

A NATIONAL STRATEGY TO INCREASE THE EFFICACY OF TIMBER ENFORCEMENT
AT U.S. BORDERS

By

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Executive Summary

We are currently in the midst of the sixth mass extinction of fauna and flora in the history of our planet. This mass extinction differs from the ones before because it is caused by anthropogenic activity. Land-use change continues to be the main threat to terrestrial and freshwater ecosystems but is promptly followed by direct exploitation including harvesting, logging, and hunting (IPBES, 2019). Forests are renewable resources that provide a bevy of ecosystem services; however, many of the world's forests continue to face immense pressure stemming from human behavior. Forest loss triggers a cascade of events that negatively affects wildlife populations, the natural carbon and climate cycle, rural and indigenous communities, and various economic sectors. With 80% of terrestrial biodiversity dependent on forest habitats, the sustainability of global wildlife populations requires strong forest governance and international cooperation.

Illegal logging is a prominent driver of global deforestation. The trafficking of illegal timber erodes governance, undercuts sustainable forest enterprises, and threatens global safety and security by providing a funding mechanism for organized crime and violent conflict (UNDOC, 2012). Although timber trafficking is often included under the umbrella of wildlife trafficking, detection of timber-related forest crimes is not routine at U.S. borders even though the U.S. is the second-largest importer of global timber and wood products. One of five environmental interventions listed by the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) is "strengthening environmental laws and policies and their implementation" (IPBES, 2019). This National Strategy to Increase the Efficacy of Timber Enforcement at U.S. Borders was designed to strengthen the implementation of the Lacey Act Plant Amendments of 2008.

The Lacey Act provides an enforcement tool to combat wildlife and timber trafficking at U.S. borders. Although multiple border agencies have the ability to enforce the Lacey Act Amendments, they have failed to find a permanent home within a border law enforcement workforce. Both U.S. Fish and Wildlife Service and Department of Homeland Security has seen success in the criminal prosecution of timber trafficker, these investigations are rarely self-generated and stem from referrals and tips from non-governmental organizations (The 2008 Lacey Act Amendments Part 1 and 2, 20103). This strategy serves to demonstrate how to close enforcement gaps through interagency collaboration and the ability of the FWS Wildlife Inspection Program to lead the efforts on effective, efficient and routine timber inspections. Leveraging, an existing easily motivated, conservation-minded workforce already equipped with transferable inspection skills is the most effective way to increase timber enforcement at U.S. borders.

Introduction

In 2016, the profits from environmental crimes reached between \$91 and \$258 billion annually, with \$51 to \$152 billion derived from illegal logging and its subsequent trade (Utermohlen and Baine, 2017). Criminals view timber-related forest crimes as a low risk, high reward endeavor. In most countries, the punishment levied for forest crimes are far lower than those associated with other trafficking schemes (including human, arms, drug trafficking), even though environmental crimes has become the largest financier of violent conflict (Nellemann et al, 2018).

Illegal logging and timber trafficking is the third-largest criminal enterprise in the world generating multibillion-dollar revenues annually. The unsustainable trade negatively affects various levels of governance, applies additional stressors to already vulnerable populations and ecosystems, and undercuts producers of legal timber. The United States as a consumer and producer country of timber and wood products and holds a significant responsibility to combating timber trafficking at our borders.

In 2008, the United States globally led the effort to combat illegal logging and timber trafficking with the passage of the “Plant Amendments” to the Lacey Act of 1900. The Lacey Act was the first wildlife law in the United States and aimed at combatting the overharvesting and interstate trafficking of migratory birds. The statute allowed federal officers to enforce tribal, state and foreign laws for wildlife imported, exported or transported across state lines. The 2008 amendments to this statute extended the protections provided for wildlife to plants and gave federal agencies a mechanism to combat timber trafficking and protect the U.S. market from illegal timber and wood products.

In the United States, both President Obama and President Trump acknowledged the negative effects of wildlife and timber trafficking on global security and effective governance. Each pledged resources to combat wildlife trafficking demonstrated in Executive Orders i.e. Executive Order 13648 "Combating Wildlife Trafficking" and Executive Order 13773 "Enforce Federal Law with Respect to Transnational Criminal Organizations and Preventing International Trafficking" respectively. These Executive Orders mandated greater collaboration between U.S. law enforcement agencies and foreign governments in trafficking and poaching hot zones. As the lead federal wildlife conservation agency, the FWS Office of Law Enforcement has dramatically changed its allocation of resources to meet these mandates including establishing a foreign Attaché Program and expanding the scope of the Wildlife Inspection Program.

The FWS Wildlife Inspection Program grew from a single Biological Technician stationed in New York City to the premier wildlife border-inspection force. The unique interdisciplinary

blend of the Wildlife Inspectors supports the program's mission of regulating the ever-changing wildlife trade. Wildlife Inspectors are field subject matter experts in wildlife identification, international treaties, foreign laws, interagency partnership building, and wildlife interdiction through targeting and operation planning. Transferring these skills to an expanded mission of combatting timber trafficking through the creation of Regional Timber Enforcement Teams (TET) can net significant results in closing enforcement gaps and increasing the efficacy of timber enforcement. The success of the Northeast Region Timber Enforcement Team (TET) pilot program illuminates the opportunity for FWS to reallocate resources to better support vulnerable wildlife populations, support U.S. timber producers and protect rural livelihoods here and abroad.

Review of Mission Statement and Motivating Staff

The mission statement of the United States Fish and Wildlife Service (FWS) and the Office of Law Enforcement aligns with the proposed strategy to lead the nation in combatting timber trafficking. The FWS mission statement already incorporates language focused on the conservation of plants and habitats. Traditionally, this aspect of the mission was evidenced in the designation of critical habitat to assist with the stabilization and recovery of Endangered and Threatened species. However, critical habitat designation only occurs in areas under the jurisdiction of the United States and does not extend to foreign countries, but the framework to designate new priorities to include timber exist within the mission statement. The FWS Office of Law Enforcement mission statement allows for the protection of plant resources through the enforcement of federal laws. Both mission statements demonstrate organization foresight to allowing the agency and programs to rise to meet new challenges in wildlife conservation.

FWS Mission Statement: *Working with others to conserve, protect, and enhance fish, wildlife, plants, and their habitats for the continuing benefit of the American people*



Office of Law Enforcement Mission Statement: *Protecting wildlife and plant resources through the effective enforcement of federal laws. By working with federal, state, tribal and foreign enforcement agencies and other conservation partners we help recover endangered species, conserve migratory birds, preserve wildlife habitat, safeguard fisheries, combat invasive species, and promote international wildlife conservation*

Combating timber trafficking falls within the venue of FWS Office of Law Enforcement even though it has not been assigned a priority for the workforce. Senior leadership routinely assigns enforcement priorities to make efficient use of a small workforce. Timber investigations only rank as high priority if the investigator can establish the nexus between the activity and habitat

destruction of a species listed on the Endangered Species Act or on Appendix I of Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) species (USFWS, 2005).

Engaging the Wildlife Inspection Program is necessary to implement the strategy. Since Wildlife Inspectors have experience enforcing the Lacey Act for wildlife crimes, the transfer of the skills to timber and wood products is an easy undertaking. Difficulty arises when tasking an already understaffed workforce with additional work. When constructing the FWS Northeast Region Timber Enforcement pilot program care was taken to apprise the team members the global importance and urgency of timber enforcement specifically the nexus between illegal logging/timber trafficking and biodiversity loss to provide context for the additional work. Each team member was stationed to a high priority seaport and had significant existing skills and experience investigation wildlife trafficking.

The Timber Enforcement Team (TET) comprised three Wildlife Inspectors, one Special Agent, and a Supervisor Wildlife Inspector as Case Officer. All TET members were provided resources to bolster their knowledge of forestry governance issues, trafficking routes and pathways, and the effects of the black market on the revenues, trade, global security, and livelihoods (see Appendix 1).

Supervisory Wildlife Inspector (New York) - Case Officer

Special Agent
(New York)

Wildlife Inspector
(New York)

Wildlife Inspector
(Boston)

Wildlife Inspector
(Baltimore and
Norfolk)

Coalition building

Building localized timber enforcement coalitions is essential to harmonize inspections, leverage personnel resources, and close enforcing gaps. U.S. Customs and Border Protection (CBP) is a necessary participant for effective border timber enforcement. Nationally, CBP employs 24,511 officers and 2,465 agriculture specialists, which dwarfs the FWS Wildlife Inspection workforce, which reaches 120 Wildlife Inspectors at maximum staffing (CBP, 2020). CBP, as enforcement umbrella agency, has the authority to enforce over 500 U.S. trade laws and regulations on behalf of 47 federal agencies, including Title 16, which contains all federal conservation laws (CBP, 2018). Local CBP offices support FWS with shipment targeting and workforce assistance for special operations that align with their national and regional priorities.

One of the overarching priorities of CBP is fostering the economic competitiveness of U.S. businesses through the globe. This priority is primarily designated to CBP Trade Operations, where officers on average seize "\$4.3 million worth of products with Intellectual Property Rights violations" daily (CBP, 2020). The trafficking of counterfeit merchandise is the largest criminal enterprises in the world.



CBP Mission Statement: *To safeguard America's borders thereby protecting the public from dangerous people and materials while enhancing the Nation's global economic competitiveness by enabling legitimate trade and travel.*

To secure CBP Trade Operations participation in the timber enforcement coalition, it was important to demonstrate how illegal logging/ timber trafficking aligned with their mission. TET members held meetings with local CBP leadership at the Port of Boston, Port of New York/New Jersey, Port of Baltimore and Port of Norfolk to solicit cooperation for the pilot program. When proposing a timber enforcement working group to CBP it was important to present the scope and scale of the problem. TET members focused the discussions on the economic implications of illegal logging and timber trafficking on U.S timber exporters and U.S. forest managers and producers. These U.S. businesses receive depressed prices for their commodities (between 7%-10%) in a market saturated with illegal timber (Seneca Creek, 2004). Additionally, the TET explained how trafficked timber deprives national governments of export duties and tax revenue, which they rely on to fund essential services for their citizens (Goncalves et al, 2010).

The United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) is the custodial agency of the Lacey Act plant declaration, PPQ 505. The Lacey Act requires all importers of plants and plant products to file a declaration with the APHIS upon importation. APHIS already is a stakeholder in combatting timber trafficking. However, APHIS does not have enforcement officers to perform timber inspections nor does the agency prioritize Lacey Act declaration enforcement in their most recent Strategic Plan 2019-2023.



























APHIS Mission Statement: *To safeguard the health, welfare and value of American agriculture and natural resources.*

APHIS was not able to dedicate field staff to support timber inspections but did commit to lending support from the Riverdale, MD Headquarters Office. APHIS Headquarters provided the TET with historical PPQ 505 declarations for selected importers and past shipments as well as current PPQ 505 upon request.

Risk Analysis:

The United States is the second-largest importer of timber and wood products globally importing upwards of 3 billion in good annually (EIA, 2020 & USFS, 2016). With limited resources, TETs have to strategize and prioritize potential inspection. All shipments entering the United States are required to submit advance shipment data to CBP before arrival at the port of entry. The advanced shipment data allows border enforcement agencies to facilitate the movement of legal trade and aid in combatting trafficking of illegal shipments through targeted inspections. The TET created a risk analysis framework based on trade data and environmental watchdog reports to facilitate in shipment selection. Shipments are identified at either the national or local level using CBP entry data. Shipments meeting the selection criteria are referred to the Case Officer for review. Below is a sample targeting criteria constructed from on open source trade and trafficking data.

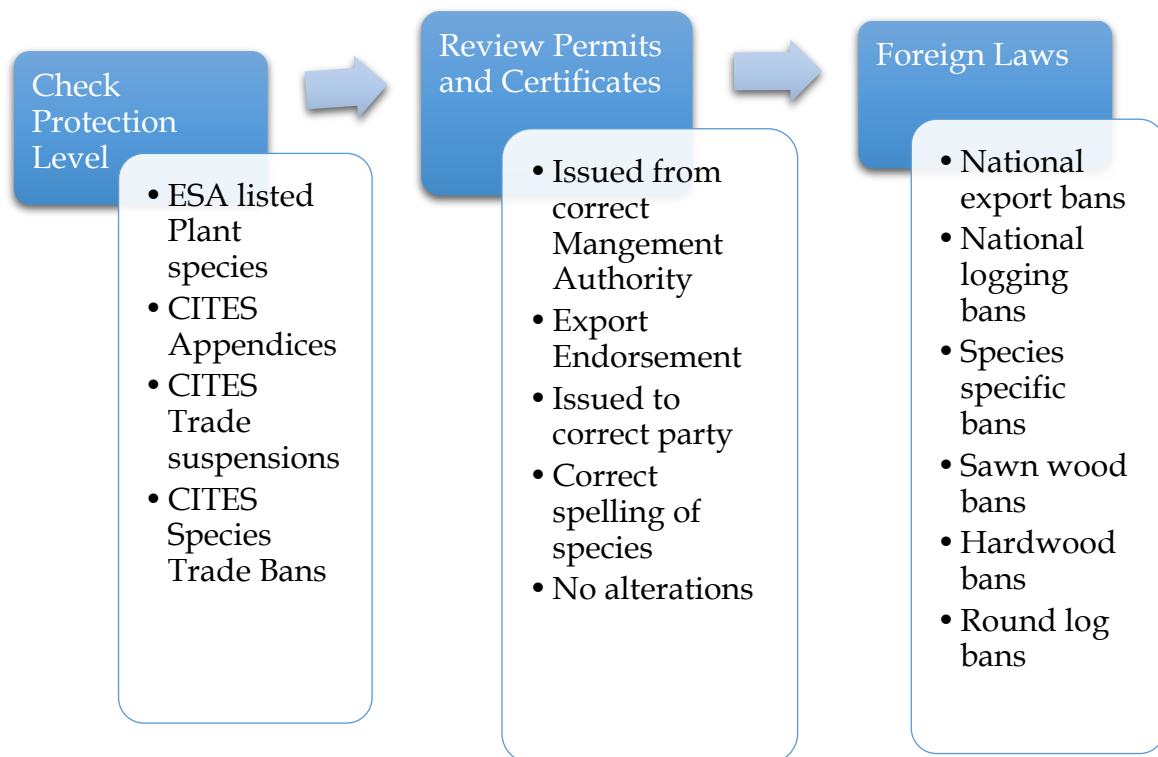
Species	Country of origin	Harmonized Tariff Code
 Rosewoods (<i>Dalbergia</i> spp.)	 Democratic Republic of Congo	 4403 (Wood in the rough)
 Ebony (<i>Diospyros crassiflora</i>)	 Republic of Congo	 4404 (Hopwood)
 <i>Ramin</i> (<i>Gonystylus</i> spp.)	 Equatorial Guinea	 4407 (Sawnwood)
 Cedars (<i>Cedreal</i> spp)	 Ghana	
 Okoume (<i>Aucoumea klaineana</i>)	 Vietnam	
 Mahongny (<i>Swietenia</i> spp)	 Peru	
 Ipe (<i>Tabebuia serratifolia</i>)	 Mozambique	
 Sandalwood (<i>Pterocarpus</i> spp)	 Cameroon	
 African teak (<i>Pericopsis elata</i>)	 Madagascar	
 Merabau (<i>Intsia bijuga</i>)	 Guatemala	
	 Papua New Guinea	

Administrative Inspection

The Case Officer was notified of all incoming shipments fitting the risk analysis selection criteria. Depending on the preliminary details (i.e. weight, country of origin, country of re-export, volume) the Case Officer can either refer the shipment to the TET member at the designated port of entry for inspection or dismiss the alert.

At the port of entry, all inspections begin with a review of the accompanying shipping documents including invoice, bill of ladings, permits, certificates and Lacey Act Declaration Form PPQ 505. The declared species is checked against the Endangered Species Act (50 CFR 17.12) and the CITES Appendices to determine if any federal protection is afforded to the specimen or if the species is internationally monitored via the CITES permitting system. The next step of the administrative review is to conduct a biogeography search of the declared species to ensure the declared country of origin falls within the natural range of the species. The TET searches the CITES website for country specific trade suspension or export bans and the Forest Legality Logging and Export Ban Tool. The Forest Legality Tools serves as a starting point to determine any foreign laws governing of specific species and/or timber cuts. The TET verified all foreign laws found through the Forest Legality Initiative with the country of origin through FWS Headquarters Office.

Any permits or certificates submitted are examined for legality and completeness. Traffickers often use altered, expired, or fraudulent permits and certificates to move illegally acquired timber across jurisdictional boundaries. If any permits or certificates appeared to be altered or fraudulent, the TET sends permit verifications to the country of export or origin also via the FWS Headquarters Office. Based on the results of the administrative inspection, shipments were either selected for physical inspection or release into commerce.



Physical Inspections

TET members provide their local CBP contacts with the entry number for any shipments warranting a physical inspection. CBP holds the designated shipment for TET inspection and provides a CBP team to assist on the ground if staff was available. The TET prioritizes the inspection of selected shipment in order not to cause excessive port storage fees for the importer. Also excessively delaying the delivery of imported shipments will attract the attention and possibly compromise a fledging investigation.

Physical inspections require specific tools, personal protection equipment, and identification guides. During the inspection, TET members attempt to make a field identification of the imported species using morphological identification guides. However, during the pilot program, samples from all shipments were additionally submitted to the FWS National Fish and Wildlife Forensic Lab for species identification. The FWS National Fish and Wildlife Forensic Lab used Direct Analysis in Real-Time, Time of Flight Mass Spectrometry (DART TOFMS) to identify the samples. The lab returned preliminary forensic results within a week of receipt to expedite the disposition of the shipment.

Tools	Personal Protective Equipment	Identification Resources
<ul style="list-style-type: none">• Sandpaper/ Power Sander• Spray Bottle• Paper Towels• Box Cutter• Saw• Digital Camera• Tin Clippers• Evidence tubes• 10 x Magnifying Glass• Flashlight	<ul style="list-style-type: none">• N95 Respirator• Kevlar Gloves• Protective Glasses• Composite Toe Shoes	<ul style="list-style-type: none">• USDA CITES Timber Species Manual• CITES Identification Guide Tropical Woods• The Wood Database• UNODC Best Practice Guide for Forensic Timber Identification

Disposition Decision Tree

To maintain consistent enforcement of timber wood products, a decision tree was created to provide guidance to TET member on enforcement actions. Depending on the violation, enforcement actions in the decision tree ranged from referral to another agency to the seizure and forfeiture (see Appendix 2).

The decision tree incorporated the international resources of FWS specifically the International Operations Unit that has nine Attaches stationed at strategic U.S. embassies throughout the globe. The Attachés works closely with national governments to build capacity and support regional wildlife and timber trafficking investigations. Currently, FWS has Attachés in China (Beijing), Thailand (Bangkok), Kenya (Nairobi), Tanzania (Dar es Salaam), South Africa (Pretoria), Gabon (Libreville), Mexico (Mexico City), Peru (Lima), and Brazil (Brasilia). Shipping details for any timber found exported in violation of a foreign law or CITES are forward to the respective regional FWS Attaché to evaluate the ability to further investigate the unlawful conduct at the source.

Next Steps

The Northeast Regional TET ran as a pilot program from May 2019 to October 2019 inspecting timber and wood product shipment at the four designated seaports loosely using this framework with an overlay of our National, Regional and Local policies and procedures. The project was led by the FWS Inspection Program and supported by CBP and APHIS. The pilot program revealed effective timber enforcement at U.S. borders requires a multi-agency approach and a dedicated workforce, the latter, which requires increased funding. In the interim, the FWS Wildlife Inspection Program can incorporate timber examinations into the proactive interdiction focused part of our mission. Five additional seaports, Port of Savannah, Port of Long Beach, Port of Houston, Port of New Orleans, and Port of Seattle were identified as optimal areas to establish new TET and regional regulatory coalitions.

Conclusion

The Northeast Regional Timber Enforcement Team exhibited local leadership in addressing a global issue. The TET and an interagency coalition demonstrated how complex problems require adaptive solutions with various levels of stakeholder engagement. This pilot program laid out a strategy for how the United States can increase timber enforcement through collaboration and inspiring leadership within an existing workforce.

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**Appendix 1. Forest
Governance Resources**

WRI Forest Legality
Initiative

Global Forest
Watch

Enviromental
Investigative
Agency

INTERPOL World
Atlas of Illicit Flows

IPBES Global
Assestment of
Biodiveristy and
Ecosystem Services

Chatham House

Yale University's
Global Forest Atlas

Appendix 2. Enforcement Decision Tree

