

# SENATE LEGISLATION COMMITTEE ON RURAL AFFAIRS & TRANSPORT

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### Inquiry into Illegal Logging Prohibition Bill 2011

WEDNESDAY, 14 DECEMBER 2011

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**FSC is an independent, non-governmental, not-for-profit organisation established to promote the responsible management of the world's forests.**

Established in 1993 as a response to concerns over global deforestation, FSC is a pioneer forum where the global consensus on responsible forest management convenes and through democratic process effects solutions to the pressures facing the world's forests and forest-dependent communities.

Within this forum, voices from the Global North and South, from organisations big and small, assemble to define environmentally appropriate, socially beneficial and economically viable forest management and identify the tools and resources that will effect positive, lasting change.

As a multi-stakeholder organization, FSC applies the directive of its membership to develop forest management and chain of custody standards, deliver trademark assurance and provide accreditation services to a global network of committed businesses, organizations and communities.

FSC certification provides a credible link between responsible production and consumption of forest products, enabling consumers and businesses to make purchasing decisions that benefit people and the environment as well as providing ongoing business value.

FSC is nationally represented in more than 50 countries around the world.

FSC in Australia is experiencing significant growth as the recognition of the brand grows strongly into the retail sector. This is driving demand for FSC Product (both locally sourced and imported).

It is a voluntary certification scheme that is independently audited.

The FSC Principles and Criteria (P&C) describe how the forests have to be managed to meet the social, economic, ecological, cultural and spiritual needs of present and future generations. They include managerial aspects as well as environmental and so-



cial requirements. FSC rules are the strictest and FSC's social and environmental requirements the highest.

The FSC P&C form the basis for all FSC forest management standards. Based on these 10 principles, the FSC has developed further rules (called policies or standards) that define and explain specific requirements.

The FSC Principles and Criteria require as a cornerstone compliance with all applicable laws and international treaties, and illegally logged timber must be excluded from the supply chain in order to gain certification.

## Overview of the FSC Principles and Criteria

**Principle 1.** Compliance with all applicable laws and international treaties

**Principle 2.** Demonstrated and uncontested, clearly defined, long-term land tenure and use rights

**Principle 3.** Recognition and respect of indigenous peoples' rights

**Principle 4.** Maintenance or enhancement of long-term social and economic well-being of forest workers and local communities and respect of worker's rights in compliance with International Labour Organisation (ILO) conventions

**Principle 5.** Equitable use and sharing of benefits derived from the forest

**Principle 6.** Reduction of environmental impact of logging activities and maintenance of the ecological functions and integrity of the forest

**Principle 7.** Appropriate and continuously updated management plan

**Principle 8.** Appropriate monitoring and assessment activities to assess the condition of the forest, management activities and their social and environmental impacts

**Principle 9.** Maintenance of High Conservation Value Forests (HCVFs) defined as environmental and social values that are considered to be of outstanding significance or critical importance



**Principle 10.** In addition to compliance with all of the above, plantations must contribute to reduce the pressures on and promote the restoration and conservation of natural forests.

FSC supports the introduction of the Illegal Logging Prohibition Bill and has in fact called for timber from illegally logged sources to be excluded from the Australian market for sometime. The introduction of this legislation in Australia will ensure that it aligns with the global movements in this important area.

As an independent certification system with a specific need for auditors to verify the legality of timber and timber products in audit against the requisite standards, FSC already supports the underlying principles given in the Explanatory Memoranda but by utilising a voluntary and market focussed scheme.

In order to address the issues raised of the cost of compliance, where 270+ organisations are already certified to FSC in Australia, efforts of Australian companies to verify sources through using independently audited certification systems should be recognised as a positive effort to discharge of the onus contained in the proposed legislation.

In addition, there should be no label or other sustainability system associated with this bill that adds to or creates confusion in the marketplace where there are already two voluntary and independently audited certification schemes in play that go much further in ensuring the economically viable, socially beneficial and environmentally appropriate use of the world's forests.

FSC welcomes the move with the above cautions.

Sincerely

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Natalie Reynolds – Acting CEO FSC Australia





**Senate Rural Affairs and Transport Legislation Committee**  
***Inquiry into the Illegal Logging Prohibition Bill 2011***

**14 December 2011**

Mr Chairman

On behalf of the Australian Forest Products Association (AFPA) we welcome the opportunity to again address the Rural Affairs and Transport Legislation Committee *Inquiry into the Illegal Logging Prohibition Bill 2011 (Bill)*.

AFPA supports action to address the important issue of illegal logging and the serious environmental, social and economic impacts that it creates.

Illegal logging has serious impacts both internationally and domestically. It:

1. Threatens the viability of Australia's own sustainable forest industry and the livelihoods of employees and communities that depend on the industry;
2. Has the potential to undermine public trust in wood and wood products, and in an industry that is instrumental in helping shift Australia to a low carbon future; and
3. Undermines international efforts to address climate change, good governance and the stability of regional ecosystems.

The Australian forest, wood and paper products industry makes a significant contribution to the Australian economy, employing some 120,000 people with a total sales turnover of around \$23 billion per annum. Paper and wood products are internationally traded commodities and Australia is a price taker with respect to forest products.

Australian wood and paper product manufacturers already face significant international competition, and illegally sourced products from overseas distort the market and place Australian producers at a competitive disadvantage.

Illegal timber products also threaten to undermine international efforts to reduce greenhouse gas induced climate change. Importantly, the Australian forest products industry has the potential to be at the vanguard of efforts to move Australia to a sustainable, low carbon future.

The Australian forest, wood and paper products industry operates within a strict regulatory and compliance regime, which acts to ensure the legality and sustainability of its operations. This is a far higher bar than is being proposed for imported timber products.

In addition to government regulation, approximately 90 per cent of timber produced in Australia is accredited under internationally recognised voluntary third party certification schemes, which include sustainable forest management standards and chain of custody legality verification requirements. These voluntary standards and verification processes are in addition to the strict federal, state and territory compliance requirements for the growing and harvesting of wood from public and private forests.

It is essential, therefore, that the Bill be effective in restricting the importation of illegally logged products while, at the same, recognising the very strict compliance regime already operating in Australia. As such, the Bill must not impose any unnecessary and costly requirements on domestic industry.

The mechanism used to address illegal imports should be risk based and flexible with respect to the treatment of imported products and any associated requirements for domestic producers under World Trade Organisation rules.

AFPA therefore supports the thrust of the revised *Illegal Logging Prohibition Bill 2011* which proposes the adoption of due diligence requirements and Customs declarations, rather than a more complex and bureaucratic licensing and code of practice based system. The revised Bill addresses many of the previous concerns raised by AFPA.

The revised approach provides scope for development of a more flexible and risk-based approach that would allow the relative risks of different imported and domestically produced products to be assessed and responded to on an individual basis. In addition the Bill looks to provide guidance to what would be acceptable due diligence requirements by recognising the existing domestic strict regulatory and compliance regime, and the broad uptake of voluntary third party certification schemes. Such a system should be far simpler, cheaper and more effective for companies to comply with by allowing development, as required, of their own situation specific 'due diligence' systems and for these to be randomly audited and enforced by Government.



AFPA notes and supports:

1. A period of two years to develop the regulation.
2. A working group to cooperatively develop the regulation.
3. A Government "outreach" program to ensure that importers and processors are familiar with the regulatory requirements of the Bill when they enter into force.
4. Guidance for due diligence requirements to be met wholly or partly by compliance with domestic legal regimes and/or internationally recognised voluntary sustainable forest management certification schemes.

However, AFPA notes strongly the need for:

1. The proposed Government outreach program to be adequately funded and resourced.
2. Any capacity building in exporting countries not to inadvertently benefit exporters in those countries at the expense of domestic producers and processors.
3. Due diligence requirements to be guided more by adherence to agreed principles (e.g. that they be auditable, objective, repeatable, documentable and verifiable) rather than a rigid adherence to a list of restrictive requirements.
4. Adequate Government funding and resourcing of enforcement requirements to ensure the effectiveness of the Bill and of border security.
5. The continued non-inclusion of provisions for Open Standing which would expose industry to the risk of vexatious litigation.

While support for the legislation must be tempered by the fact that a number of key aspects of the package remain to be finalised by development of the regulation, AFPA is committed to working with the Government to ensure development of an effective and efficient regulation.

AFPA maintains that it is essential that any efforts to stop the import of illegal timber products do not disadvantage Australian industry and, as much as possible, place the responsibility on the exporters of wood and paper products to Australia to ensure they are legally compliant.

Finally, the forest, wood and paper products industry supports the Government's efforts to develop effective policy on halting trade in illegally logged products and is committed to working with the Australian Government and other members in developing such a policy. For additional information we direct the Senate Committee to AFPA's previous submissions to both this Committee and to DAFF.

We would be more than happy to take questions and elaborate on these issues.

Thank you Mr Chairman.



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December 13, 2011



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## Henry Juskiewicz

Chairman and CEO, Gibson  
Guitar Corp.

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## Repeal the Lacey Act? Hell No, Make It Stronger

Posted: 11/ 2/11 01:57 PM ET

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On August 24, agents from the Fish and Wildlife Service raided the facilities of my company, Gibson Guitar, and seized computers, hard drives, company records, and thousands of guitar fingerboards. The raid has caused economic loss to Gibson, created a political firestorm, and has ignited a furious debate around a seminal environmental protection statute -- the Lacey Act.

The Lacey Act, while not as well known as the Endangered Species Act, has protected plants and animals for over 100 years -- it is the oldest wildlife protection statute on the books today. Though it originally was designed to combat illegal trafficking in animals, its scope was expanded in 2008 to combat the illegal harvesting of timber which has contributed to massive deforestation of tropical hardwood forests. Gibson supported these changes. As a user of tropical woods it just makes economic sense to buy our materials from sustainable forests, and it makes moral sense to do so in a way that ensures the survival of these resources.

The recent raid of Gibson, however, did not come about because the wood was illegally harvested. Rather, the U.S. government alleges that the wood was imported in violation of an Indian export restriction designed to keep wood finishing work in India. To make matters worse, although the Indian government certified that the wood was properly and legally exported under this law, the U.S. Fish and Wildlife Service substituted its own opinion and reinterpreted Indian law. Its analysis suggested that if Gibson would just finish its fingerboards using Indian labor rather than Tennessee craftsman, there would be no issue.

As a lifelong conservationist, I am distressed that our government is using a law as important as the Lacey Act not to fight illegal logging but to enforce protectionist Indian labor statutes. This use of scarce governmental resources does nothing to further the critical environmental effort to halt global deforestation or to protect American jobs.

In the wake of the raid some have suggested doing away with the Lacey Act altogether. I don't believe that is the right answer. Rather than repealing the Lacey Act, we should make it stronger so that limited government enforcement dollars can be devoted to fighting illegal logging and poaching, not bureaucratic fights over international tariff codes. In the coming months, I will be working with Members of Congress and the Administration to do just that. We should create a compliance system so that businesses can know -- before they buy wood and other plant products -- whether or not they are complying with the Lacey Act.

One of the key agencies charged with implementing the law is the U.S. Department of Agriculture. It lacks the resources needed for the task at hand. We should establish a voluntary pre-certification program, where businesses would pay the USDA to inspect the legality of shipments. This certification process would ensure lawful wood sourcing throughout the supply chain so that a consumer buying a guitar knows that it was made with wood purchased from a sustainable source recognized by the U.S. government, and that the innocent owner is not at risk of violating the law. Wood, and products subsequently made from the wood, that has been imported under this program should be clearly labeled so that consumers can make informed choices. This system would enable the U.S. to better manage enforcement efforts by allowing it to focus on imports that have not been certified as compliant.

The U.S. should also use the power of the marketplace to encourage sustainable harvesting practices in countries whose forestry systems are rife with graft and corruption. By establishing a country certification system, the market will pay a

premium for wood from certified complaint countries -- that will encourage other countries to improve their own harvesting practices. So long as the financial rewards are greater to take a bribe or to graze cattle than to protect a forest we will continue to see clear-cutting and environmental degradation. Only by ensuring that there is an economic benefit to preserving ecosystems and sustainably managing them, both here and in the developing world, can we truly ensure that these vital forests are preserved in perpetuity.

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