

Hearing before the Committee on Natural Resources,
Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs
Tuesday, March 8, 2012

The RELIEF Act (H.R. 3210) & The FOCUS Act (H.R. 4171)

Testimony of the Honorable Earl Blumenauer
U.S. House of Representatives

Chairman Fleming, Ranking Member Sablan, Members of the Committee, thank you for the opportunity to testify in support of the 2008 Lacey Act Amendments and in opposition to legislation that would undermine the success we've had in protecting the U.S. timber industry and leading by example to strengthen sustainable forest practices worldwide.

The two bills under consideration today, the RELIEF Act (H.R. 3210) and the FOCUS Act (H.R. 4171), would not only devastate the 2008 Lacey Act amendments, but throw into question a century of environmental protections while adding additional uncertainty to an already complex issue. I hope we can work together to address some of the concerns that will be outlined today, but the legislation before us is not the solution.

The Lacey Act, first passed in 1900 to prohibit the trade in endangered species, requires U.S. importers to ensure that the products they import were not harvested illegally. In 2008, legislation that I sponsored and worked on with this Subcommittee amended the Lacey Act to include the prohibition of trade in wood and wood products that were illegally harvested in their country of origin.

The purpose of the 2008 amendments is straightforward. Companies who import wood products need to play by the rules in the countries from which they import. The law requires importers to take responsibility for their products. This is a reasonable expectation.

The 2008 Lacey Act amendments were developed and supported by Republicans and Democrats, the timber industry, consumers, importers, labor unions, conservationists, and the Bush administration to address four primary concerns.

First, for decades the U.S. forest products industry struggled with the challenge of illegal logging, ultimately losing over \$1 billion in lost opportunities and lower prices every year due to cheap, illegally-sourced wood products.

Second, for too long developing countries that were struggling to do the right thing by implementing sustainable forestry laws were undercut by business interests that cared little about the law or the consequences of deforestation. Not only were U.S. companies sometimes unwittingly part of the problem, the U.S. was a big market for illegally harvested timber.

Third, illegal logging has devastating consequences for the environment, and in 2008 the rate of illegal logging was rapidly increasing. Worldwide, the rate of deforestation between 2000 and 2005 jumped to one-and-a-half times the rate of the 1990s.

And fourth, a growing consensus developed that a legislative approach was necessary to undermine the black market for wood products and to protect the U.S. economy, the environment, and local communities in areas afflicted by these criminal activities.

As early as 2002, the Bush Administration identified commerce in illegally harvested timber as a significant problem and recognized the key role the Lacey Act could play in helping U.S. companies that were being undercut by artificially low timber prices. After a thorough review of existing authorities, the Department of Justice concluded that current laws were inadequate to address the trade in illegally harvested timber, and – as I’m sure many of my colleagues on this Committee recall – the administration testified in favor of amending the Lacey Act as a way to address the trade in illegally harvested timber in 2007.¹

What ultimately became the 2008 Lacey Act amendments through an amendment to the Senate Farm bill was the product of a thorough vetting process, including two hearings by this Committee. The first hearing before this Subcommittee was in October 2007, followed by a Full Committee markup in November in which the legislation was approved by voice vote.

The importance of the Lacey Act is far broader than the immediate impact it has on protecting U.S. jobs and the forest products industry. The Lacey Act is the perfect illustration of the U.S. leading by example, and having a very real and positive impact on the strength of local environmental protection laws in developing countries. Since 2008, illegal logging has been reduced by as much as 25 percent worldwide, and 50-70 percent in some key countries. This is why the US timber industry supports this law, and why major international conglomerates are actively opposing these laws; we are in a race to strengthen forest governance against those who thrive in a lawless setting.

Taking their cues from the U.S., countries such as Japan, New Zealand, Australia and the European Union have all adopted laws modeled on the Lacey Act. Due to the Lacey Act amendments, companies around the world have changed the way they make sourcing decisions and monitor their supply chains.

The RELIEF Act and the FOCUS Act would undermine this success.

The RELIEF Act would significantly change provisions of the law that are fundamental to its effective implementation by reducing financial penalties, altering longstanding forfeiture requirements to make them virtually meaningless, and would exempt non-solid wood products – by far the largest segment of imports covered by the Lacey Act amendments. Despite claims that the purpose of the Act is to help musicians, these changes would apply to all wood and plant products, not just musical instruments.

Many importers, including the music industry, support the Lacey Act. Martin Guitar CEO, Chris Martin, said, “I think illegal logging is appalling. It should stop. And if this [Lacey] is what it takes,

¹ See Statement of Eileen Sobeck, Deputy Assistant Attorney General, Environment and Natural Resources Division, US Department of Justice, before the Subcommittee on Fisheries, Wildlife, and Oceans, Committee on Natural Resources, US House of Representatives, Concerning HR 1497, Legal Timber Protection Act, October 16, 2007.

unfortunately, to stop unscrupulous operators, I'm all for it." It would be irresponsible to create a special carve-out in a century old law for those who don't want to play by the rules in the countries they source from.

The FOCUS Act would severely undermine the entire Lacey Act, not just the 2008 amendments, by removing many of the enforcement mechanisms needed to carry out the law, such as fines and criminal penalties. This legislation would also remove the requirement that U.S. companies comply with certain foreign laws, eliminating the primary purpose of the Lacey Act. If this bill passed, U.S. companies would no longer be required to play by the rules at home and abroad.

Proponents also claim that the bills offer "technical corrections," but unfortunately they would move an entire global market back in time while adding greater ambiguity and uncertainty for importers. Both bills would remove important tools that the Lacey Act provides to investigators, law enforcement officials, and companies who care about the provenance of their products. That's why the bills are opposed by a broad group of stakeholders including the League of Conservation Voters, the Hardwood Federation, American Forest and Paper Association, the Sierra Club, and the United Steelworkers.

It has been less than four years since the Lacey Act amendments dealing with illegal timber were signed into law. Implementation takes time, cooperation, and adjustment, all of which is currently happening. A broad coalition of stakeholders is working together and with the Administration to clarify the law and ensure effective implementation that doesn't pose an undue burden on importers. Many of the legitimate concerns raised by the proponents of the RELIEF Act and FOCUS Act are being addressed by this group. In addition, re-writing key laws at the behest of particular companies currently arguing these laws in federal court is careless at best.

No one in Congress supports illegal logging or objects to the intention of the 2008 Lacey Act amendments. That was made abundantly clear when 409 of my colleagues voted for my House Resolution condemning the illegal timber harvests in Madagascar after their coup in 2009. I hope that we can also agree on a constructive path forward that provides the resources necessary to fully implement the 2008 Lacey Act amendments.

The Lacey Act amendments of 2008 help protect American jobs. They help ensure that American consumers aren't driving deforestation around the world. Both the RELIEF Act and the FOCUS Act would roll back the clock and I urge my colleagues to reject these proposals.

I hope no one in Congress would support illegal logging, directly or indirectly. Unfortunately, that appears not to be the case.