



Photo: Environmental Investigation Agency

Leveraging Lacey

September 1, 2009



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Agenda

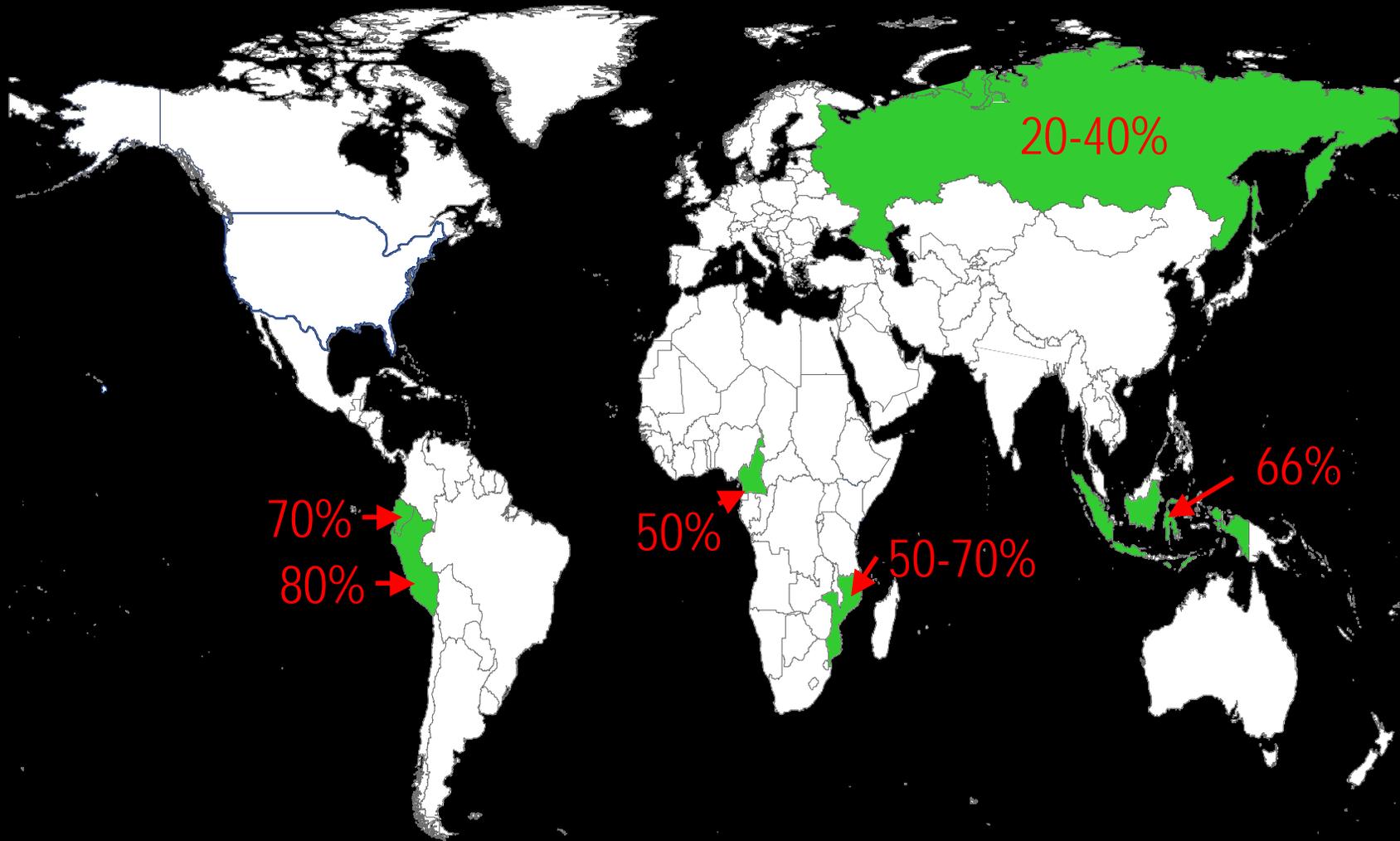
Amended Lacey Act: Opportunity and challenges

Lacey and certification

Lacey and EU FLEGT due diligence



Illegal logging is a significant problem in many countries



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Source: Contreras-Hermosilla et.al. 2007. The Economics of Illegal Logging and Associated Trade. Organisation for Economic Co-operation and Development

Lacey Act Amendments of 2008

- ✓ No trade in forest products illegally sourced
- ✓ No false claims
- ✓ No entry without declaration form



Source: Food, Conservation and Energy Act of 2008, Section 8204. *Prevention of Illegal Logging Practices*



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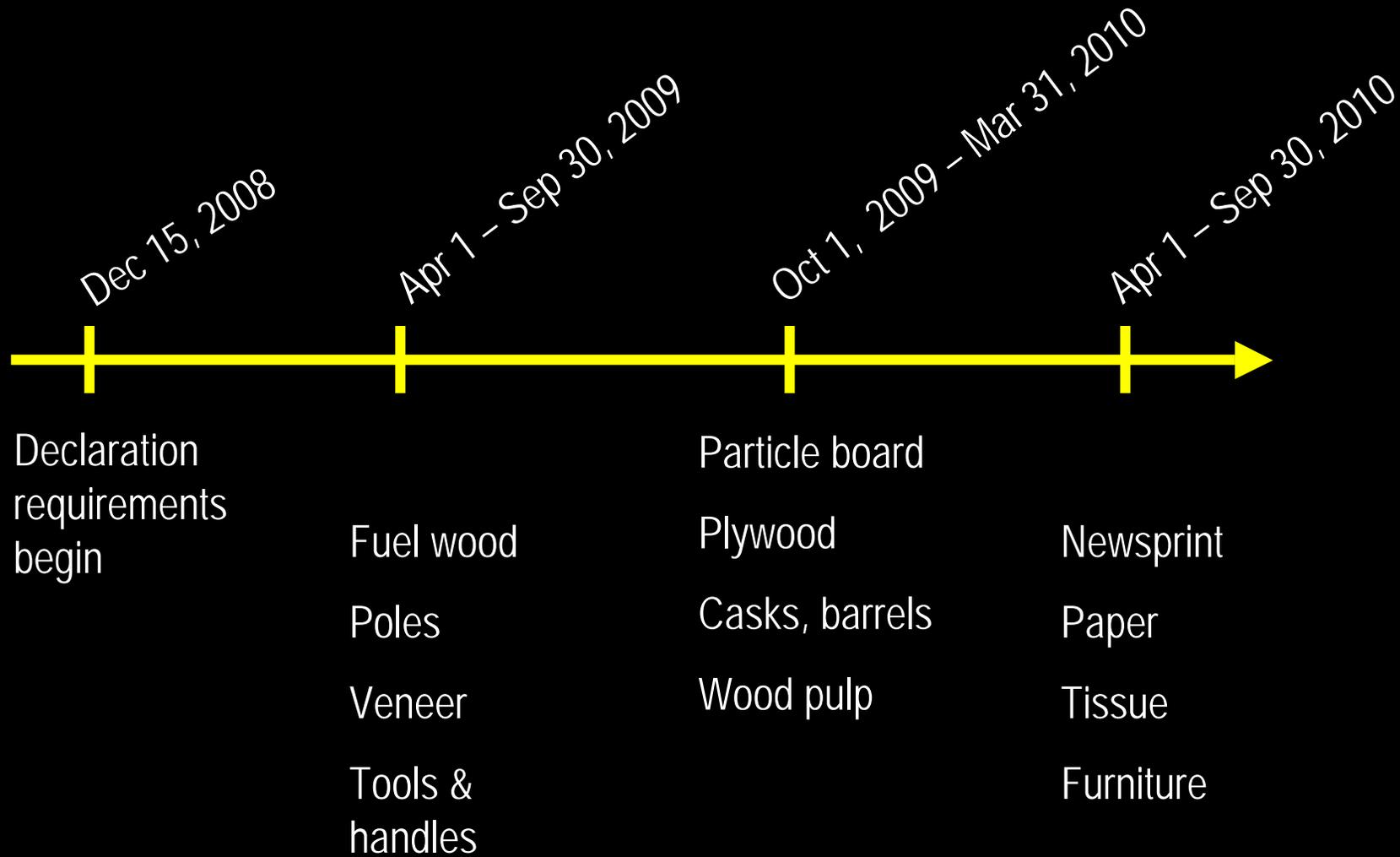
Due care is important



Violation Intent	Trade in illegally sourced wood	False import declaration	False labeling
Knowing			
Negligent (did not exercise due care)			
Unknowing (exercised due care)			



Timing of declaration requirements*



* Timing reflects increase in wood processing and/or complexity of composition
 Source: Federal Register, Vol. 74, No. 21, February 3, 2009

Amended Lacey Act has the potential to take a bite out of illegal logging

Reduce demand for illegal forest products

- Penalizing illegal imports
- Encouraging “internalization” of legality
- Increasing supply chain transparency



Photo: Environmental Investigation Agency

However, the amended Lacey Act needs to overcome several challenges

Lack of awareness and capacity

- What is it?
- What are implications?
- How do I comply?
- Does it require proof of legality?
- How does one declare composites?
- What tools can help buyers/agencies/NGOs ensure legality?

Uncertainty about enforcement

- Does not have teeth until it proves it can bite
- Can it be done?

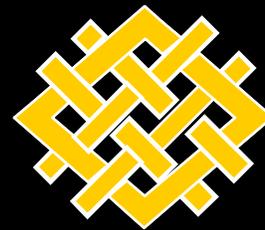
Insufficient government support

- 2009 budget covers only declaration system
- Risk of "leakage" if other major importing countries do not follow suit



To address these challenges, WRI and EIA are “Leveraging Lacey”

Reduce demand for illegally harvested wood and
increase the capacity of supply chains to deliver legal wood

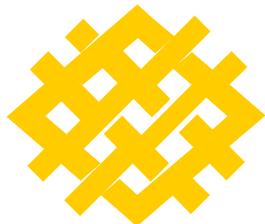


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Developing a Forest Legality Alliance



World Business Council for Sustainable Development



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USAID FROM THE AMERICAN PEOPLE



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The Forest Legality Alliance has a three-part strategy

Pilot test compliance

- Describe best practices
- Identify compliance issues

Develop tools for supply chains and stakeholders

- Website
- Online risk assessment tool
- Online local forest information tool
- Manuals and videos

Educate and train

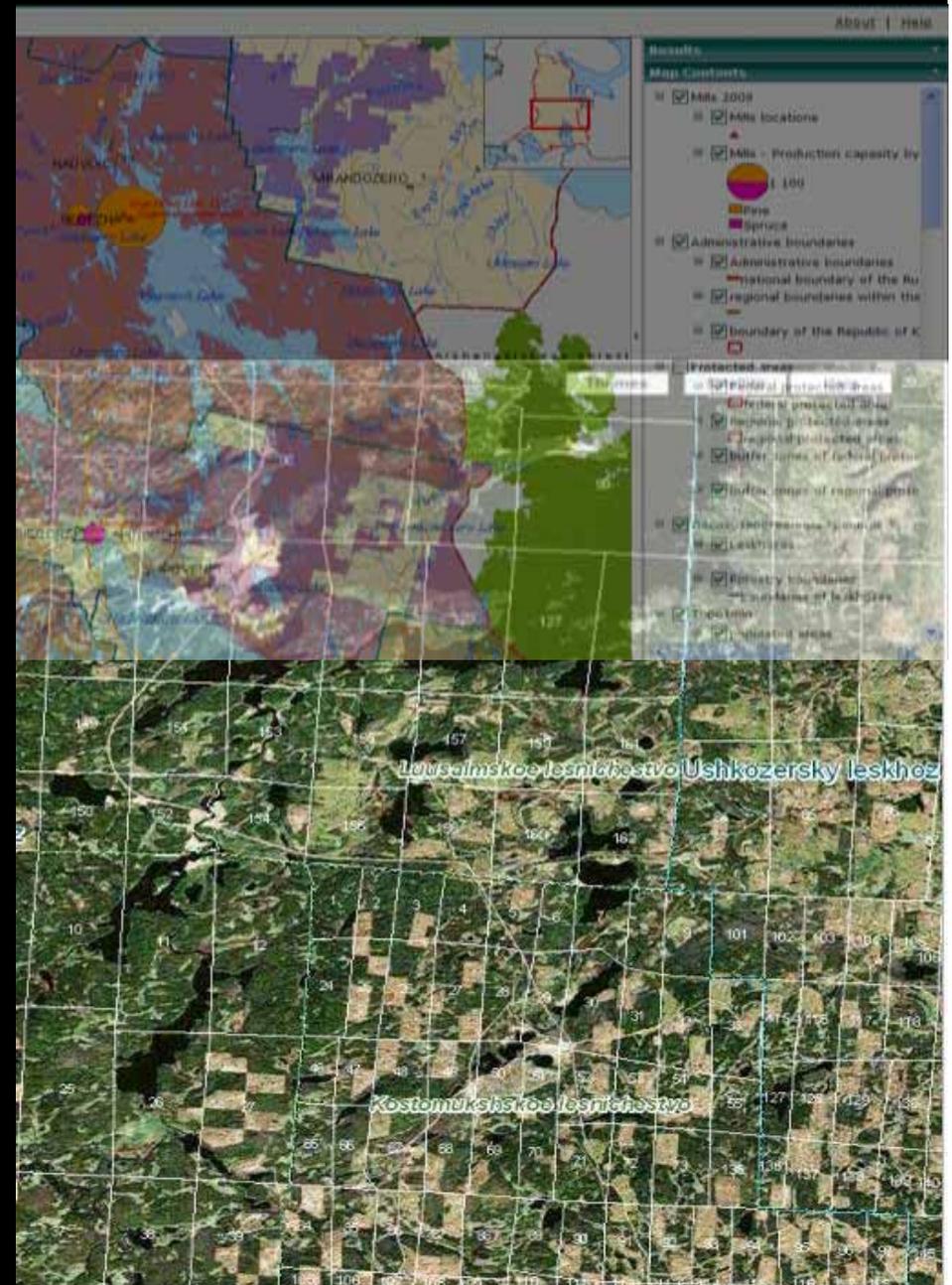
- Supply chains and stakeholders
- Producer, manufacturing, transshipment countries



Create tools for supply chains and stakeholders



- Website
- Online risk assessment tool
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- Manuals and videos



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Amended Lacey Act: Opportunity and challenges

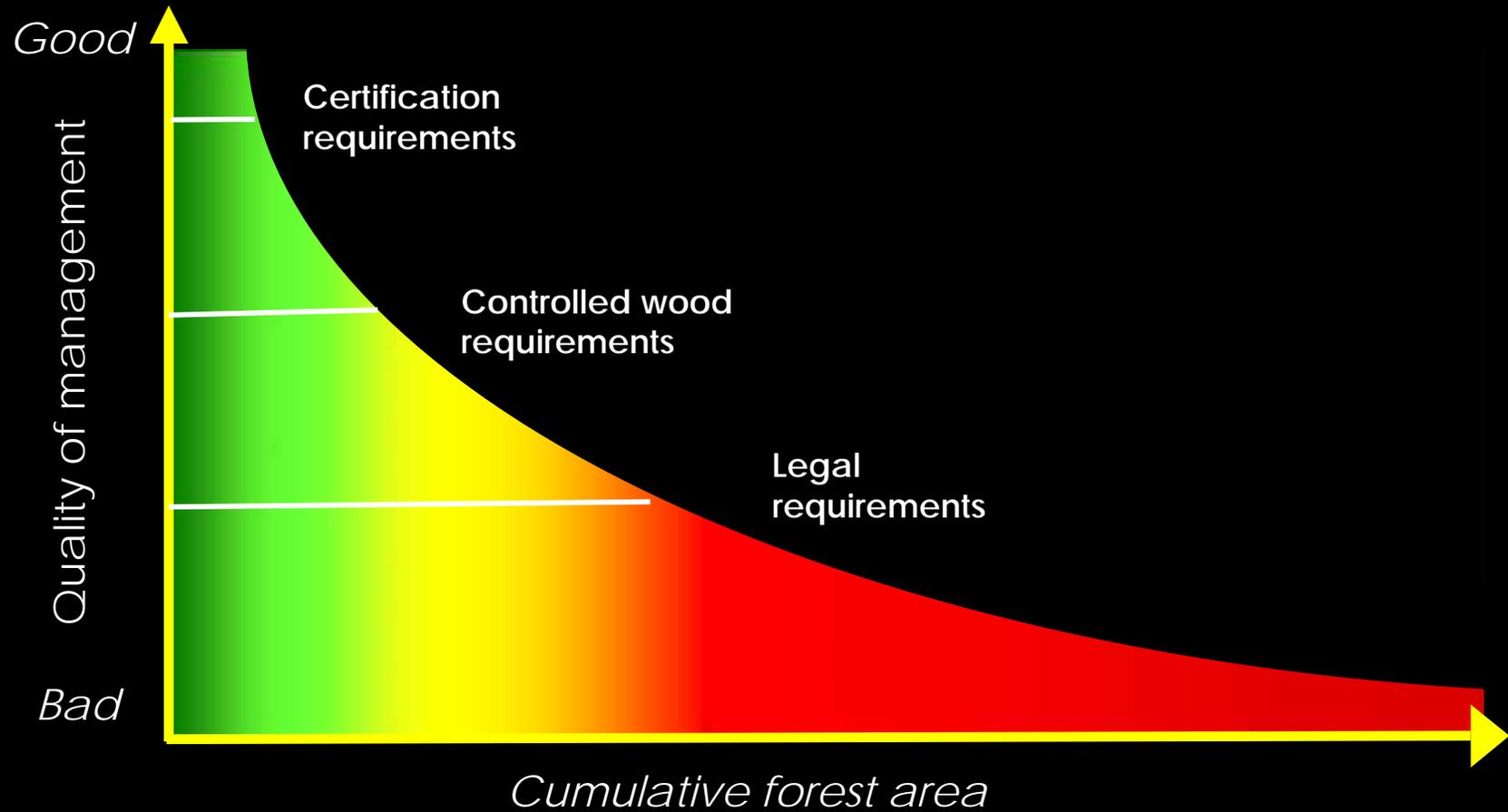
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Lacey addresses the "long tail"

ILLUSTRATIVE



Lacey vs certification

- Lacey
- Mandatory
- No need to prove compliance (innocent until proven guilty)
- The law
- Certification
- Voluntary
- Must prove compliance
- Sustainability standard



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Two approaches to "demand side" regulation

- Lacey
- Regulate outcome
- The result matters, but not what you did
- Must not import illegal wood
- EU FLEGT Due Diligence
- Regulate process
- What you did matters but not the result
- Must follow certain due diligence procedures

Questions and discussion



Photo: Environmental Investigation Agency



Penalties under Lacey

"Knowingly" engaged in prohibited conduct		Trade in illegally sourced wood	Criminal felony fine (up to \$500,000 for corporation, \$250,000 for individual, 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 corporation, \$100,000 for individual, 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. Possible forfeiture of goods.
	Practiced "due care"	Trade in illegally sourced wood	Forfeiture of goods.
		False import declaration	Civil penalty fine of \$250. Possible forfeiture of goods.



The many impacts of illegal logging

NOT EXHAUSTIVE

