

## Summary

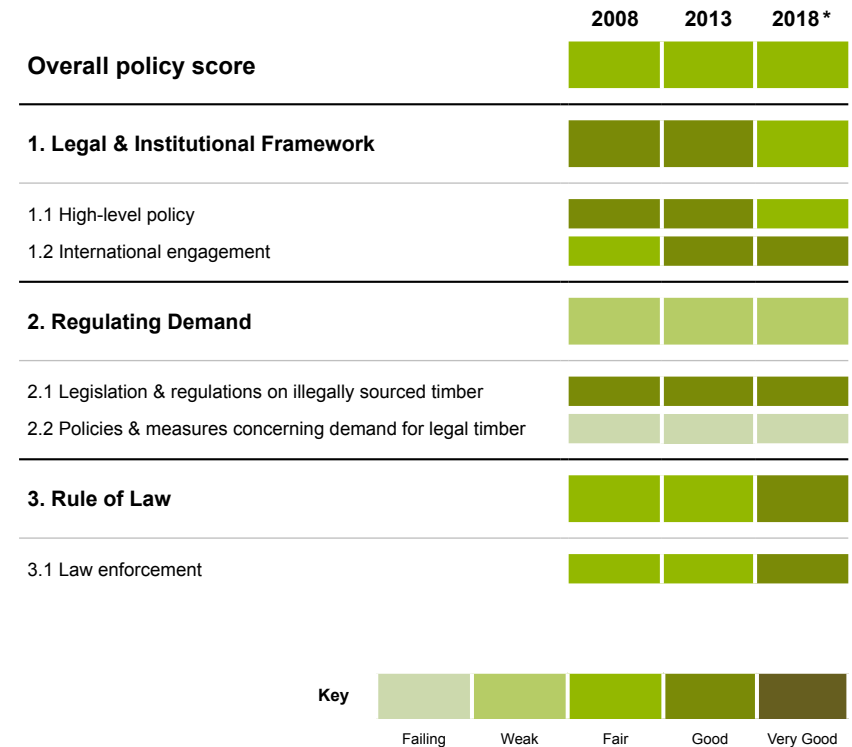
The United States has made varied progress in its efforts to combat illegal logging and the related trade since the previous Chatham House forest policy assessment in 2013, with positive steps and improvements achieved in some respects and other areas where efforts could be improved. The enactment of the 2008 Lacey Act amendments, which prohibit the trade in timber and associated wood products harvested in violation of either US or foreign laws, provides a strong and well-designed basis for curtailing illegal timber imports into the US. Implementation of and compliance with the legislation are not systematically monitored and reviewed; the last review took place in 2013. The 2013 review found a number of challenges related to implementation, including administrative difficulties in processing import declaration forms. Since issuing the review, the Animal and Plant Health Inspection Service (APHIS) has worked with Customs and Border Protection (CBP) to allow importers to file declarations electronically. The US still lacks a federal public procurement policy for wood products, an important tool in promoting legal and sustainable timber trade.

Penalties for non-compliance with the Lacey Act amendments are sufficiently dissuasive and apply to all those along the supply chain, rather than just to importers. US enforcement agencies have brought several high-profile enforcement actions against companies found to be trading in timber harvested in violation of both US law and the laws of countries where harvest occurred, notably the issuance of a \$13 million fine to Lumber Liquidators Inc. The Lacey Act enforcement actions against Lumber Liquidators and other companies have also required that the prosecuted companies adopt court-supervised corporate compliance plans to assess and mitigate risks of illegality in their wood supply chains; these publicly available compliance plans have provided guidance to industry on how to exercise due care to ensure their wood products are legal. However, due to the high burden of proof required for criminal enforcement actions under the Lacey Act, the number of such actions has been relatively low. APHIS has been somewhat slow in phasing in enforcement of the requirement that importers file a declaration upon importation to cover additional wood products, although the declaration requirement posed a number of challenges to the agency in balancing full implementation of the declaration requirement with the goal of not unduly hindering the legal trade in wood products. APHIS has taken a number of steps to move forward on implementation of this requirement. These steps include identification of a new group of products subject to the declaration requirement in March 2020, issuance of a final rule creating an exception for the declaration requirement for products containing small amounts of plant material in April 2020, and an advance notice of proposed rulemaking to define composite wood products and proposing an exception to aspects of the declaration requirement for a certain percentage of plant material in composite products in July 2018. These regulatory developments, upon completion, should allow APHIS to make further progress on phasing in full enforcement of the declaration requirement for substantially all imported wood products.

In terms of international engagement, the US continues to play a leading role in establishing international cooperation on improving enforcement through international bodies, such as the International Consortium on Combatting Wildlife Crime, the Asia Pacific Economic Cooperation Experts Group on Illegal Logging and Associated Trade, and INTERPOL, as well as through free-trade agreements. The US–Mexico–Canada Trade Agreement (USMCA), ratified by all three parties in March 2020 but not yet in force, contains commitments to combat the illegal harvesting and trade in wild fauna and flora. The parties to the agreement also commit to sharing information on efforts to combat illegal logging and associated trade, and to cooperating and exchanging information with non-governmental organizations (NGOs) and other stakeholders. The US also cooperates with Peru over verification of illegal timber shipments through their bilateral free-trade agreement. US forestry and enforcement agencies also provide capacity-building training for law enforcement officers in supply-side countries on investigating and enforcing laws prohibiting illegal logging and associated trade. However, the US decision to withdraw from the UN Framework Convention on Climate Change was a negative development.

There is growing recognition of the impact of US consumption on forests internationally, beyond illicit timber and wood products. In response, several members of Congress are aiming to introduce federal legislation in 2021 that is designed to make it illegal for companies to import the products of illegal deforestation. At the subnational level, in California state legislation has been proposed that would require government suppliers to make commitments on halting deforestation and the exploitation of workers in supply chains. These promising proposals have the potential for the US to improve efforts to tackle illegal logging and related trade, and may also provide a basis for a federal public procurement policy on sustainable wood products.

Figure 1: Summary of the United States' forest policy assessment



### Key Forest Policies and Resources

The United States Department of Agriculture, 2008 Lacey Act amendments, [https://www.aphis.usda.gov/aphis/ourfocus/planthealth/import-information/SA\\_Lacey\\_Act](https://www.aphis.usda.gov/aphis/ourfocus/planthealth/import-information/SA_Lacey_Act).

APHIS (2013). Report to Congress, With Respect To Implementation of the 2008 Amendments to the Lacey Act, [https://cdn.ymaws.com/www.iwpawood.org/resource/resmgr/imported/Lacey%20Report%20to%20Congress%205\\_30\\_13.pdf](https://cdn.ymaws.com/www.iwpawood.org/resource/resmgr/imported/Lacey%20Report%20to%20Congress%205_30_13.pdf).

\* A number of questions were added to the assessment in 2018 (noted in the list of questions below and marked with '-' for 2008 and 2013 where applicable). Consequently, the overall scores for 2018 are not directly comparable with those from the previous assessments.

## About

Chatham House is monitoring forest governance and legality to assess the effectiveness of government and private sector efforts to tackle illegal logging and trade. An assessment was undertaken of the US's forest policy framework to evaluate the government's response to illegal logging and the related trade. A standard list of questions was used in the policy assessment, and answers were scored against three criteria: existence (scoring between 1 and 2, whereby 1 indicates partial coverage or a policy under development, and 2 indicates a policy is in place); design (scoring between 1 and 5, whereby 5 indicates very well designed); and implementation (scoring between 1 and 5, whereby 5 indicates consistent and comprehensive implementation).

## Timeframe for the research

This assessment is based on the situation at the end of 2018, and the scores refer to this date. However, where there have been significant developments in 2019–20, these have been noted in the text. The research was undertaken in 2018–19 and finalized in March 2020.

## Acknowledgements

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### Acronyms and Abbreviations

APHIS	Department of Agriculture Animal and Plant Health Inspection Service
CBP	Department of Homeland Security's Customs and Border Protection
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
DOJ	Department of Justice
FTA	free-trade agreement
HSI	Homeland Security Investigations
NDC	Nationally Determined Contribution
NGO	Non-governmental organization
USAID	US Agency for International Development
USMCA	US–Mexico–Canada Trade Agreement

## Table 1: United States' Forest Policy Assessment

### 1. Legal and Institutional Framework

1.1 High-level policy	Year	Does policy exist? (1-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification / additional qualitative explanation
<b>1.1.1 Does the country have high-level political and governmental mechanisms in place to tackle illegal logging?</b>					
<i>a. Has a review been carried out which both assesses the impact of the country's market activities on the problem of illegal logging and related trade and also investigates the extent and sources of potential illegal imports?</i>	2008	1	2	3	<p>There has been no official, comprehensive and independent review of the impact of US market activities on the problem of illegal logging and related trade, or of the extent and sources of potential illegal imports. However, reports relevant to the topic have been prepared by federal government entities and by independent researchers. In May 2013, the Department of Agriculture Animal and Plant Health Inspection Service (APHIS) submitted a Report to Congress with Respect to Implementation of the 2008 Amendments to the Lacey Act. This report discussed the federal government's implementation of the Lacey Act declaration and enforcement provisions, and the challenges faced in implementation.<sup>1</sup> APHIS made the report available to the public and received public comments on it. The report noted the lack of resources to determine the effect of the Lacey Act prohibition and declaration requirement on the extent and methodology of illegal logging practices and trafficking.</p> <p>The Congressional Research Service, a public policy research institute of Congress, prepared reports in 2012 and 2014 that examined implementation of the Lacey Act by US government agencies and the challenges for industry in complying with the Lacey Act.<sup>2</sup> The reports summarized research performed by other sources on the extent of illegal trade in timber, but did not include an independent review assessing the impact of US market activities on the problem of illegal logging and related trade.</p> <p>However, Seneca Creek Associates, a US-based research firm, has conducted a series of studies on the extent of the international trade in illegally logged timber, the effect of that trade on legal trade by international and US timber producers, and the extent of illegal hardwood logging in the US. In 2004, Seneca Creek wrote a report estimating the amount of illegal timber in the international trade in softwoods and hardwoods and the effect of that trade on the prices obtained by US and international timber producers.<sup>3</sup> In 2008, Seneca Creek assessed US hardwood supply and concluded that it was at low risk of being unsustainably or illegally harvested. This study was updated in 2017–19, with Seneca Creek again concluding that the US hardwood supply was at low risk of being the result of illegal or unsustainable harvest.<sup>4</sup> This updated study provides the most comprehensive, non-government review of the risk of illegal logging in the US. However, it focuses primarily on domestic hardwoods.</p> <p>There is no comprehensive assessment of softwoods, nor of imports. Several US-based NGOs, including the Environmental Investigation Agency, have studied the extent of illegal trade in timber from particular foreign producer and processor countries, including studies of the international trade in illegal timber originating in Russia and Peru.<sup>5</sup></p>
	2013	1	2	3	
	2018	1	3	3	

<sup>1</sup> APHIS (2013), Report to Congress With Respect To Implementation of the 2008 Amendments to the Lacey Act, <https://cdn.ymaws.com/www.iwpawood.org/resource/resmgr/imported/Lacey%20Report%20to%20Congress%205.30.13.pdf>. Congressional Research Service (2014), The Lacey Act: Compliance Issues Related to Importing Plants and Plant Products, 24 July 2012 and 25 February 2014, <https://fas.org/sgp/crs/misc/R42119.pdf> and <https://crsreports.congress.gov/product/pdf/R/R42119/11>.

<sup>2</sup> Congressional Research Service (2014), The Lacey Act: Compliance Issues Related to Importing Plants and Plant Products, 24 July 2012 and 25 February 2014, <https://fas.org/sgp/crs/misc/R42119.pdf> and <https://crsreports.congress.gov/product/pdf/R/R42119/11>.

<sup>3</sup> Seneca Creek Associates (2004), "Illegal" Logging and Global Wood Markets: The Competitive Impacts on the U.S. Wood Products Industry, [http://www.unece.lsu.edu/responsible\\_trade/documents/2003-2006/rt03\\_036.pdf](http://www.unece.lsu.edu/responsible_trade/documents/2003-2006/rt03_036.pdf).

<sup>4</sup> Goetzl, A., Berg, S., Dodge, G., Priskey, S., Varela, J. and Cutsinger, T. (2017, revised 2019), Assessment of Lawful Sourcing and Sustainability: U.S. Hardwood Exports, prepared for American Hardwood Export Council, <https://www.dropbox.com/s/kqqavxz3gzgxfw/Seneca%20Creek%20Assessment%20U.S.%20Hardwoods.pdf?dl=0>.

<sup>5</sup> See Environmental Investigation Agency (EIA) (2018), Moment of Truth: Promise or Peril for the Amazon as Peru Confronts its Illegal Timber Trade, <https://content.eia-global.org/assets/2018/02/MoT/MomentofTruth.pdf>; and Environmental Investigation Agency (2012), The Laundering Machine: How Fraud and Corruption in Peru's Concession System are Destroying the Future of Its Forests, <https://eia-international.org/wp-content/uploads/The-Laundering-Machine.pdf>.

1.1 High-level policy	Year	Does policy exist? (1-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification / additional qualitative explanation
<i>b. Is a national action plan in place for preventing illegally sourced timber from being imported or sold?</i>	2008	2	2	4	While the US does not have a national action plan to prevent illegally sourced timber from being imported or sold, it has enacted legislation, the 2008 amendments to the Lacey Act, which prohibits the trade in timber (and associated wood products) harvested in violation of either US or foreign laws. Enforcement agencies have brought several high-profile enforcement actions against companies found to be trading timber harvested in violation of both US law and the laws of harvest countries.
	2013	2	2	4	
	2018	2	3	4	
<i>c. Does a formal process exist for high-level coordination of action on illegal logging across departments and sectors (e.g. a parliamentary committee or inter-ministerial taskforce)?</i>	2008	2	4	4	An interagency working group comprised of representatives of agencies with responsibility for implementing and enforcing the 2008 Lacey Act amendments on illegal logging and associated trade has, since 2008, held regular, well-attended meetings with appropriately senior representatives from all relevant agencies. The group includes representatives from APHIS, the Forest Service, the Department of Homeland Security's Customs and Border Protection (CBP) and Homeland Security Investigations (HSI), the US Trade Representative, the Department of Justice (DOJ), the Department of State, the Fish and Wildlife Service, the Department of the Interior and the US Agency for International Development (USAID).  Individual agencies collaborate and coordinate actions; for example, APHIS and CBP work together to improve data transmission by importers into CBP systems and to streamline the Lacey Act declaration process.
	2013	2	4	4	
	2018	2	4	4	
<i>d. Are formal consultation processes in place for multi-stakeholder involvement in developing policy and legislation to tackle illegal logging? These processes should ensure that viewpoints of stakeholders affected by legislation are taken into consideration.</i>	2008	2	3	3	Stakeholder consultation and sharing of viewpoints on the Lacey Act occur through several means. First, APHIS, which has an important role in implementing the Lacey Act's declaration requirement, publishes proposed regulations, as well as proposed policies for implementing the declaration requirement, in the Federal Register and solicits public comment. The comments submitted are carefully considered by APHIS and the other agencies on the interagency Lacey Act group before final regulations and policies are issued.  The Department of Commerce has an International Trade Advisory Committee for companies involved in the international trade in forest products. The committee meets periodically, and agencies involved in implementing the Lacey Act and involved in forest policy issues share information and engage in discussions with the members of this group.  The Lacey Act interagency group also takes part in meetings with NGOs and other stakeholders to discuss particular issues related to illegal logging and associated trade, with meetings often convened by the State Department, Forest Service or other agencies. Government agencies, particularly the State Department, USAID and the Forest Service, provide funding for NGOs working on illegal logging and frequently reach out to NGOs in this space for input.
	2013	2	3	4	
	2018	2	3	4	
<i>e. Are formal processes/policies in place aimed at ensuring a balanced participation of men and women in the development and implementation of forest sector policies? (Question added in 2018)</i>	2008	–	–	–	No formal process exists to ensure balanced participation of men and women in development and implementation of forest sector policies, although there are informal efforts to ensure balanced participation. Even though there is no formal policy to ensure this, at the time of writing many of the agencies involved in the development and implementation of forest sector policies are in fact represented by women in senior positions, including APHIS, the State Department, USAID, the Forest Service and the DOJ.
	2013	–	–	–	
	2018	0	Not applicable n/a	n/a	

1.1 High-level policy	Year	Does policy exist? (1-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification / additional qualitative explanation
<i>f. Is illegal logging/trade considered in the country's climate change strategy (NDC or other climate change national policies – e.g. in relation to embedded deforestation in imports)?</i> <i>(Question added in 2018)</i>	2008	–	–	–	The US has announced its withdrawal from the Paris Agreement. The first nationally determined contribution (NDC) (submitted in 2016 before the decision was made to withdraw) mentions actions to be taken in the land sector but does not specify illegal logging and trade.
	2013	–	–	–	However, there is growing recognition of the impact of US consumption on forests internationally, beyond illicit timber and wood products. In response, several members of Congress are aiming to introduce federal legislation in 2021 that is designed to make it illegal for companies to import the products of illegal deforestation. At the subnational level, in California state legislation has been proposed that would require government suppliers to make commitments on halting deforestation and the exploitation of workers in supply chains. A bill addressing these issues was proposed in 2019, but was not approved, and the legislation was reintroduced in February 2020. As of 27 March 2020, the bill was pending in committee. <sup>6</sup>
	2018	0	n/a	n/a	

<sup>6</sup> See [http://leginfo.ca.gov/faces/billStatusClient.xhtml?bill\\_id=201920200AB2002](http://leginfo.ca.gov/faces/billStatusClient.xhtml?bill_id=201920200AB2002).

1.2 International engagement	Year	Does policy exist? (1-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification / additional qualitative explanation
<b>1.2.1 What level of international cooperation is shown by the country?</b>					
<i>a. Does the country have formalized trade or customs arrangements with major trading partners e.g. FLEGT VPAs or free-trade agreements (FTAs) which include specific provisions on illegal logging?</i>	2008	1	3	3	<p>The recently finalized US–Mexico–Canada Trade Agreement (USMCA) (ratified by all three parties on 13 March 2020, and entering into force after certain procedural agreements are met) contains commitments by the party countries to combat the illegal harvesting and trade of wild fauna and flora.<sup>7</sup> Art. 24.22 (on Conservation and Trade), Para. 4 provides: 'In a further effort to address the illegal take of, and illegal trade in, wild fauna and flora, including parts and products thereof, each Party shall take measures to combat, and cooperate to prevent, the trade of wild fauna and flora that, based on credible evidence, were taken or traded in violation of that Party's law or another applicable law [this includes the law of the country of harvest], the primary purpose of which is to conserve, protect, or manage wild fauna or flora. These measures shall include sanctions, penalties, or other effective measures, including administrative measures, that can act as a deterrent to such trade. In addition, each Party shall endeavour to take measures to combat the trade of wild fauna and flora transhipped through its territory that, based on credible evidence, were illegally taken or traded.' The parties also commit to sharing information on efforts to combat illegal logging and associated trade, and to cooperating and exchanging information with NGOs and other stakeholders on combating illegal trade in flora and fauna.</p> <p>The US–Peru FTA, which entered into force in 2009, includes an extensive annex with detailed provisions for strengthening governance in the Peruvian forest sector.<sup>8</sup> It also includes provisions allowing the US government to conduct audits of companies that export wood from Peru to the US and verifications of individual shipments of timber to determine whether the wood was harvested in violation of Peru's forestry laws. In response to petitions made by NGOs regarding shipments of illegally harvested wood from Peru to the US, the US government has on two occasions requested that Peru verify the legality of specific shipments of timber, and the US government has conducted two verification visits to Peru to determine the legality of shipments. These verifications identified that these shipments were illegal, and two Peruvian companies have been barred from exporting wood to the US. In addition, Peru has agreed to take certain steps to improve its ability to detect illegally harvested wood, although implementation of those commitments has not been completed.</p> <p>The US is also an active participant in the Asia Pacific Economic Cooperation Experts Group on Illegal Logging and Associated Trade. Weaker bilateral cooperation exists with Indonesia and China, two major suppliers of timber and forest products to the US. However, there are no formal arrangements with provisions on illegal logging with these countries.</p> <p>In addition, the US included language similar to the USMCA flora and fauna provisions in the Trans-Pacific Partnership negotiations with Pacific Rim countries, but after the US withdrew from the negotiations, the language on forest governance was removed from the negotiation text. The US has also engaged in building support for Illegal Logging and Associated Trade (ILAT) programmes in multilateral forums, including the Central America–Dominican Republic–US FTA, Asia-Pacific Economic Cooperation and others.</p> <p>The US Fish and Wildlife Service has also stationed seven law enforcement attaches at US embassies in Asia, Africa and South America to collaborate with regional law enforcement partners on capacity-building and law enforcement investigation of crimes related to wildlife and timber trafficking.<sup>9</sup> The US State Department and USAID have also provided funding to the DOJ and the Forest Service to implement a programme of law enforcement training on investigating and prosecuting forest crimes in several supply-side countries, including Vietnam, Myanmar, Peru, Colombia and the Congo Basin countries.</p>
	2013	2	3	3	
	2018	2	4	4	

<sup>7</sup> See <https://ustr.gov/usmca>.

<sup>8</sup> See <https://ustr.gov/trade-agreements/free-trade-agreements/peru-tpa>.

<sup>9</sup> See [https://www.fws.gov/news/ShowNews.cfm?ref=u.s.%E2%80%93government%E2%80%93bolsters%E2%80%93overseas%E2%80%93law%E2%80%93enforcement%E2%80%93capacity%E2%80%93to%E2%80%93combat%E2%80%93&\\_ID=36326](https://www.fws.gov/news/ShowNews.cfm?ref=u.s.%E2%80%93government%E2%80%93bolsters%E2%80%93overseas%E2%80%93law%E2%80%93enforcement%E2%80%93capacity%E2%80%93to%E2%80%93combat%E2%80%93&_ID=36326).

1.2 International engagement	Year	Does policy exist? (1-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification / additional qualitative explanation
<i>b. Does the country have a formalized system in place for sending and receiving enforcement alerts regarding illegal shipments in transit to destination countries?</i>	2008	1	4	n/a	Coordination of Lacey Act enforcement actions is embedded in existing law enforcement coordination and communication channels. All existing coordination channels are used to enforce Lacey; this includes interagency and international law enforcement communication and coordination channels including INTERPOL. In addition, the US has been a leading partner in establishing international cooperation on improving enforcement, including on wood identification and forensic methods through the International Consortium on Combatting Wildlife Crime which also covers illegal timber trade. The US also advocated for creation of a forest crime working group within INTERPOL and actively participates in this group.
	2013	2	4	3	
	2018	2	4	3	



## 2. Regulating Demand

2.1 Legislation & regulations on illegally sourced timber	Year	Does policy exist? (1-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification / additional qualitative explanation
<b>2.1.1 Does the country have adequate legislation and regulations in place to prevent illegally sourced timber from being imported or sold?</b>					
<i>a. Has the country analysed its existing legislation and regulations on preventing imports and sales of illegally sourced timber?</i>	2008	2	4		In the period between 2003 and 2008, as part of a Bush administration initiative called the President's Initiative Against Illegal Logging, the US government reviewed existing legislation that could be used to bring enforcement action against those involved in trade in illegally logged timber and wood products. This effort was instrumental in enactment of the 2008 amendments to the Lacey Act, which prohibited trade in timber and wood products harvested in violation of either US or foreign law.  In May 2013, APHIS submitted a Report to Congress with Respect to Implementation of the 2008 Amendments to the Lacey Act which discussed the federal government's implementation of the Lacey Act declaration and enforcement provisions and challenges faced in implementation. The report discussed implementation of the Lacey Act requirement that importers file a declaration on importation of timber and other plant products, as well as regulations promulgated by APHIS or under consideration. The report also outlined the initial challenges and progress in implementing the Lacey Act amendments on various issues, including: streamlining collaboration and coordination between APHIS and CBP regarding handling the Lacey Act declarations; defining the scope and level of detail regarding the information required of importers; and defining practical alternatives for industry to declare country of origin and species make-up of engineered wood products. APHIS published a draft of the report in the Federal Register seeking public comment. <sup>10</sup> The report has not been updated since 2013. Since issuance of the report, APHIS has worked with CBP to facilitate filing of the import declaration. Declarations may now be filed electronically along with other customs documentation through CBP's Automated Customs Environment, or filed electronically through APHIS's Lacey Act Web Governance System (LAWGS). <sup>11</sup>
	2013	2	4		
	2018	2	4		
<i>b. Has additional legislation been enacted and regulations put in place to prevent illegally sourced timber from being imported or sold?</i>	2008	2	4	n/a	The Lacey Act amendments of 2008 were enacted by Congress to prevent illegal timber from being imported or sold. APHIS has enacted implementing regulations, such as regulations to define the terms 'common food crop' and 'common cultivar', and has proposed additional regulations to facilitate the importer declaration process.  The Lacey Act legislation has been scored 4 for design, as it is comprehensive, enforceable and workable, but the implementation score was lowered from 4 in 2013 to 3 in 2018 because APHIS has been somewhat slow in phasing in enforcement of the declaration requirement to cover additional wood products. However, full implementation of the declaration requirement without presenting excessive barriers to the legal trade in wood products has presented some difficult issues for APHIS to solve. As explained in response to 2.1.1.c below, APHIS has recently taken a number of steps to facilitate the further phasing in of the declaration requirement.
	2013	2	4	4	
	2018	2	4	3	

<sup>10</sup> Congressional Research Service (2014), The Lacey Act: Compliance Issues Related to Importing Plants and Plant Products, 24 July 2012 and 25 February 2014.

<sup>11</sup> See [https://www.aphis.usda.gov/plant\\_health/lacey\\_act/downloads/ace-faqs-lacey-act.pdf](https://www.aphis.usda.gov/plant_health/lacey_act/downloads/ace-faqs-lacey-act.pdf).

2.1 Legislation & regulations on illegally sourced timber	Year	Does policy exist? (1-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification / additional qualitative explanation
<p><i>c. If legislation is in place to prevent the import of illegal timber, how broad is the product scope of this legislation?</i> (Question added in 2018)</p>	2008		–		<p>The product scope of the Lacey Act amendments is broad, covering all plants and plant products except for common food crops and cultivars, certain scientific specimens and live plants. These exceptions do not apply if the plants are listed on CITES, the US Endangered Species Act or state laws identifying threatened and endangered plants.</p> <p>The prohibition on trade in illegally harvested timber applies to this broadly defined scope of plants and plant products, and civil and criminal penalties apply to all such trade. However, enforcement of the requirement that importers file a declaration for plants and plant products upon importation is being phased in, with only certain products subject to the declaration requirement at this time. Notwithstanding the phasing in of enforcement of the declaration requirement, the broader prohibition on trade in illegal goods applies to even those goods not yet on the declaration phase-in list. The list of products currently subject to the declaration requirement is published on the APHIS website.<sup>12</sup> While they are covered under the ban on illegally sourced imports, pulp and paper and some other highly processed wood products are not currently covered under the declaration requirement. On 30 March 2020, APHIS announced that the sixth phase of the enforcement schedule would become effective on 1 October 2020; the agency also invited comment on the proposed list of products to be added.<sup>13</sup> The sixth phase as proposed will add goods in Harmonized System (HS) chapters 33 (essential oils), 42 (trunks, cases, suitcases), 44 (wood and articles of wood) (including oriented strand board), 92 (musical instruments) and 96 (miscellaneous manufactured articles).</p> <p>In 2018, APHIS published a proposed rule to exclude from the import declaration requirement products containing a minimal amount of plant material (a <i>de minimis</i> exception). The final rule was published in February 2020 and is effective as of 1 April 2020.<sup>14</sup> On 1 July 2018, APHIS issued an advance notice of proposed rulemaking to define composite wood products, and proposing an exception to the declaration requirement for a certain amount of composite plant material in imported products to account for the potential difficulty in identifying 100 per cent of the plant content in such products by species or country of harvest. The definition of composite wood products is expected to cover a variety of products in the wood products trade, including pulp, paper, paperboard, medium-density and high-density fibreboard, and particleboard. These regulatory developments, upon completion, should allow APHIS to make further progress on phasing in full enforcement of the declaration requirement for substantially all imported wood products</p>
	2013		–		
	2018		5		
<p><i>d. If legislation is in place to prevent the import of illegal timber, does it apply only to importers or to all those along the supply chain?</i> (Question added in 2018)</p>	2008		–		<p>The Lacey Act amendments cover all those along the supply chain, not just importers.</p>
	2013		–		
	2018		5		

<sup>12</sup> See the list of plant products for which a declaration is currently required at [https://www.aphis.usda.gov/plant\\_health/lacey\\_act/downloads/ImplementationSchedule.pdf](https://www.aphis.usda.gov/plant_health/lacey_act/downloads/ImplementationSchedule.pdf).

<sup>13</sup> See <https://www.regulations.gov/docket?D=APHIS-2008-0119>.

<sup>14</sup> See <https://www.federalregister.gov/documents/2020/03/02/2020-04165/lacey-act-implementation-plan-de-minimis-exception>.

2.1 Legislation & regulations on illegally sourced timber	Year	Does policy exist? (1-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification / additional qualitative explanation
<p><i>e. If legislation is in place to prevent the import of illegal timber, does it include a requirement for businesses to implement due diligence?</i></p> <p><i>(Question added in 2018)</i></p>	2008		–		<p>The Lacey Act does not impose a requirement that businesses implement due diligence. However, the law subjects persons and businesses trading in timber and other plant products to serious penalties, including criminal penalties of imprisonment and significant fines, if they fail to exercise due care to determine the legality of the wood products they trade. Therefore, companies have a strong incentive to exercise due care to ensure they are trading in legally sourced products.</p> <p>The DOJ has resolved several criminal enforcement prosecutions through judicially enforceable agreements with defendants who have pled guilty (called plea agreements), and has also resolved criminal enforcement actions by specifying detailed compliance plans for the prosecuted companies. For example, under the 2015 Lumber Liquidators Plea Agreement, Lumber Liquidators Inc. agreed to an environmental compliance plan<sup>15</sup> which laid out the most detailed guidance available for due care/due diligence expectations under the amended Lacey Act on how companies may assess and mitigate the risk of illegality in their wood supply chain. Implementation of the compliance plan is supervised by the court and subject to independent audit for a period of several years following the criminal conviction. Other criminal enforcement actions brought by the DOJ for Lacey Act violations have included implementation of such court-supervised corporate compliance plans.<sup>16</sup> These compliance plans have provided industry players with standards for establishing their own due care plans to ensure that they are trading in legally harvested wood.</p>
	2013		–		
	2018		3		
<p><i>f. Is implementation of the policy systematically monitored and assessed?</i></p> <p><i>(Question added in 2018)</i></p>	2008		–		<p>The Lacey Act amendments of 2008 required the secretary of agriculture to conduct a review, not later than two years after enactment, of implementation of the elements of the declaration requirement and of the exclusion of packaging material from the declaration requirement. APHIS completed this review in 2013 and submitted the Report to Congress with Respect to Implementation of the 2008 Amendments to the Lacey Act, as described in the response to question 2.1.1a above. No government agency has conducted a further review of implementation of the amendments since then.</p>
	2013		–		
	2018		1		

<sup>15</sup> See [https://www.sec.gov/Archives/edgar/data/1396033/000114420415058462/v421764\\_ex10-1.htm](https://www.sec.gov/Archives/edgar/data/1396033/000114420415058462/v421764_ex10-1.htm).

<sup>16</sup> See <https://www.justice.gov/opa/pr/essential-oils-company-sentenced-lacey-act-and-endangered-species-act-violations-pay-760000>.

2.2 Policies & measures concerning demand for legal timber	Year	Does policy exist? (1-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification / additional qualitative explanation
<b>2.2.1 Is there a public procurement policy in place excluding illegal (and/or unsustainable) timber products from government purchasing?</b>	2008	0		n/a	No procurement policy is in place.
	2013	0		n/a	
	2018	0		n/a	
<i>a. What level of adherence does the policy require?</i>	2008		n/a		No procurement policy is in place.
	2013		n/a		
	2018		n/a		
<i>b. Does the policy cover all timber products, including paper?</i>	2008		n/a		No procurement policy is in place.
	2013		n/a		
	2018		n/a		
<i>c. Does the policy rest on independent certification or verification schemes (or equivalent) for identifying legal products?</i>	2008		n/a		No procurement policy is in place.
	2013		n/a		
	2018		n/a		
<i>d. Is assistance offered to government purchasers (advice, guidance, training, etc.)?</i>	2008		n/a		No procurement policy is in place.
	2013		n/a		
	2018		n/a		

2.2 Policies & measures concerning demand for legal timber	Year	Does policy exist? (1-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification / additional qualitative explanation
<i>e. Is implementation of the policy systematically monitored and assessed?</i>	2008		n/a		No procurement policy is in place.
	2013		n/a		
	2018		n/a		
<i>f. Does the procurement policy apply to subnational (provincial, regional, local) government?</i>	2008		n/a		No procurement policy is in place.
	2013		n/a		
	2018		n/a		

### 3. Rule of Law

3.1 Law enforcement	Year	Does policy exist? (1-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification / additional qualitative explanation
<b>3.1.1 Do government institutions and agencies have sufficient capacity and resources to monitor trade in timber products and detect and suppress any related crime?</b>					
<p><i>a. Are the relevant law enforcement staff sufficiently resourced for monitoring and enforcement? (Relevant resources include budgets; numbers of staff; communications; equipment; salaries; as well as training in understanding of regulatory framework and knowledge of techniques for monitoring and enforcement.)</i></p> <p><i>i.e. competent authorities for legislation to prevent illegally sourced timber from being imported.</i></p> <p><i>(Question added in 2018)</i></p>	2008		–	–	<p>The DOJ, which is responsible for prosecuting Lacey Act violations in federal courts, does not generally receive an appropriation of funds to prosecute violations of specific statutes. DOJ prosecutors have sufficient funds to prosecute violations of environmental and natural resources laws within their responsibility. This answer applies both to prosecutors in the DOJ Environmental Crimes Section in Washington, DC, and to prosecutors in local attorneys' offices throughout the country. Investigative agencies, including the customs agencies in the Department of Homeland Security, Fish and Wildlife Service Law Enforcement and APHIS, have responsibilities that are broader than investigation of Lacey Act illegal timber trade cases, and the reviewers' perception is that they could use more resources and personnel to investigate timber trade cases. Appropriation of funds to the investigative agencies specifically for the purpose of investigation of timber trafficking crimes might result in a greater focus by the agencies on investigating timber cases (rather than animal wildlife cases, this being its historic area of responsibility). However, CBP has apparently made significant investments in species identification equipment to check timber passing through US ports, and both the Fish and Wildlife Service and Forest Service have scientific personnel with resources and equipment to test timber for species identification.</p> <p>Agencies are doing a good job of directing allocated resources to prosecutors and investigators who work on cases without funds being diverted to managers and administrative personnel who don't directly work on cases.</p>
	2013		–	–	
	2018		3	4	
<i>b. Are the following officials who are involved in forest sector enforcement trained and kept up to date on relevant forest sector issues? (Question added in 2018)</i>					
<p><i>i. Customs officials</i></p>	2008	2			<p>In the past several years, CBP and HSI, the two customs investigative agencies, have been providing their investigative and enforcement personnel with training at workshops and agency training facilities on the Lacey Act illegal timber provisions and investigation of cases involving potentially illegal timber and wood products passing through ports. DOJ prosecutors have participated as trainers at some of these workshops.</p> <p>Customs personnel have also participated as trainers at international workshops organized by the DOJ and the Forest Service in major producer and processing countries, including Peru, Brazil, Colombia, Myanmar, Vietnam, Indonesia and the Congo Basin countries. These workshops for prosecutors and investigators of forest crimes provide training and information about the Lacey Act and other international legal frameworks, and about investigating and prosecuting illegal logging cases.</p>
	2013	2			
	2018	2			
<p><i>ii. Judges and prosecutors</i></p>	2008	–			<p>Federal prosecutors responsible for prosecuting Lacey Act illegal timber cases (both in the DOJ Environmental Crimes Section and in attorneys' offices around the country) receive annual training on Lacey Act prosecution at the National Advocacy Center, the DOJ training facility. Training and information-sharing are also provided through the Environmental Crimes Policy Committee meetings attended by federal prosecutors on a biannual basis.</p> <p>The reviewers are unaware of any training provided to judges on Lacey Act or illegal logging issues. A score of 2 would have been given if the question had asked only about prosecutors, but as it also covers judges, a score of 1 was given.</p>
	2013	–			
	2018	1			

3.1 Law enforcement	Year	Does policy exist? (1-2)	Quality of design (1-5)	Level of implementation (1-5)	Justification / additional qualitative explanation
<b>3.1.2 Are the penalties/sanctions for non-compliance with legislation to prevent illegally sourced timber from being imported (if in place) proportionate &amp; dissuasive?</b> <i>(Question added in 2018)</i>	2008		–	–	The amended Lacey Act includes provisions for both criminal and civil penalties, as well as forfeiture of goods. To date, enforcement actions have included fines of up to \$13 million (in the case of Lumber Liquidators Inc.), prison time (in the case of J&L Tonewoods), and forfeiture and destruction of seized timber (in various cases, mostly in addition to fines).
	2013		–	–	
	2018		5	5	