



Risk Free? Paper and the Lacey Act

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Tests detect potentially illegal wood in paper. Here are some tips to manage risk.

The amended U.S. Lacey Act has already impacted the wood industry, from the investigation of [Gibson Guitars](#) to a recently-reported [seizure of Peruvian hardwood](#). Both of these cases involved solid wood products. But what about paper?

Paper poses the challenge of linking an illegally harvested tree in a faraway forest to a piece of paper purchased in the United States—after all the mixing and bleaching. Companies in the [Forest Legality Alliance](#) and others asked whether or not it is even possible to find Lacey violations in paper products.

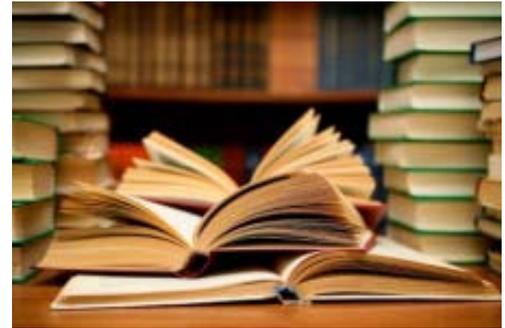
Working with others, WRI decided to check it out.

We sent samples from 32 imported paper products to an independent fiber analysis laboratory. Samples we had tested came from stationery, paper bags, cardboard boxes, toilet paper, facial tissue paper, wrapping paper, and books—including pages, glossy cover sleeves, and cardboard from hardback covers. All products were purchased from stores and outlets in the United States.

With [fiber analysis](#), scientists use high powered microscopes to look at plant fibers and vessels in a snippet of paper to identify what types of trees were used to make it. Vessels are structures that transport nutrients and water in plants, and they have distinct anatomical features that allow for identification of its genus and, in some cases, species.

What we found is telling.

The tests identified vessels with anatomical features consistent with those of [ramin](#) (*Gonystylus spp*) in a page of a coffee table book and in the cover paper of a children's book. These books were purchased from a U.S. retailer and published by U.S. firms but were manufactured in and imported directly from Indonesia. Increasingly rare, ramin trees have been protected internationally since 2003 under the Convention on International Trade in Endangered Species of Wild Fauna and Flora ([CITES](#)). Likewise, the Indonesian government has imposed an export ban on all ramin products. In other words, ramin fibers should not be found in paper.



Test results demonstrate that it is possible to detect potential Lacey violations for paper, thanks to modern technology.

In the cover of another children’s book, the tests found vessels consistent with those of [mangrove](#) trees (*Rhizophora spp*). Import/export trade databases indicated that this book, too, was manufactured in Indonesia. Mangrove trees are protected from being harvested under Indonesian coastal protection, conservation, and forest management laws.

Consequently, all three of these books potentially violate the 2008 amendments to the U.S. Lacey Act, which prohibit trade within the United States of products made from plants that are harvested in contrary to international law or the law of their countries of origin. Since 2008, it has been illegal to import, export, transport, sell, receive, or purchase such plant products – including pulp and paper – in the United States. All actors in the supply chain, including importers, publishers, and retailers can be liable under Lacey. Penalties can include forfeiture of goods and fines of up to \$500,000 and jail time.

These results demonstrate that it is possible to detect potential Lacey violations for paper, thanks to modern technology. In addition, they suggest that the prevalence of illegally harvested fiber in paper products may be more common than assumed—3 of just 32 products had suspicious fibers.

Furthermore, they portend the possible use of this technology by third parties to uncover Lacey violations. [Some NGOs](#) have [already used fiber analysis](#) to determine whether books were made from plantation wood or from natural tropical rainforests. Now we know they can find potentially illegal species in paper, too.

So what can companies in the paper supply chain do to avert the risk of purchasing paper with illegal fiber in it?

First and foremost, exercise due care. “Due care” lies at the core of the amended Lacey Act. It is the legal term for exercising the level of appropriate action that would be taken by a reasonably prudent person under the same circumstances to minimize the risk of purchasing plant products that were harvested or traded illegally.

Examples of due care in the context of purchasing paper products include:

1. *Ask questions.* Ask your paper supplier questions such as: What is your supply chain? Can you trace the paper all the way back to the forest? What is the degree of illegal activity in that forest or region? What processes do you have in place to prevent illegally harvested fiber from entering your supply?
2. *Assess risk and respond accordingly.* Determine the relative risks associated with the forest of origin. Is the region suspected by credible sources of having high levels of illegal logging? Are civil society campaigns currently underway that indicate that this is a forest of concern? If so, compare the risk of inadvertently sourcing illegal paper to your degree of risk aversion. If responses from your supplier to the questions you ask do not meet your risk tolerance levels, consider sourcing paper from a different supplier or region.
3. *Adopt a comprehensive forest products purchasing policy.* Establish a [forest products purchasing policy](#) that reflects company values and incorporates environmental and social safeguards. Such



A *Rhizophora* vessel.

Source: Ghose and Das. 2001. [Structural Characteristics of Vessel Elements in Stems of Some Mangroves.](#)

policies can be a good foundation for practicing due care. Training employees on the policy and putting in place systems and performance incentives for policy implementation can effectively reduce risk.

4. *Purchase certified paper.* Harvesting trees legally is a common feature of third-party forest certification programs. Therefore, purchasing certified paper can be a means of demonstrating due care. But note that certification *per se* does not necessarily mean that the paper is legal, especially if the verification systems of the certification program are not robust and in countries with weak governance. In such circumstances, illegally harvested fibers can still find their way into certified paper.
5. *Conduct periodic fiber analysis tests.* Periodically test samples of paper products you purchase. Periodic testing can reveal what's in your paper and might uncover suspicious fibers and sources. Fiber analysis testing is not expensive, and there are a number of independent fiber testing labs, including:
 - [Integrated Paper Services, Inc.](#) (United States)
 - [Institute for Paper Science and Technology](#), Darmstadt Technical University (Germany)
 - [INNVENTIA](#) (Sweden)
 - [Econotech](#) (Canada)

As we discovered, paper is not risk free when it comes to the amended U.S. Lacey Act. But there are steps one can take to reduce these risks and demonstrate due care . . . and not just on paper.

The Amended Lacey Act

The 2008 amendments to the U.S. Lacey Act:

- Prohibit trade into and within U.S. borders of any product made from trees or other plants that were logged or traded in violation of a law in the country of harvest. Products include paper, lumber, and furniture;
- Require importers of plant products to declare the country of harvest, the genus and species of the plant, as well as the product's volume and value (this is the "declaration requirement"); and
- Establish penalties for violations, including forfeiture of goods and vessels, fines of up to \$500,000, and prison terms of up to five years.

Even though the declaration requirement does not yet apply to paper, the prohibition of trade in illegally harvested forest products has applied to paper since May 2008.

For more information about how you can conduct due care when purchasing forest products, visit www.forestlegality.org.