

FAILING THE FOREST

How Home Depot Has Sold
Illegal Congo Basin Timber
to its Customers for Over
a Decade

May 2024

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ABOUT EIA

For over 30 years as a non-profit organization, EIA has pioneered the use of undercover investigations to expose environmental crime around the world. Intelligence reports, documentary evidence, campaigning expertise, and an international advocacy network enable EIA to achieve far reaching environmental justice by amplifying local voices, spurring changes in market demand, government policy, and enforcement related to global trade in forest products, wildlife, and other environmental products.

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Unless otherwise noted, the source for the report are EIA's internal investigative reports, photos, audio and video evidence collected during the investigation.

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SUMMARY

This report presents new findings from eight years of EIA investigation into the timber supply chains that connect crimes in the Congo Basin forests to consumers in the United States (U.S.).

According to new research and analysis from the Environmental Investigation Agency (EIA), Home Depot has sold illegal tropical timber at a massive scale to its consumers for more than a decade. The flawed wood purchasing policy adopted by the company in 2024 - which notably lacks traceability and transparency as sourcing requirements - fails to address the structural issues exposed by EIA, fails to protect the world forests, and fails to give peace of mind to consumers and shareholders concerned by the company's biodiversity footprint.

EIA's 2019 report *Toxic Trade* investigated okoume (*Aucoumea klaineana*) timber from Gabon and the Republic of Congo, documenting systemic illegalities and corruption in the operations of the Deija Group - one of the largest forestry operators in the Republic of Congo - and their direct export to the U.S., where illegally sourced timber was processed by one of the largest companies in the U.S. forest sector, Roseburg. EIA's 2023 report *The Dictator's Door* documented grand corruption in Equatorial Guinea to facilitate illegal logging and exposed a supply chain linking together the forests of Equatorial Guinea, veneer mills in China, door skin manufacturers across Asia, and door manufacturers and subsequently home improvement retailers in the U.S. - most notably Home Depot, the largest home improvement retailer in the world.

This report builds on the results of these two unprecedented investigations, presents new findings, and draws the conclusion that Home Depot has sold illegal timber to its consumers for more than a decade. In effect, the okoume sold by Home Depot in one of its most popular door products, sold across the country, comes from the Republic of Congo and Equatorial Guinea. According to EIA's new research, more than 80 percent of okoume produced in the Republic of Congo is illegally sourced, due to bribery, fraud, and violations of the forest and tax codes. Indeed, as of January 2023, a log export ban has come into effect in the Republic of Congo, meaning that any exports of okoume logs from the

Republic of Congo are illegal under Congolese law. Furthermore, EIA's 2023 report *The Dictator's Door* provided evidence that all okoume originating from Equatorial Guinea is illegally sourced, due to pervasive corruption and illegalities throughout the country's forest sector.

According to EIA's analysis, the okoume wood in at the very least 90 percent of okoume-faced doors sold in the U.S. by retailers such as Home Depot and Menard's is illegally sourced. The amended version of the U.S. Lacey Act makes it illegal to trade in wildlife, fish and plants illegally taken, possessed, transported or sold in violation of any law in either the U.S. or foreign laws.

Furthermore, contrary to Home Depot's claim that the company will only source Forest Stewardship Council (FSC)-certified wood from the Congo Basin, EIA's investigation indicates that none of the okoume used on the doors sold to the U.S. consumers could come from an FSC-certified concession. On this issue, Home Depot has not only misled consumers, but also misled shareholders. Home Depot's Securities and Exchange Commission Form 10-K for the fiscal year ending February 3, 2019, maintains that they have "updated our wood purchasing policy to require FSC certification for wood products from the...Congo basin." This claim was repeated in Home Depot's 10-K for the year 2020. Again, according to EIA's findings this cannot be true.

In response to EIA investigation and reporting it appears that Home Depot has taken some new encouraging measures regarding its overall sourcing of Congo Basin timber. As of May 2024, Home Depot stated to EIA that they "have received assurances that the doors that Jeld-Wen is supplying to Home Depot do not contain okoume wood, any wood from the Congo basin that is not FSC-certified, or any wood originating from the Congo basin that is processed in China." (See page 13 of this report for Home Depot's full response.) If corroborated, this represents a significant positive development in terms of combating the illegal logging of okoume and associated international trade of the species from the Congo Basin.

Yet Home Depot's wood purchasing policy - most recently updated in January, 2024 - does not address the larger, structural reasons that this trade existed in the first place and could exist for other timber species widely distributed across the U.S.: a lack of traceability and transparency in Home Depot's wood sourcing that makes it impossible for the company to identify even the country of origin, or in some cases the species, used in its wood products.



EIA recommends:

- **US Department of Justice:** investigate Jeld-Wen and Home Depot for importing and selling products containing okoume to determine if the Lacey Act is being violated, and if so, prosecute those responsible
- **US Securities and Exchange Commission:** investigate whether Home Depot misled investors in claiming in SEC filings to only purchase timber from the Congo basin when FSC-certified, while offering okoume wood from the Congo basin that cannot have been FSC-certified
- **Home Depot:** a) immediately remove all okoume-faced doors from its shelves and stocks; b) urgently review and revise its wood purchasing policy in order to include unbroken traceability to the point of harvest for all wood products; c) make information about the origin of wood products easily accessible to customers; d) conduct a biodiversity impact and dependency assessment in line with the shareholder proposal from Domini Impact Equity Fund
- **Jeld-Wen:** permanently suspend the import and manufacture of okoume-faced door skins
- **USDA Animal and Plant Health Inspection Service:** adopt and implement a robust plan to monitor and investigate Lacey Act compliance, using available data and technology to improve timely analysis of high-risk imports



THE OKOUME CONNECTION: FROM THE CONGO BASIN TO THE U.S.

Okoume (*Aucoumea klaineana*) is a tropical hardwood tree that grows exclusively in four countries - Cameroon, Equatorial Guinea, Gabon, and Republic of Congo - in the Congo basin, the world's second world forest and a biodiversity hotspot (Box 1) that many endemic and threatened species call home (Figure 2). It is one of the three most commercially traded species from the Congo basin by volume.¹ The vast majority of commercial logging of okoume takes place in Equatorial Guinea, Gabon, and Republic of Congo. However, the supply chain from these three countries diverges: Gabon has had a well-enforced log export ban in place since 2011, and exports almost exclusively processed wood and no okoume logs.² By contrast, Equatorial Guinea and Republic of Congo export the vast majority of their okoume in the form of logs, which are imported almost exclusively by China: from 2010 to 2021, EIA estimates that 94.5 percent of okoume logs from Equatorial Guinea and 70.5 percent from Republic of Congo were imported by China.³

Once in China, okoume logs are commonly traded multiple times before being processed by small-scale - frequently informal - veneer mills, where the okoume is peeled into thin veneers (Figure 3).¹⁵ According to EIA's investigation, the trading and veneer manufacturing process in China is highly opaque: supply chains are not

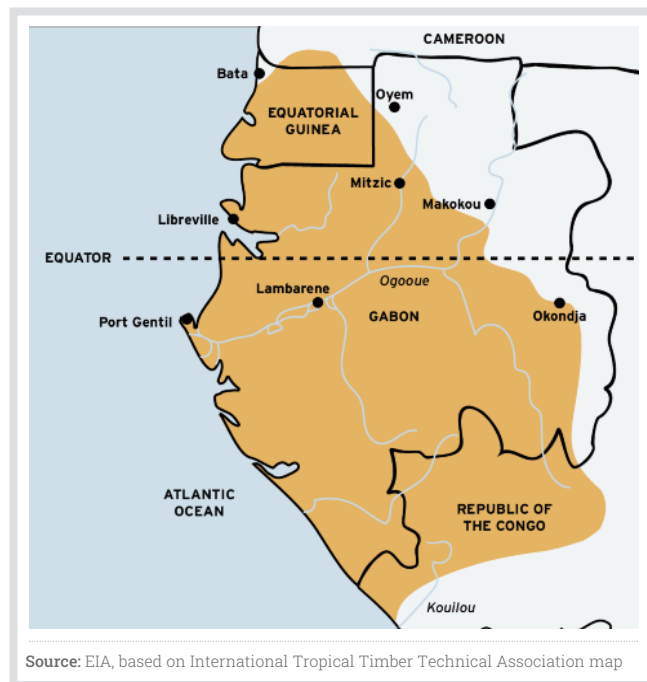


Figure 1
Map of okoume range.¹²

BOX 1.

CONGO BASIN BIODIVERSITY AND OKOUME LOGGING

The preservation of the Congo basin rainforest - often referred to as the "second lungs of the earth" - is critical to addressing the global climate and biodiversity crises.⁴ The forests of the Congo basin are home to 10,000 tropical plant species and hundreds of species of mammals, birds, and fish, including many endangered species.⁵ The natural range of okoume overlaps with those of several critical and emblematic species, such as the critically endangered Western lowland gorilla (*Gorilla gorilla gorilla*) and the forest elephant (*Loxodonta cyclotis*),⁶ as well as the endangered Central chimpanzee (*Pan troglodytes troglodytes*) (Figure 2).⁷

These forestlands are also home to some 80 million people,⁸ including Indigenous Peoples and forest communities whose livelihoods depend on the forest.⁹ Yet these critical ecosystems are also threatened by deforestation and forest degradation: one recent estimate suggests that at the current rate of deforestation, more than a quarter of undisturbed forestlands in the Congo Basin could be deforested by 2050.¹⁰ This deforestation is driven in part by industrial logging of species such as okoume, which also threatens to create more lasting impacts on forest landscapes than other, informal drivers of deforestation.¹¹



Figure 2
Forest elephants in the Congo Basin.

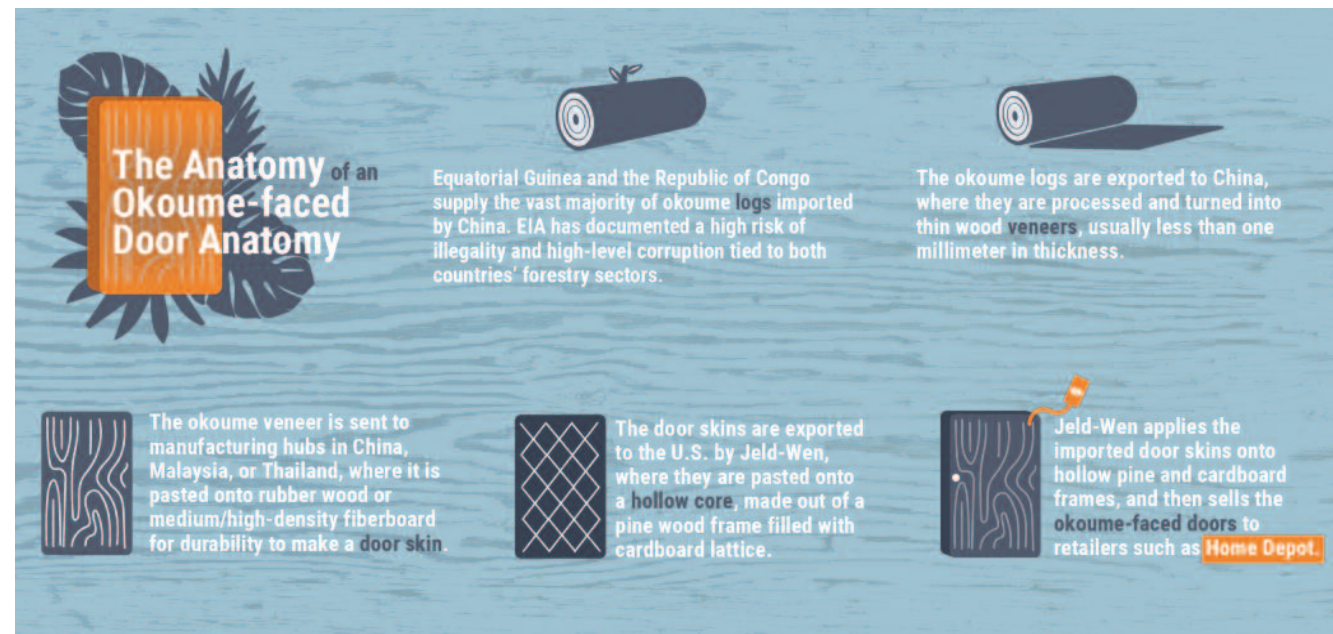


Figure 3
Plywood anatomy.



Figure 4
Jeld-Wen Unfinished Hardwood Interior Door Slabs for sale at Home Depot.

traced, chain of custody is broken, and documents are frequently forged when origin information is required by clients. The okoume veneers made in China are then sourced by plywood manufacturers located in China (International Wood Products), Malaysia (Evergreen Fibreboard Berhad), and Thailand (Metro Panel and PV Wood Co. Ltd.). These manufacturers paste the okoume veneers onto rubber wood or multi density fiberboard in order to produce the so-called "door skins" (Figure 4) that are then exported to Jeld-Wen in the U.S.

Jeld-Wen, the self-proclaimed largest door and window manufacturer in the world and the company responsible for importing the okoume into the U.S. (Box 2), pastes the imported door skins onto hollow core frames to create the okoume-faced hardwood door slab, which is then sold on to home improvement retailers such as Home Depot and to American consumers.

BOX 2.

MISDECLARATION OF ORIGIN: PLANT AND PLANT PRODUCT DECLARATION FORM PPQ 505

Under the U.S. Lacey Act, supplier companies such as International Wood Products, Evergreen Fibreboard Berhad, Metro Panel, and PV Wood Co. Ltd. are responsible for providing the importer with a Plant and Plant Product Declaration Form PPQ 505, usually abbreviated as "505" or "Lacey Declaration." This document states the imported plant's scientific name, value, quantity, and country where the plant was harvested. EIA's investigation into the okoume supply chain has revealed, however, that this documentation is rife with misdeclaration. One source from Evergreen FibreBoard Berhad explained that they had routinely misdeclared the origin of their okoume veneers, explaining, "We put Congo. Always Congo," but added about the origin: "I'm not sure." Yet while manufacturers are unable to determine whether their veneer comes from Equatorial Guinea or Republic of Congo, in either case the wood is very likely illegally sourced.

In response to EIA's reporting, Evergreen Fibreboard Berhad stated, "As of 2020 we have stopped exporting products containing Okoume wood to Jeld-Wen Holding Inc [...] We have switched our sourcing to FSC Sapele veneer instead of Okoume veneers." The statement did not directly address EIA's concern regarding the apparent misdeclaration of okoume.

TWO COUNTRIES, ONE SITUATION: SYSTEMIC FOREST ILLEGALITIES

From 2014-2021, well over 99 percent of okoume logs imported by China came from either Republic of Congo (53 percent) or Equatorial Guinea (47 percent).¹⁴ For all practical purposes, these two countries provide the entire supply of okoume logs that enter China's veneer mills and plywood factories. Although Equatorial Guinea and Republic of Congo have notable differences across their forestry sectors, as presented in the following sections, the industrial logging of okoume in both countries is characterized by systematic forest crimes and grand corruption, which makes the import of the vast majority of China-processed okoume into the U.S. illegal under the Lacey Act.

Equatorial Guinea: Forest Criminal Kleptocracy

Currently in his 43rd year as President of Equatorial Guinea, Teodoro Obiang Nguema Mbasogo holds the record for the longest-serving president in the world.¹⁵ According to Human Rights Watch, the Obiang government's abuses of power include "staggering corruption" which has siphoned off the country's natural resources - including its forests - to enrich a wealthy few.¹⁶ President Obiang Nguema's son, named Teodoro Nguema Obiang Mangue and nicknamed "Teodorin," became the Minister of Agriculture and Forests in 1997 and was appointed Vice President in 2016.¹⁷ Teodorin Nguema Obiang has received global attention over the last decade for his lavish lifestyle and has been proclaimed the "world's richest Minister of Agriculture and Forestry."¹⁸ While his reported salary was around U.S. \$100,000 per year, he accumulated assets worth millions of dollars around the globe, from his U.S. \$35 million beachfront home in Malibu (California) to a collection of cars worth U.S. \$25 million in Europe.

The U.S. and other national authorities have identified the logging industry in Equatorial Guinea as one of the key sectors tightly controlled by both the President and his son, with a direct nexus established to extortion, high-level bribery schemes, and money laundering operations benefitting the Obiang family.¹⁹ A 2013 U.S. Department of Justice filing (Figure 5) documented how Nguema Obiang "exacted millions of dollars in personal payments while serving as E.G.'s Minister of Forestry by soliciting and accepting bribes and extorting forestry companies working in E.G.," and noted that "Nguema took these personal payments in exchange for, among other things, timber export licenses, rights to import equipment into E.G., unfettered and unregulated access to E.G.'s forests, and the ability to continue doing business in E.G."²⁰ According to the filing, this system of corruption enabled Nguema Obiang to amass a personal fortune in excess of U.S. \$300 million.²¹

EIA's investigation, conducted years after the Department of Justice filing and published in the 2023 report *The Dictator's Door*, found that sector-wide illegality and corruption was still the rule in Equatorial Guinea. EIA found that logging companies were still being forced to pay a flat "personal tax" to Teodorin during the intervening years and as recently as 2023, in order for him to allow ongoing exports. Well-placed sources told investigators that for years, the amount paid was €45 Euros (~U.S. \$48) per cubic meter, until it was allegedly raised in February 2023 to 60 Euros (~U.S. \$64) per cubic meter. This likely means that the total annual bribe paid directly by the logging companies to the Vice President solely for the export of okoume logs to China would on average amount to approximately U.S. \$24.6 million²² from 2015 to 2021.

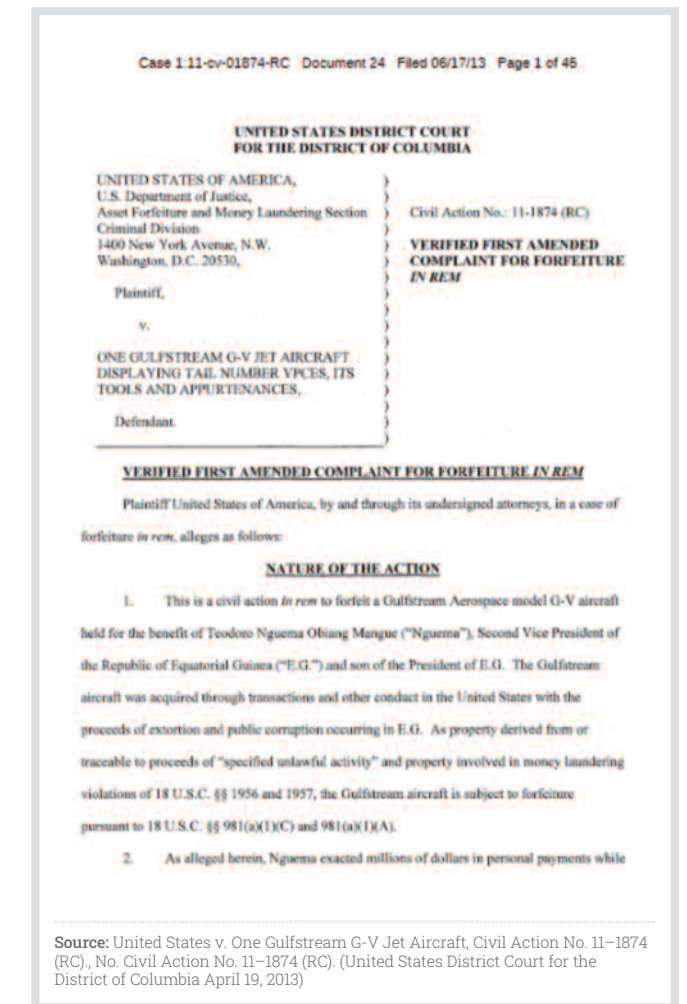
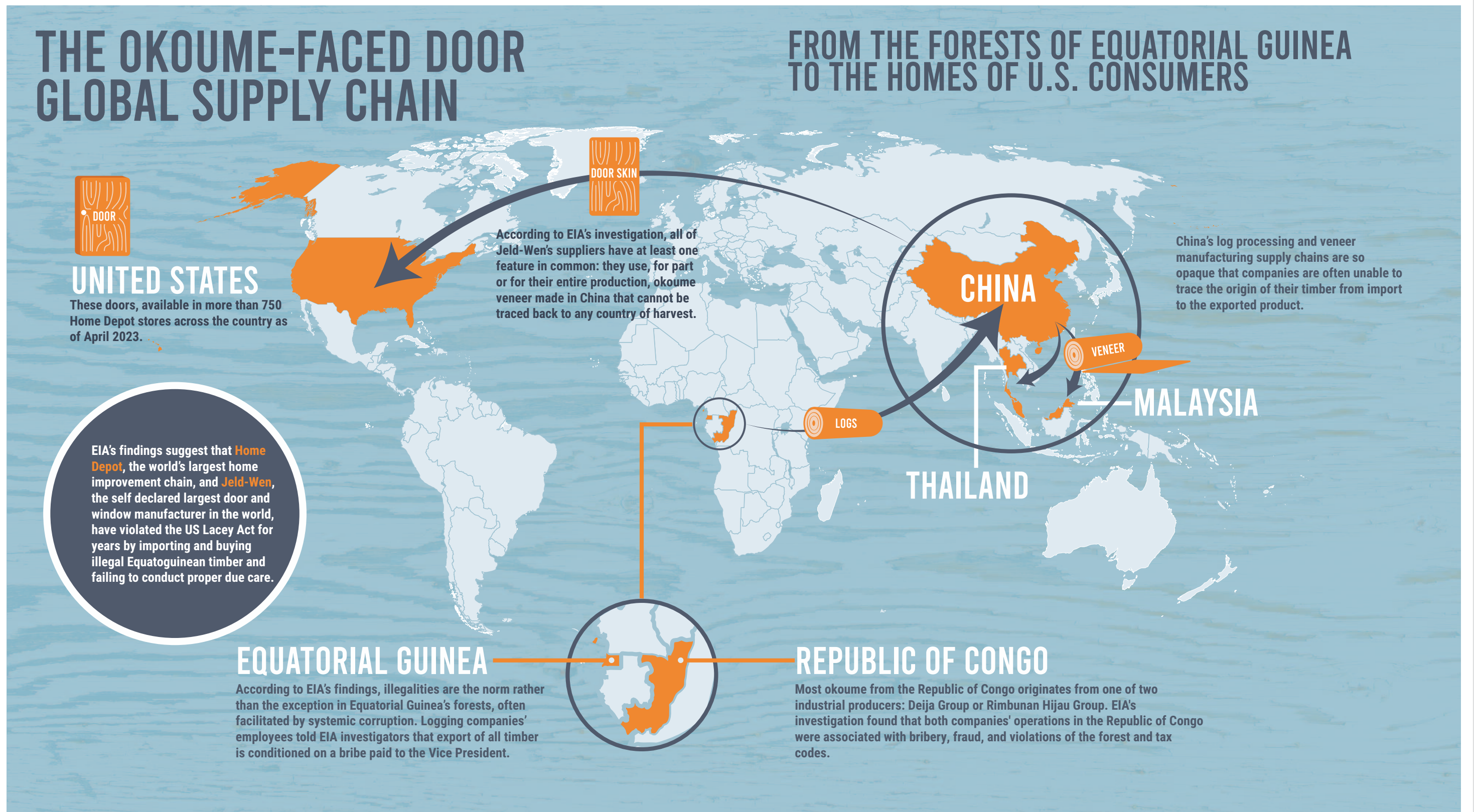


Figure 5
US Department of Justice filing in a civil forfeiture case.

THE OKOUME-FACED DOOR GLOBAL SUPPLY CHAIN

FROM THE FORESTS OF EQUATORIAL GUINEA TO THE HOMES OF U.S. CONSUMERS



Source: EIA

Figure 6
Geographies of the door supply chain

EIA's investigation reveals that the business model of the principal okoume log exporters to China relies on institutionalized bribes paid to the Obiang family.²³ Executives from several of the largest forestry companies operating in Equatorial Guinea - including Rimbunan Hijau, EG Wood, and Chang Xia - repeatedly told EIA undercover investigators that operating in Equatorial Guinea without paying bribes to the family is virtually impossible.²⁴ This operating environment of illegality and corruption in fact extends far beyond the Obiang family: a source from Rimbunan Hijau explained that they routinely bribe ministers in order to export, while a source from Wan Peng described giving out bribes to government officials worth "tens of millions" of Yuan.²⁵

In order to recoup these costs, forestry insiders described an environment of systemic illegality in the production and export of okoume from Equatorial Guinea. As one source from Wan Peng explained to EIA investigators, "If you follow the government's rules, there won't be any profit." Sources from forestry companies active in Equatorial Guinea described logging in community forests, logging outside of concession boundaries, and harvesting trees under the legal diameter, all practices that violate Equatorial Guinea's forest code.²⁶ On the export side, sources from these companies described engaging in practices which would appear to constitute financial crimes under Equatoguinean law in order to recoup the costs of bribes paid to Teodorin and other government officials. These practices included the falsification of financial records, money laundering, and transfer pricing manipulation²⁷ - all of which are illegal in Equatorial Guinea.²⁸

Republic of Congo: Toxic Trade, Revisited

Okoume grows exclusively in the southern part of the Republic of Congo (Figure 1). EIA's review of forestry concessions in the country identified 35 forestry concessions within the range of okoume. An in-depth review of production and export data indicates that 31 of these concessions produce okoume. Of these 31, EIA's analysis reveals that eight concessions have been "returned to the state" - leaving 23 concessions that could plausibly produce okoume in the Republic of Congo.

Of these 23 concessions, four concessions - which together span more than 800,000 hectares - belong to SICOFOR, a subsidiary of the Deija Group. EIA's 2019 report *Toxic Trade* uncovered serious illegalities in the operations of Deija Group and its subsidiaries in Republic of Congo, in particular in relation to the production of okoume logs sold in China, which Deija executives described as their "money maker," and which constituted nearly 60 percent on average of the Group's timber harvested by volume from 2013-2016.²⁹ Deija Group representatives who spoke with EIA investigators described practices that violate Congolese law, such as overharvesting of species including okoume well in excess of approved quotas and the export of logs in contravention of an agreement signed between the company and the Republic of Congo. EIA's investigation also documented the Deija Group's use of tax evasion and bribery in the Republic of Congo and internationally.³⁰

A further 10 concessions belong to subsidiaries of Rimbunan Hijau Group (RHG), one of Malaysia's largest conglomerates (Box 3). EIA's investigation into RHG - previously unpublished - shows that RHG's operations in the Republic of Congo are plagued by illegality and corruption, including ignoring harvest quotas and regulations, tax evasion, fraud, and bribery at the Ministerial level.³¹ A representative from Asia Congo Industrie (ACI), an RHG subsidiary operating in the Republic of Congo, explained to EIA investigators that "we need to cheat a lot on taxes. Everyone does that, we need to have two sets of books. There are so many costs under the table." This representative went on to explain that the company paid significant "bribing fees" in order to bypass regulatory scrutiny. A source from ACI also told EIA investigators that they violated their harvest quotas as a matter of course, explaining that "if we had to go by the quota, every year we can operate no more than three months, the rest of the nine months you die [do nothing]." A representative from Taman, another RHG subsidiary active in the Republic of Congo, told investigators that they relied on bribery to operate, explaining that "To give money to the Minister is to establish a 'friendly' relationship... When you need help, you give him one million CFA [~U.S. \$1650], and you tell him what you need from him." A source from Taman also explained that the company routinely overharvests okoume:

EIA: You don't have a quota problem...?
Taman: We have a problem, of course. There are controls. There are options to solve this problem. Either there's a penalty to pay - the amount is not huge however. Or they will ask you to stop. Or you negotiate.
EIA: This is always possible?
Taman: Yes.

Given these systemic illegalities, any okoume wood originating from RHG subsidiaries in the Republic of Congo should be considered illegal in the U.S. under the Lacey Act.

According to EIA's research, the remaining 9 concessions may be operating in breach of the Forest Code. Article 76 of the Republic of Congo's 2020 Forest Code stipulates that "The forestry administration is responsible for drawing up management plans for forests in the State's private domain. However, when a forest management unit or a planted forest is conceded to a logger, the latter must draw up a management plan, within a period not exceeding three years, under the supervision of the forestry administration."³⁷ Article 225 of the Forest Code sets the fine for logging in the absence of such a plan at 100,000 CFA (~U.S. \$165) per cubic meter of timber, plus the seizure of already harvested products.³⁸ At the time of publication, EIA was unable to procure management documents for these nine concessions, which would indicate whether these companies had provided the necessary management plans in order to legally harvest, trade, and export okoume.

However, even making conservative assumptions about the legality of okoume sourced from these concessions, EIA's analysis indicates that it is overwhelmingly likely that Home Depot has sold illegally sourced timber. The nine unmanaged concessions only accounted for on average 19.3 percent of okoume production in the Republic of Congo for the years 2020-2022;³⁹ the majority of okoume produced in the country comes from industrial producers, notably subsidiaries of Deija Group and RHG. EIA estimates therefore that at the very least 80.7 percent of okoume logs exported from the Republic of Congo are illegally sourced. Given that all okoume originating from Equatorial Guinea should be considered illegal (see previous section), EIA therefore estimates that 90.2 percent of okoume veneer imported into the U.S. from China was logged, transported, or exported illegally in its country of origin.

Purchasing and Selling Illegal Wood: A Violation of the Lacey Act

Because the wood used in the okoume-faced hardwood door slabs is currently untraceable to a country of origin - much less concession - the probability of any shipment containing wood is legal is less than 10 percent. Import records indicate that Jeld-Wen imported 968 containers of okoume door skins into the United States just for the period of January 2018-December 2022. The probability

BOX 3.

RIMBUNAN HIJAU GROUP IN THE CONGO BASIN

Rimbunan Hijau Group (RHG) is one of Malaysia's largest conglomerates, active in diverse sectors from forestry to media.³² One of the world's largest producers and exporters of tropical timber, the group controls hundreds of timber operations across Central Africa, Russia, Southeast Asia, and the South Pacific. RHG is also active in Equatorial Guinea through its subsidiary Shimmer International, where the company began operating in the 1990s and reportedly acted as a subcontractor for Vice President Teodorin Nguema Obiang in 1999 when he was the Minister of Forests.³³ The relationship with the President's son has allegedly granted the company access to over 300,000 hectares of logging concessions, nearly 20 percent of the allowable 1.7 million hectares available in the country.³⁴ Shimmer's involvement in bribery, corruption, and tax evasion in Equatorial Guinea is documented in *The Dictator's Door*.³⁵ RHG and its subsidiaries have been repeatedly denounced for fueling the destruction of forests around the world through secrecy and criminal activity.³⁶

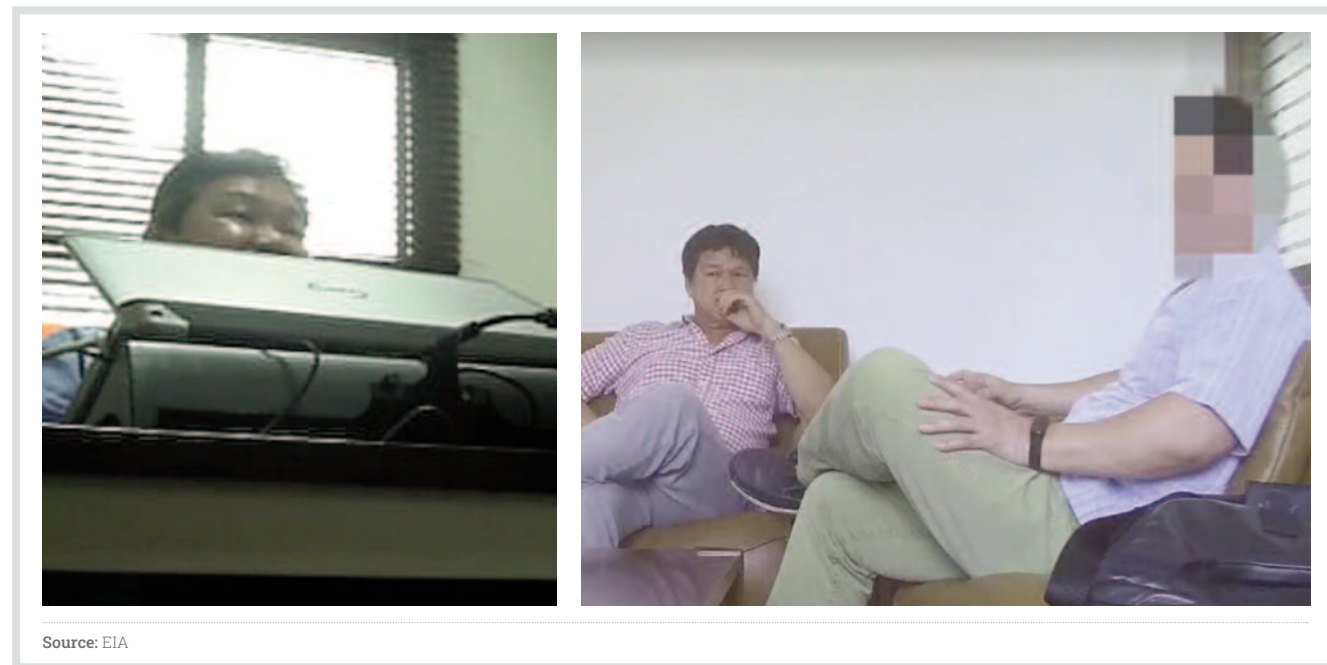


Figure 7
 Undercover footage from EIA's investigation of Rimbunan Hijau Group.

that the wood in all of those shipments happened to originate from those concessions which cannot be proven to be illegal is infinitesimally small. EIA's analysis indicates that Home Depot has very likely purchased and sold illegally sourced okoume wood in violation of the US Lacey Act.

The amended version of the US Lacey Act aims to stop illegal trafficking of plant and wildlife products.⁴⁰ The relevant part of the Lacey Act makes it unlawful for any person to:

"[I]mport, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce...any plant—

- (i) taken, possessed, transported, or sold in violation of any law or regulation of any State, or any foreign law, that protects plants or that regulates—
- (I) the theft of plants;
- (II) the taking of plants from a park, forest reserve, or other officially protected area;
- (III) the taking of plants from an officially designated area; or
- (IV) the taking of plants without, or contrary to, required authorization;
- (ii) taken, possessed, transported, or sold without the payment of appropriate royalties, taxes, or stumpage fees required for the plant by any law or regulation of any State or any foreign law; or
- (iii) taken, possessed, transported, or sold in violation of any limitation under any law or regulation of any State, or under any foreign law, governing the export or transshipment of plants.]⁴¹

By purchasing okoume-faced door slabs from Jeld-Wen and selling them on to consumers, Home Depot has sold, received, and acquired okoume wood products, making the Lacey Act applicable in this instance.⁴² The illegalities that pervade the supply chain for okoume in Equatorial Guinea and the Republic of Congo fit squarely within the scope of what the Lacey Act prohibits. Notably, the Lacey Act prohibits "the taking of plants without, or contrary to, required authorization." Sources who spoke to EIA investigators in both Equatorial Guinea and Republic of Congo described routine violations of their management plans and their respective countries' forest codes, as detailed above. In Equatorial Guinea, these violations include logging in community forests, logging outside of concession boundaries, and harvesting trees under the legal diameter. In Republic of Congo, these violations include overharvesting of species, including okoume, well in excess of approved quotas; and the export of logs in contravention of an agreement between the Deija Group and the Republic of

Congo (and in violation of the log export ban which went into effect in January, 2023).

The Lacey Act further makes it illegal to "import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce...any plant...taken, possessed, transported, or sold without the payment of appropriate royalties, taxes, or stumpage fees required for the plant by any law or regulation of any State or any foreign law." The illegalities associated with okoume production again fit this description. In Equatorial Guinea, EIA spoke with forestry insiders who described using practices consistent with tax evasion and transfer pricing manipulation in order to avoid taxes in Equatorial Guinea. A representative from Rimbunan Hijau Group who spoke with EIA investigators explained they routed payments through Hong Kong "Because Hong Kong helps with tax evasion." Other forestry insiders described how they would "launder [money] through shadow banks or operations," misrepresent prices on their books, and keep a second (false) set of financial records, in order to avoid taxes in Equatorial Guinea.

In the Republic of Congo, both industrial okoume producers described similar practices to EIA investigators. A representative from Rimbunan Hijau explained, "We need to cheat a lot on taxes. Everyone does that, we need to have two sets of books." These practices were consistent with those practiced by Rimbunan Hijau Group in Equatorial Guinea. Sources from the Deija Group, the other major industrial okoume producer in Republic of Congo, described to EIA investigators their use of transfer mispricing and misdeclaration of assets in order to avoid taxes.

EIA's investigation indicates that Home Depot has, over the period January 2022-April 2024, violated the Lacey Act by selling, receiving, and acquiring illegal okoume wood products. The supply chain for okoume is pervaded by precisely the kinds of illegalities in their sourcing countries that the law is designed to combat. Further, these violations are seemingly not incidental to how Home Depot conducts itself, but rather apparently a direct byproduct of a lack of due care.

THE ROOT CAUSES: VIOLATION OF DUE CARE OBLIGATIONS AND VIOLATION OF CORPORATE SOURCING POLICIES

What A Prudent Person Would Have Done - and What Wasn't Done

The concept of "due care" is at the core of the amended Lacey Act. It is a central principle that guides companies when assessing legality of timber or wood products they plan to import into the US, as explained by the US Department of Agriculture:

"The Lacey Act, as amended, makes it a crime to traffic in plants or plant products when, in the exercise of due care, the person should know that the plant or plant product was taken, possessed, transported or sold illegally. **'Due care' is a long-standing legal principle that means the degree of care at which a reasonably prudent person would take under the same or similar circumstances.** The Lacey Act does not define nor mandate any requirements to constitute due care. US importers have discretion to determine how to best verify the legitimacy of their supply chain going back to where the plant material was taken, and the legality of transactions thereafter, and to abide by plant protection and conservation laws in the US and abroad (emphasis added)."⁴³

Although the Lacey Act does not detail what each individual or company is required to do to fulfill their obligation to exercise due care under the Lacey Act, 15 years of implementation and enforcement of the Lacey Act Plant Amendments provide concrete examples related to company obligations for due care for plant imports,⁴⁴ and prior case law related to due care for fish and wildlife imports also provides guidance.⁴⁵ The widely known precedent set in 2016 in *United States v. Lumber Liquidators Holding, Inc.* is essential to understand the gap between what Jeld-Wen should be doing in the exercise of due care, and what they have done.⁴⁶

In 2016, Lumber Liquidators (LL), the largest flooring retailer in the U.S., pleaded guilty to importing goods - illegal Russian wood into the U.S., via China - through false statements and four misdemeanor violations under the Lacey Act.⁴⁷ The company was ordered to pay more than U.S. \$13 million in penalties and fines - the largest Lacey Act fine for timber at that time - and implement a Lacey Act Compliance Plan to verify that all wood imports into the US originate from legal sources.⁴⁸ The Lumber Liquidators case serves as a cautionary tale

for other US importers about the need to exercise appropriate due care when buying timber products from high-risk origins, or which are traded via complex and opaque supply chains. The mandated compliance plan provides a detailed framework for companies like Lumber Liquidators to design due care systems that reduce the risk of trading illegal timber.

In this context, EIA's findings lead to the conclusion that Jeld-Wen has apparently failed to implement key due care procedures as outlined in the compliance plan from the Lumber Liquidators case and as a result, has imported thousands of tons of timber products into the US, most likely in violation of its due care obligations. Jeld-Wen's apparent lack of due care is particularly concerning, given that any company using okoume should have been aware of significant risks of illegality after 2019 when EIA released a detailed expose about the illegalities associated with the logging, trade, and export of okoume from the Congo Basin. A "reasonably prudent person" complying with the Lacey Act should have suspended okoume imports after the publication of that 2019 report, particularly when the information on the origin of their imports was uncertain.

Jeld-Wen doors are sold by the largest home improvement retailers across the U.S., including Home Depot and Lowe's. Home Depot claims to be the largest home improvement retailer in the world, with a reported U.S. \$151 billion in revenue in 2021.⁴⁹ As of April 2023, Jeld-Wen's tropical hardwood-faced doors were being sold in 772 Home Depot stores located across the U.S.

According to EIA's investigation, there is reason to believe that both Home Depot and its supplier Jeld-Wen have been violating their due care obligations under the Lacey Act for several years. Unlike the European Union Timber Regulation which requires only the first placer of wood into the European Union market to exercise due diligence, the Lacey Act applies to all actors in the supply chain. According to a Jeld-Wen employee, "the Lowe's guys are the ones that are most interested in that. I'm not getting a lot of that from Home Depot." According to this source, Home Depot appears to be far less concerned about supply chain traceability, risks, and illegalities associated with okoume-faced doors, and as such, Home Depot is failing to meet its policy and public commitments.

Misleading Stockholders and Consumers: The FSC Lie

One of the cornerstones of Home Depot's 2024 version of its wood purchasing policy is the use of Forest Stewardship Council (FSC) certification for wood procured from regions "most at risk for deforestation."⁵⁰ FSC certification is a certification program that, according to the FSC website, aims to ensure that wood products "come from responsibly managed forests that provide environmental, social and economic benefits."⁵¹ In all versions of its wood purchasing policy, Home Depot has indicated that they will not purchase wood products from the Congo Basin unless FSC certified.⁵² The 2024 version of this policy additionally spells out that they will not "offer for sale" any wood from the Congo Basin except when FSC-certified.⁵³

While this in theory represents a positive step, Home Depot's sale of products containing okoume wood appears to violate this policy. EIA's investigation has revealed that there are no FSC-certified okoume logs from either Republic of Congo or Equatorial Guinea, nor

have there ever been - which, as noted above, account for greater than 99 percent of the volume of okoume logs imported by China from 2015 to 2021. Indeed, a search of the FSC database demonstrates that the only okoume certificates that have ever been issued are in Gabon (Figure 8) - which does not export okoume logs at scale to China since it imposed (and effectively enforced) a ban on the export of logs in 2011. Furthermore, as documented in EIA's Dictator's Door report, no forest concession in Equatorial Guinea has ever received FSC certification,⁵⁴ while in the Republic of Congo, only two companies have received FSC certification, neither of which mentions okoume in their publicly available forest management plans.⁵⁵ According to EIA's investigation, it appears impossible for Home Depot to have sourced FSC-certified okoume veneer made in China. By continuing to sell this wood to consumers as of January 2024, Home Depot is perpetuating its ongoing violation of its own wood purchasing policy.

The overwhelming likelihood that the okoume used in the doors sold at Home Depot is not FSC-certified means that Home Depot likely not only violated its own wood purchasing policy, but misled its investors by repeating

this claim in filings to the SEC. Home Depot's SEC Form 10-K for the fiscal year ending February 3, 2019, maintains that they have "updated our wood purchasing policy to require FSC certification for wood products from the...Congo basin."⁵⁶ This claim is repeated in Form 10-K submitted by the company for the fiscal year ending February 2, 2020.⁵⁷ EIA's wood anatomy analysis conducted in 2019 and 2020 indicated that the company was selling okoume-faced doors during these years - despite telling investors through SEC filings that it was only sourcing FSC-certified wood.⁵⁸ This issue seemingly remains unresolved to the present day: EIA's follow-up anatomy analysis in January, 2024 indicated that these products were still for sale the same week that HD released its new wood purchasing policy.⁵⁹

In response to EIA's opportunity to comment letter, Home Depot stated in an email: "The Home Depot is committed to sustainable and transparent forestry practices. We work hard to adhere to the principles of our Wood Purchasing Policy and the requirements of the Lacey Act and demand the same of our suppliers. Following the release of EIA's report, we engaged with Jeld-Wen and have received assurances that the doors that Jeld-Wen is supplying to Home Depot do not contain okoume wood, any wood from the Congo basin that is not FSC-certified, or any wood originating from the Congo basin that is processed in China. Our independent review of the supply chain documentation provided by Jeld-Wen corroborates these assurances. We will continue our diligence as to these and any other allegations of wood sourcing that violates our Wood Purchasing Policy and our Lacey Act Compliance Policy."

Traceability: Home Depot's Avoidance of Corporate Accountability and Biodiversity-Related Ambition

EIA conducted expert wood anatomy analysis on 1097 unfinished flush hardwood interior door slabs from 2019-2023 sold at major home improvement retailers, including 665 doors at Home Depot. This analysis found that 58 percent of hardwood-faced doors sampled at Home Depot contained okoume. (By contrast, 90 percent of doors sold at Menard's contained okoume, while only 3 percent of doors sold at Lowe's contained okoume.) The results of this analysis were presented in EIA's *Dictator's Door* report, alongside strong evidence of illegalities and corruption associated with the supply chain for the wood in these doors. After the report was made public in November of 2023, it appears that Home Depot started an internal investigation, while Jeld-Wen temporarily suspended their imports of okoume products. However, Home Depot has not to date made public any findings from their investigation. Follow-up analysis conducted on 168 doors by EIA in January, 2024 - more than two months after the publication of the report - found that 23 percent of doors sampled at Home Depot still contained okoume.

EIA's follow-up anatomy analysis in January, 2024 indicated that these products were still for sale the same week that HD released its new wood purchasing policy.

Home Depot's seeming inability or unwillingness to remove okoume products from their shelves is symptomatic of the company's larger approach to wood purchasing. The company's wood purchasing policy, most recently updated in January, 2024, gives them no insight into their own supply chains and places few burdens on suppliers. At a time when its competitors are making commitments towards traceability in their wood supply chains, Home Depot has gone in the opposite direction.⁶⁰ Whereas the company's 2018 version of its wood purchasing policy claimed to know "item by item" where their wood products came from,⁶¹ Home Depot's 2021 and 2022 versions of the policy claimed only to have "insight" into the "origins" of these products, and a "preference" for FSC-certified products.⁶² The 2024 version of this policy is even more vague, with no language about traceability to the source, and only committing the company to "an ongoing risk-based assessment that ensures we maintain appropriate diligence requirements regarding the wood products we source."⁶³

These policies' failure to address serious concerns with wood sourcing have generated pushback not only from environmental organizations and civil society,⁶⁴ but from Home Depot's own investors. In 2022, a majority of shareholders approved a resolution at Home Depot's Annual General Meeting calling on the company to report on how it could "increase the scale, pace, and rigor of its efforts to eliminate deforestation."⁶⁵ A 2024 shareholder proposal put forward by Domini Impact Equity Fund - and opposed by the Home Depot board - noted the company's significant exposure to biodiversity risk including, in part, due to illegally sourced wood.⁶⁶ Home Depot's inability to attest to the legality of its products - and lack of robust public response to the *Dictator's Door* report released by EIA - should be understood in the context of these concerns. Ultimately, their wood purchasing policy gives them little ability to understand where their wood is coming from, or hold suppliers accountable - and leaves the company's shareholders and customers unable to protect themselves from illegal wood.

CERTIFICATE STATUS	LICENCE	CERTIFICATE CODE	ORGANIZATION	ROLE	COUNTRY/AREA
VALID	FSC-C188321	CU-CW/FM-894011	TOUJOURS VERT GABON	Certificate holder	GABON
VALID	FSC-C002359	BV-FM/CO-C-840169	PRECIOUS WOODS - CEB	Certificate holder	GABON
VALID	FSC-C150501	NC-FM/CO-C-03545A	Rougier Gabon	Certificate holder	GABON
VALID	FSC-C150523	NC-FM/CO-C-03545B	Rougier Gabon	Certificate holder	GABON
SUSPENDED	FSC-C172383	CU-CW/FM-882476	John Bitar Gabon - JBG (Gongue)	Certificate holder	GABON
VALID	FSC-C144419	NC-FM/CO-C-035450	Rougier Gabon	Certificate holder	GABON
TERMINATED	FSC-C14104	CU-CW/FM-853952	African Equatorial Hardwoods	Certificate holder	GABON
VALID	FSC-C174322	CU-FM/CO-C-882475	Gabon Advance Wood SARL	Certificate holder	GABON
SUSPENDED	FSC-C172203	CU-CW/FM-882477	John Bitar Gabon Onoye-Mingue	Certificate holder	GABON
VALID	FSC-C188252	CU-CW/FM-894010	BORDAMUR Gabon	Certificate holder	GABON
VALID	FSC-C188320	CU-CW/FM-889182	Société Forestière et Industrielle de Koulamoutou - SFIK	Certificate holder	GABON
VALID	FSC-C007904	BV-FM/CO-C-639500	CBG	Certificate holder	GABON
VALID	FSC-C116230	NC-FM/CO-C-006621	Rougier Gabon	Certificate holder	GABON

Source: Forest Stewardship Council, "FSC Search: Up-to-date certification and licensing information." Available at: <https://search.fsc.org/en/>

Figure 8 Results for Forest Stewardship Council certificate database search for okoume.



CONCLUSION AND RECOMMENDATIONS

EIA's investigation shows that Home Depot has likely violated the Lacey Act as well as its own wood sourcing policy in purchasing and selling okoume wood products in its stores.

In doing so, it is enabling criminal forest kleptocracies in Equatorial Guinea and Republic of Congo, and undermining the forests of the Congo basin and the communities whose livelihoods depend on them. At the same time, Home Depot is also seemingly misleading its own investors and customers when it comes to the certification of its wood products. EIA's investigation makes it clear that Home Depot's wood supply chains are well past their sell-by date.

EIA recommends:

- **US Department of Justice:** investigate Jeld-Wen and Home Depot for importing and selling products containing okoume to determine if the Lacey Act is being violated, and if so, prosecute those responsible
- **US Securities and Exchange Commission:** investigate whether Home Depot misled investors in claiming in SEC filings to only purchase timber from the Congo basin when FSC-certified, while offering okoume wood from the Congo basin that cannot have been FSC-certified
- **Home Depot:** a) immediately remove all okoume-faced doors from its shelves and stocks; b) urgently review and revise its wood purchasing policy in order to include unbroken traceability to the point of harvest for all wood products; c) make information about the origin of wood products easily accessible to customers; d) conduct a biodiversity impact and dependency assessment in line with the shareholder proposal from Domini Impact Equity Fund
- **Jeld-Wen:** permanently suspend the import and manufacture of okoume-faced door skins
- **USDA Animal and Plant Health Inspection Service:** adopt and implement a robust plan to monitor and investigate Lacey Act compliance, using available data and technology to improve timely analysis of high-risk import

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