

*U.S. v. 594,464 Pounds of Salmon.* (1989).

Background:

In July 1986, at Tacoma, Washington, a shipment of the above amount of salmon was seized as it entered the US. Customs officials determined that the fish were exported from Taiwan in violation of a Taiwanese regulation, and that “the importation of the salmon in the United States was part of a complex international smuggling scheme.” While this “international smuggling scheme” is never elaborated upon, it is clear that the fishing company, Union, Inc., took salmon out of Taiwanese waters and shipped them to the US in violation of Taiwanese fishing regulations.

Union Inc.’s Claim:

The Lacey Act states that wildlife taken “in violation of any law or regulation of any State or in violation of *any foreign law*” falls under potential prosecution. The Lacey Act does not specify that an event that is in violation of any foreign *regulation* is applicable to the Act. As Union Inc. only broke a regulation, and not a law, it argued whether “a narrower ‘statutory’ reading of ‘any foreign law’ is required,” and contended that breaking a foreign violation (not law) is therefore not applicable to the Lacey Act.

The court’s ruling addressed the ‘vagueness’ of the Lacey Act’s actual language and whether regulations as well as laws were covered under the Act. The definition of law in its generic sense, the Court pointed out, is “a body of rules of action or conduct prescribed by controlling authority, and having binding legal force... That which must be obeyed and followed by citizens subject to sanctions or legal consequences is a law.” Following this definition, regulations are incorporated into what Congress meant by “any foreign law” under the Lacey Act.

In the court’s analysis of why Congress only included “any foreign law,” they reviewed the legislative history. The 1981 amendments were passed specifically to strengthen the Lacey Act’s power, and “the thrust of Congress’ intention in amending the Act was to expand its scope and enhance its deterrence effect.” The phrase “any foreign law” is not intended to limit the act, but to best cover the “wide range the forms of law may take given the world’s many diverse legal and governmental systems.” Keeping the language of the Act broad ensured that the Act would cover systems of law that “defy easy definition or categorization.”

Responsibility of the Importer:

The burden of understanding the demands of “foreign law” then fall to those who engage in acts that are potential violations. It was, the court argued, Union Inc.’s position to “at least have been aware of the strong possibility that violation of a foreign regulation would trigger the forfeiture provision of the Act.” Further, the court pointed out that the size of the company should play a role in ensuring they are held responsible for acting in accordance with foreign law (or regulation): “This is especially true when considering that Union is a large corporation frequently involved in large international commercial transactions.”