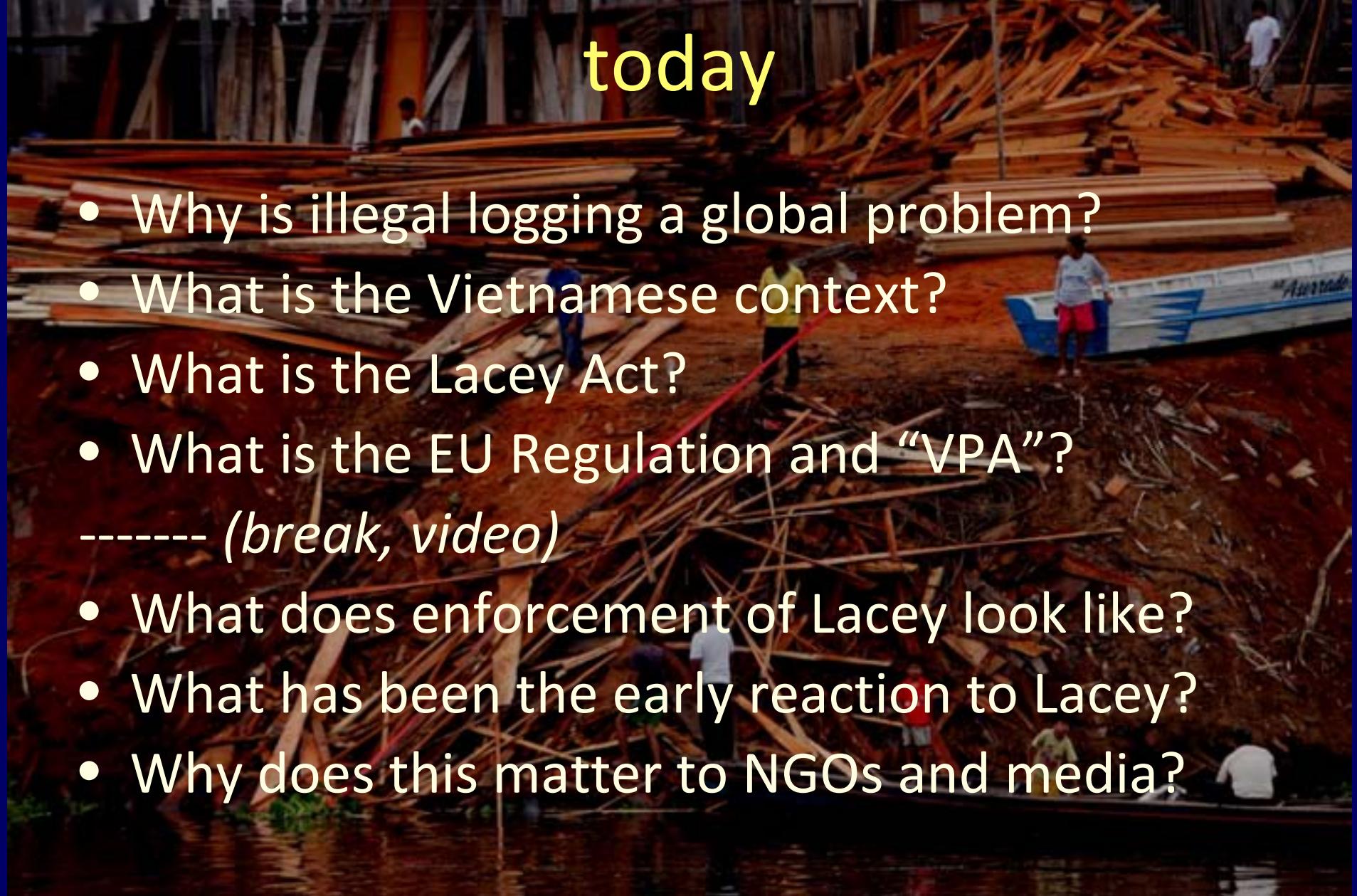
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Forest Legality Alliance
Hanoi, January 2011



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today

- Why is illegal logging a global problem?
- What is the Vietnamese context?
- What is the Lacey Act?
- What is the EU Regulation and “VPA”?
----- (*break, video*)
- What does enforcement of Lacey look like?
- What has been the early reaction to Lacey?
- Why does this matter to NGOs and media?



Why it might matter to you

- Media: background for stories
 - cases involving Vietnamese companies might occur in US, EU, Australia
 - Industry and government impacts
- NGOs: a new tool that may be interesting
 - Lacey covers wood, but also wildlife and fish
 - New international interest in your information
- Vietnam's role in driving deforestation throughout the region (important for REDD too)

Illegal Logging and Trade:



undermine good forest management



Harm communities and livelihoods

Contribute to global climate change



Rob governments of revenue and
perpetuate corruption

Illegal Logging and Trade:

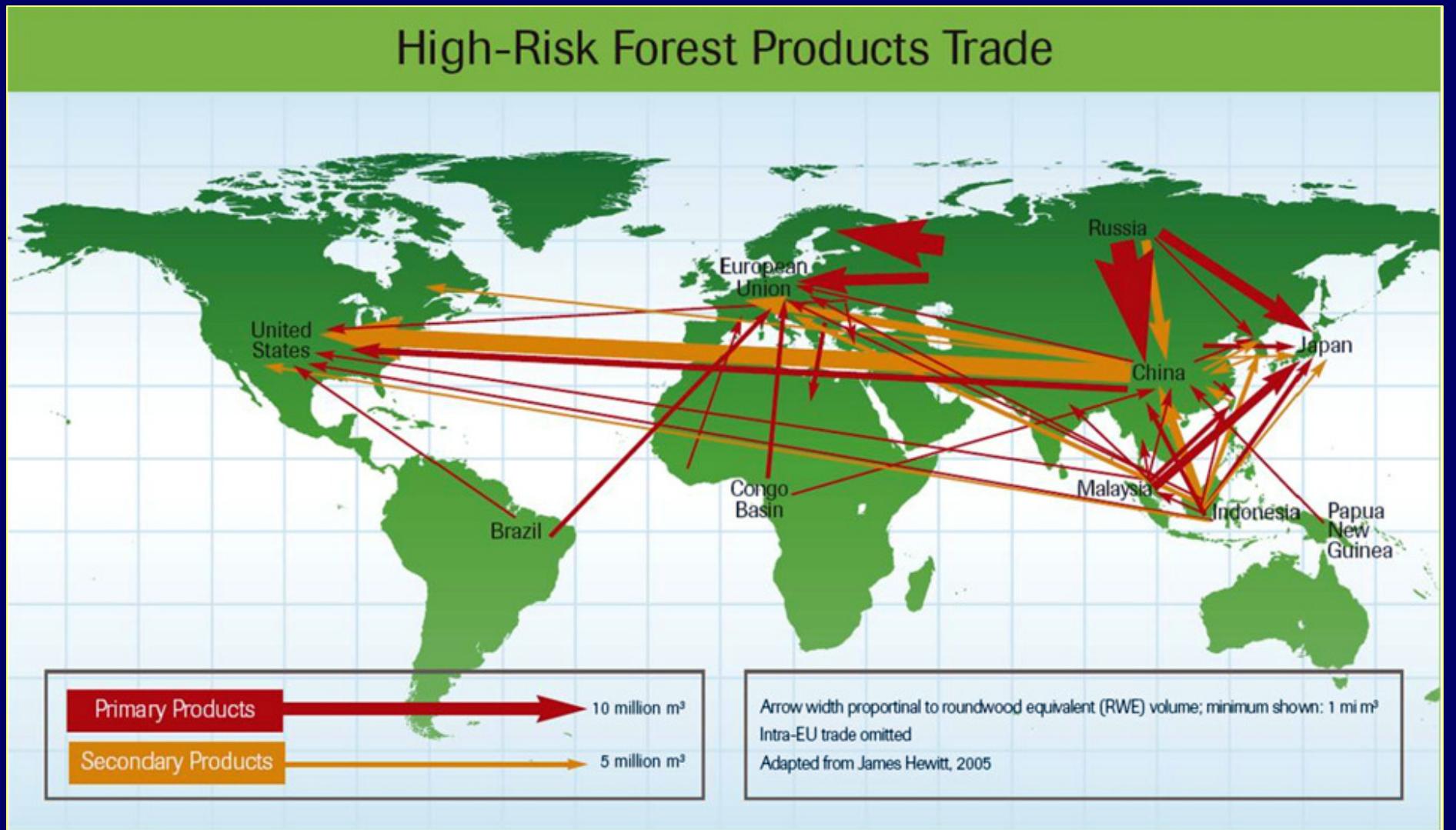


generate social conflict, abuse of peoples' rights and even violence



Are sustained by the high profits from “no questions asked” consumer markets

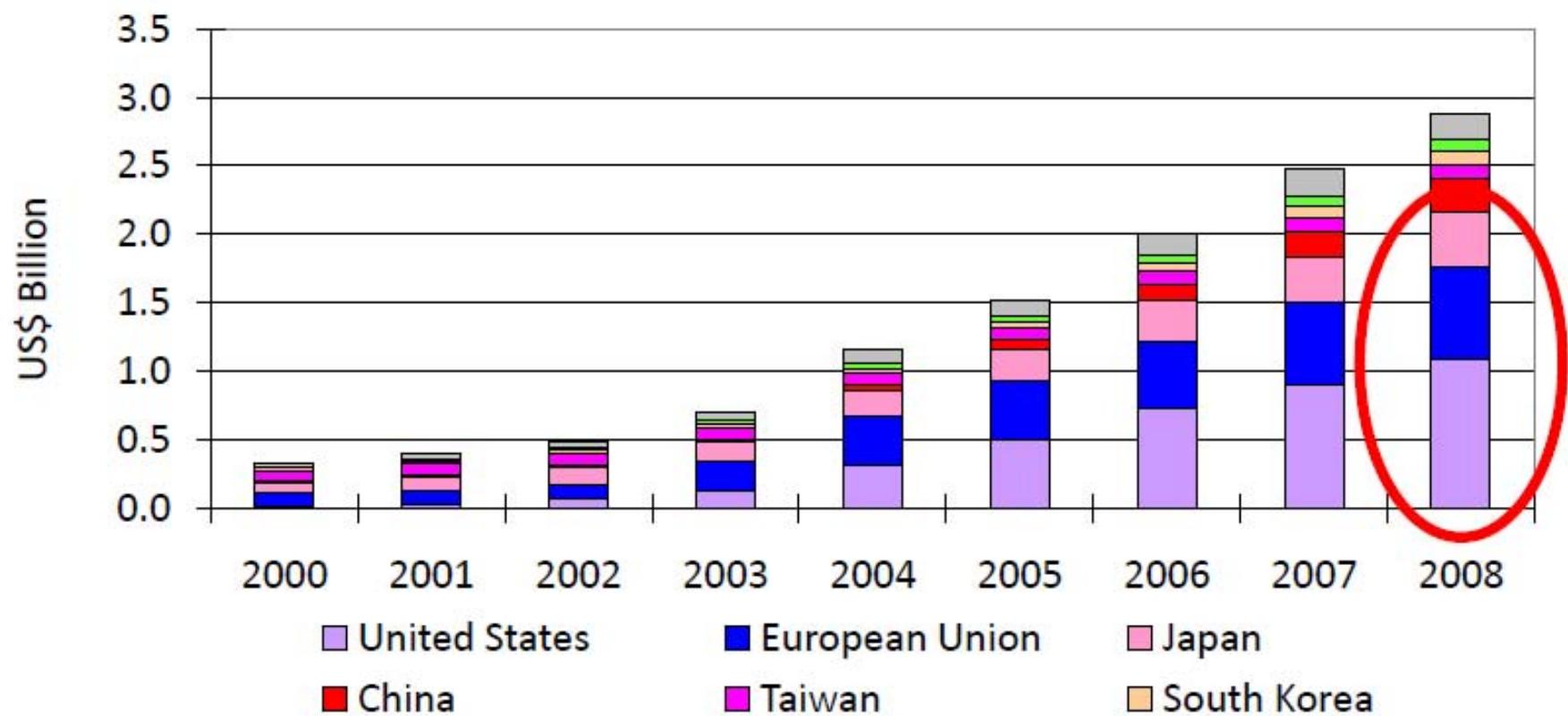
Origins and destinations of illegal wood



Note: this schematic is indicative and does not represent all countries with significant risk or consumption of illegal wood.

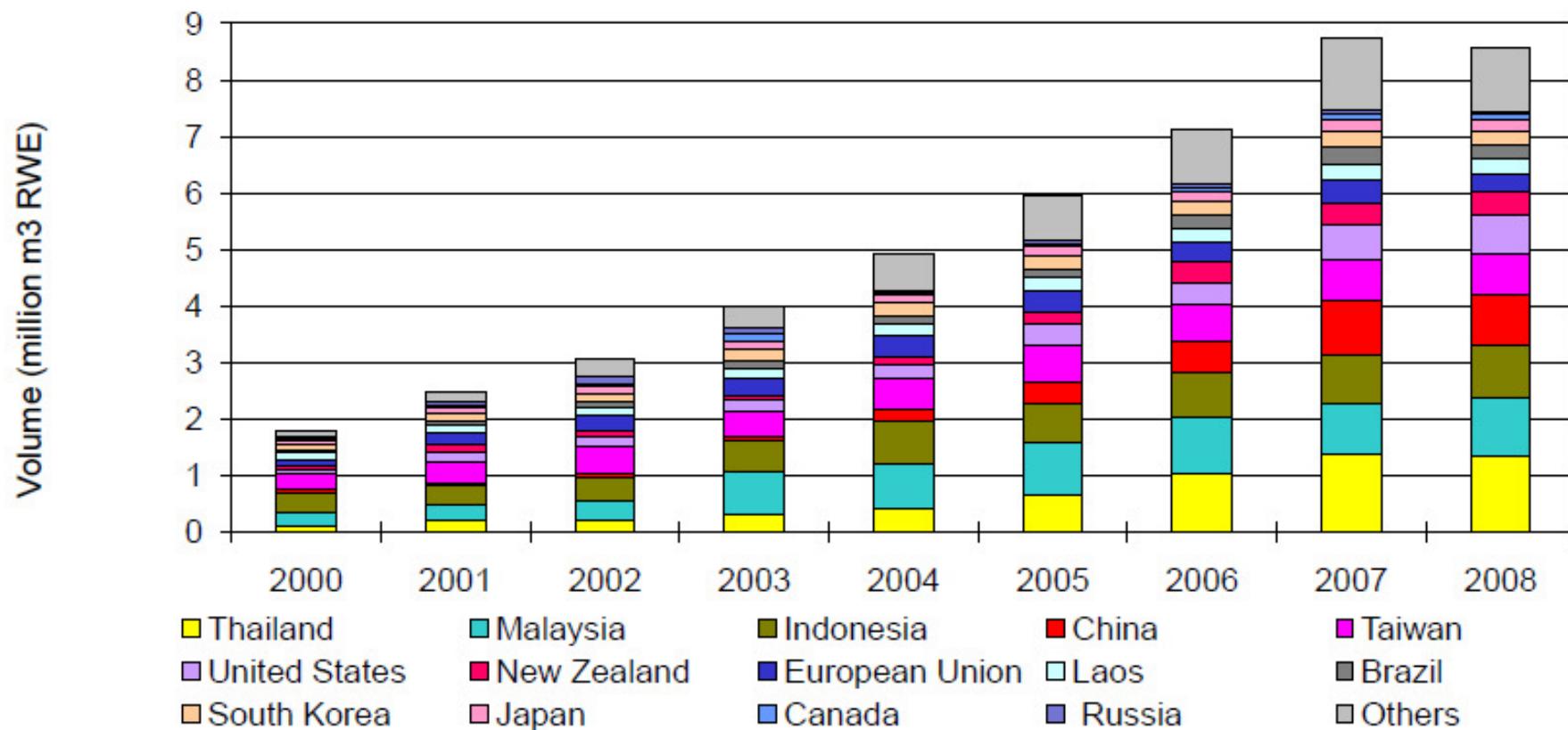
Vietnam trade context I

Vietnam Forest Product Exports (US\$ billion)



Vietnam trade context II

Vietnam Forest Product Imports (million m³)



Consumer country policies

- Early efforts: voluntary certification etc
- National procurement policies
- “Trade+” agreements (like EU “VPA”)
- National prohibitions
 - US Lacey Act Amendments of 2008
 - EU Illegal Timber Regulation of 2010
 - Australia next?



The Lacey Act Amendments, 2008

- **Prohibition:** The Lacey Act makes it unlawful to trade (import, export, transport, sell, receive, acquire, purchase) a plant or plant product taken in violation of laws of a US State, or most foreign laws.
- The Lacey Act also makes it unlawful to provide false information about plants and plant products.
- **Transparency & information:** The Lacey Act requires importers to submit a basic information declaration for certain products.
- The law has been in effect since May 22, 2008.

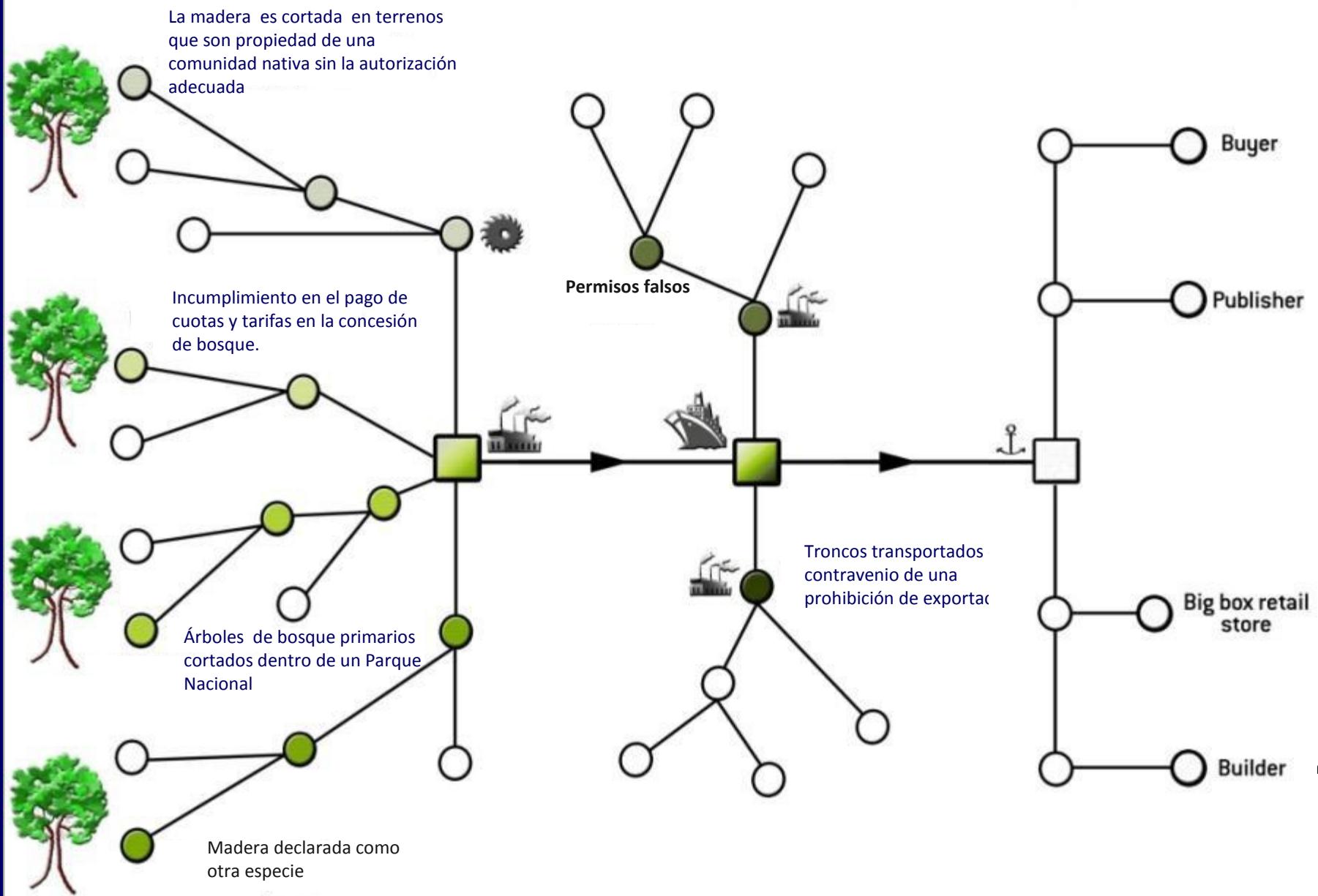


The Lacey Act's history

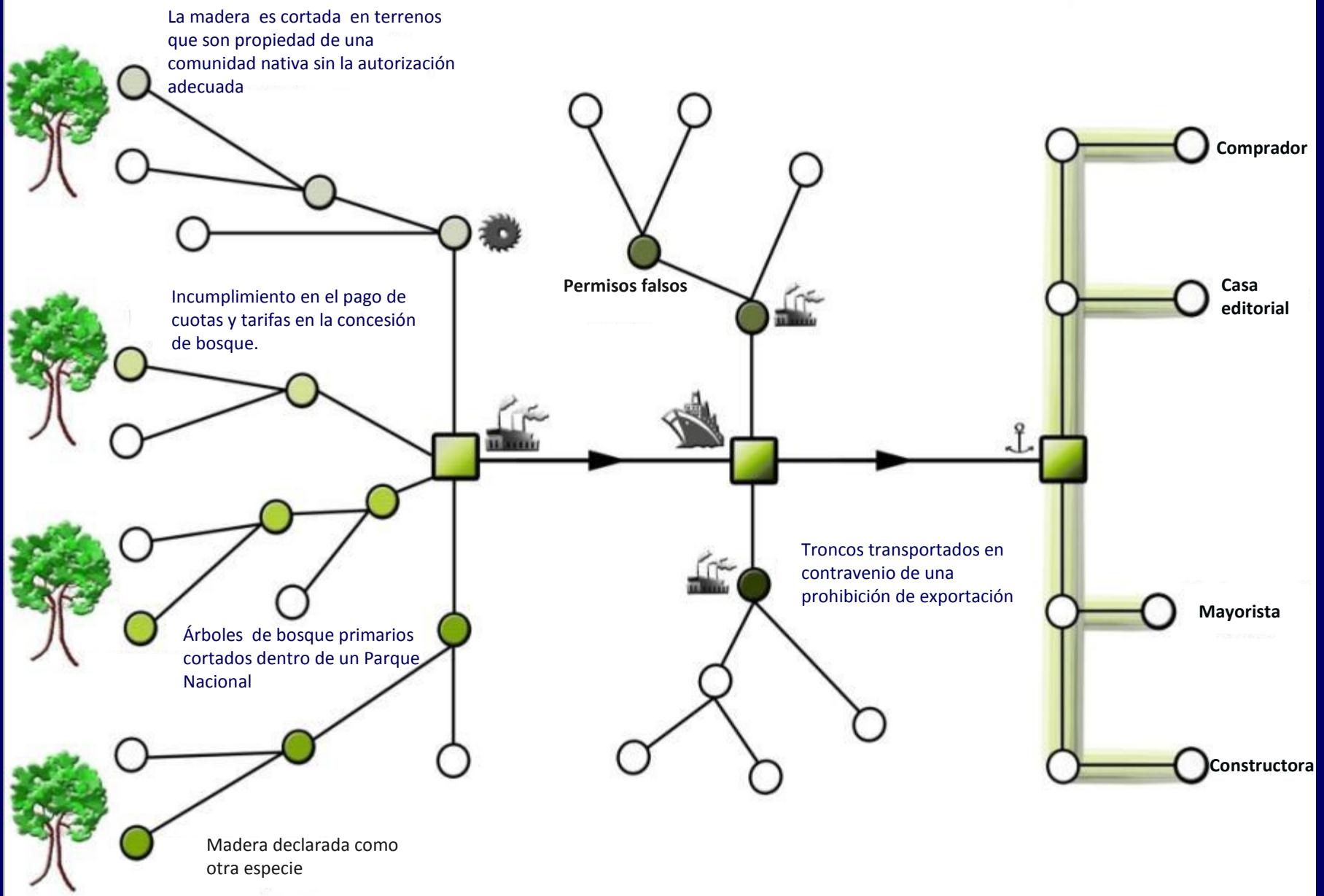
- A conservation law, first passed in 1900
- Wildlife and fisheries also covered by Lacey

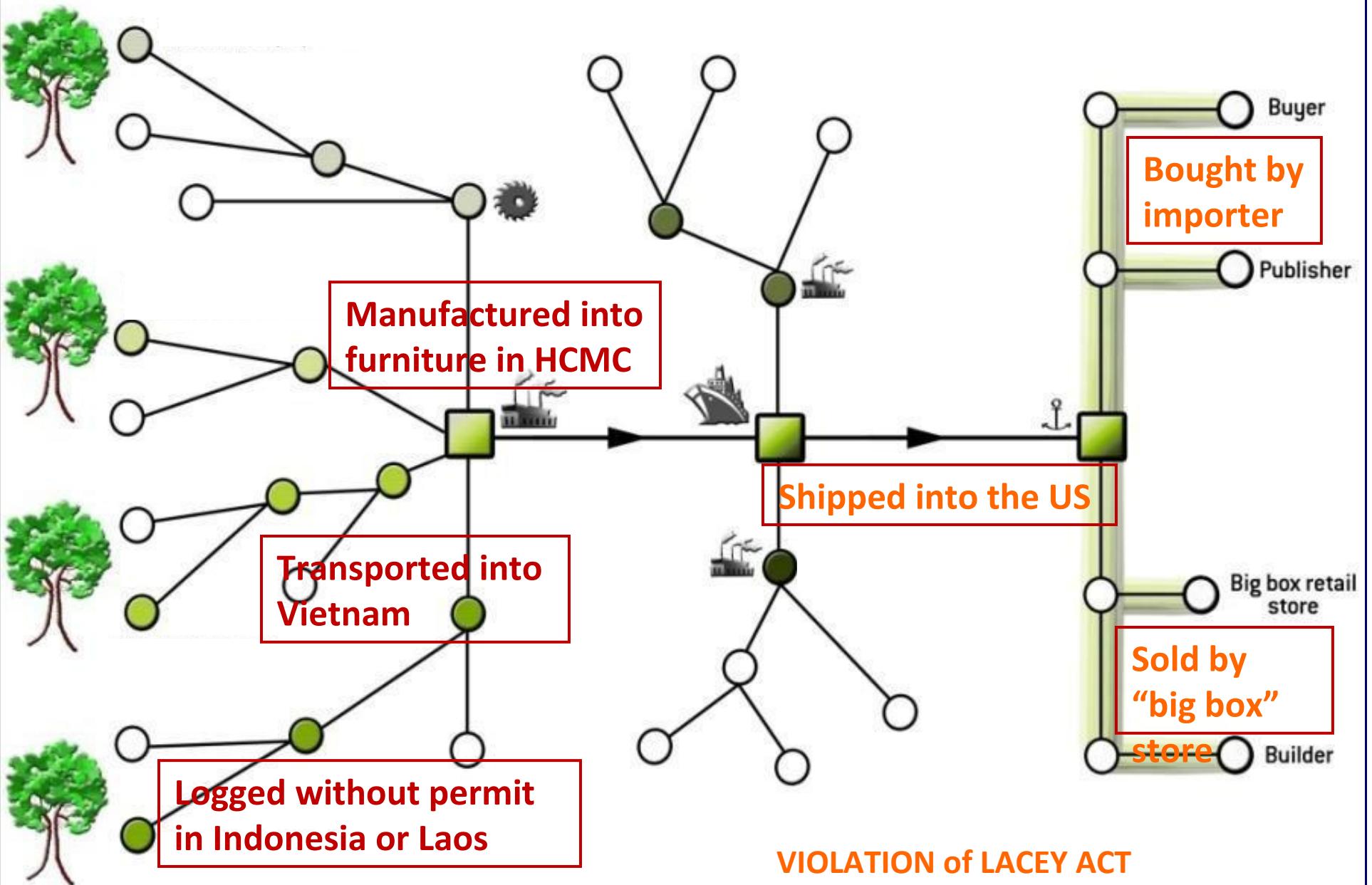


Lacey Act: how the law works



Lacey Act: how the law works





Lacey Act: early enforcement and international reactions



Lacey Act penalties

“Knowingly” engaged in prohibited conduct

Trade in illegally sourced wood

Criminal felony fine (up to \$500,000 for corporations, \$250,000 for individuals, or twice maximum gain/loss from transaction). Possible prison for up to five years. Forfeiture of goods.

False import declaration

Criminal felony fine as above, or civil penalty up to \$10,000. Possible prison for up to five years. Forfeiture of goods.

“Unknowingly” engaged in prohibited conduct

Did not exercise “due care”

Trade in illegally sourced wood

Criminal misdemeanor penalty (up to \$200,000 for corporations, \$100,000 for individuals, or twice maximum gain/loss from transaction). Possible prison for up to one year. OR civil penalty fine up to \$10,000. Forfeiture of goods.

False import declaration

Civil penalty fine of \$250. Forfeiture of goods.

Practiced “due care”

Trade in illegally sourced wood

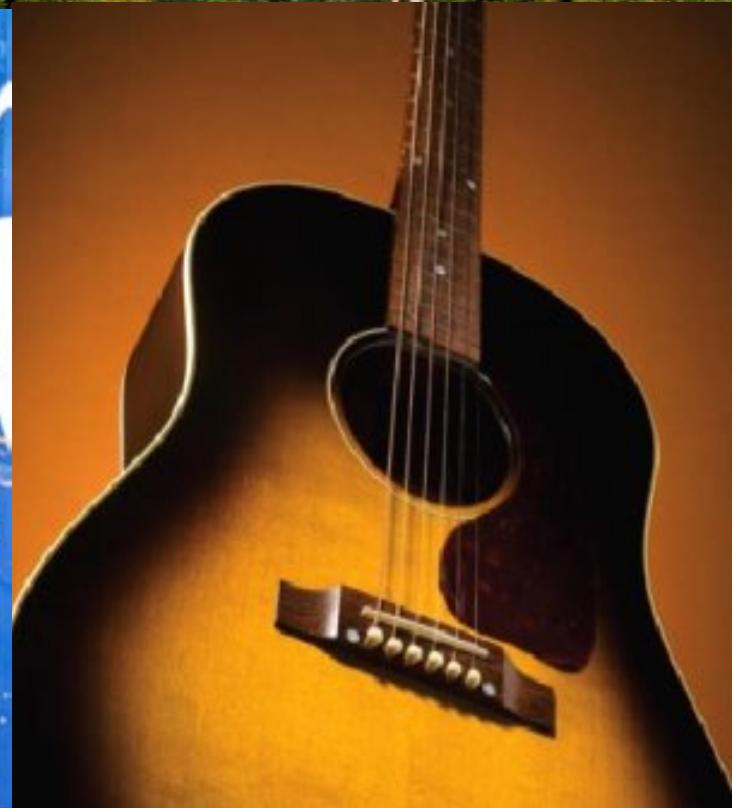
Forfeiture of goods.

False import declaration

Civil penalty fine of \$250. Forfeiture of goods.

Enforcement

- Gibson enforcement action (Nov 2009) and subsequent process: ongoing



Early Lacey Act enforcement

Ebony and rosewood cut from national parks,
Madagascar (2006-2010)



Export to China (>90%) and Germany (Teodore Nagel, Inc.)

Trade records show Gibson Guitars imports from Nagel (2008-2010), even after field trip to Madagascar

Gibson factory raided in Nashville, Tennessee, November 2010, under the Lacey Act

TheGuardian

Gibson Guitars Raided for Alleged Use of Smuggled Wood

Friday, November 20, 2009

Investigation still running:
penalties could include jail time,
fines to \$500,000

Declaration requirement

- Forfeiture of Peruvian hardwoods (seizure in Tampa, May 2009, finalized July 2010)
 - Incorrect classification, possibly intentional
 - Tip-off by business associate
 - Due care deemed inadequate: “a company that specializes in international shipments should be well versed in the applicable laws that govern such transactions and should also be up to date on any amendments to the laws...”



Vietnam's response

- Changing from resistance to acceptance and proactive steps, but problems remain
 - VPA discussions
 - Trade associations educating their companies
- Will we see greater enforcement?
- How do communities and domestic producers fit in?





A photograph of a night landscape. The sky is filled with stars. In the background, there are dark, silhouetted hills. In the middle ground, a river or stream flows through the scene. On the right side, there is a campfire with several people gathered around it, sitting on logs. In the foreground, there are large, stacked logs. A bright, glowing yellow line, resembling a light painting or a fire, curves across the lower part of the image, starting from the left and ending near the campfire.

THANK YOU