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ALERT - Phase IV - Lacey Act Declaration Implementation Begins April 1, 2010

Pursuant to revisions of the Lacey Act (16 U.S.C. § 3371), any person importing any plant or plant product must file a declaration upon importation that contains (1) the scientific name (i.e., genus and species) of the live plant or the plant from which the product was derived; (2) the plant species country of origin; and (3) a description of the value of the importation and quantity (including the unit of measure) of the plant/plant product. The declaration requirement is being overseen by the Animal and Plant Health Inspection Service (APHIS).

The declaration requirement has been implemented in a phased-in approach on a product specific basis. Phase IV will be implemented on **April 1, 2010**. The scope of goods encompassed by Phase IV has been significantly revised, resulting in the complete elimination of certain HTS chapters (e.g., Ch. 48), as well as the inclusion of additional chapters previously not covered by the declaration requirement. Phase IV, will now include the following HTSUS headings:

- Ch. 44 (Wood & Articles of Wood
-4421 (other articles of wood)
- Ch. 66 (Umbrellas, Walking Sticks, Riding Crops)
-6602 (walking sticks, whips, crops)
- Ch. 82 (Tools, Implements)
-8201 (hand tools)
- Ch. 92 (Musical Instruments)
-9201 (pianos)
-9202 (other stringed instruments)
- Ch. 93 (Arms and Ammunition)
-9302 (revolvers and pistols)
-9305.10.20 (parts and accessories for revolvers and pistols)
- Ch. 94 (Furniture, etc)
-9401.69 (seats with wood frames)
- Ch. 95 (Toys, Games, & Sporting Equipment)
-9504.20 (articles and accessories for billiards)
- Ch. 97 (Works of Art)
-9703 (sculptures)

Of course, those products encompassed in Phases II and III must continue to be declared.
(See attached chart summarizing Phases II – IV.)

In addition to the implementation of Phase IV of the declaration requirements, it is important to remember other important requirements under the Lacey Act.

A. Species Designation Clarification

Under the plant product declaration requirement, the specific genus and species of all wood components must be declared for those imported articles covered by the implementation schedule.

APHIS has announced that in circumstances where the list of possible species used in a particular product includes all species in a genus, it is acceptable to use “spp.” following the genus name on the import declaration form. However, when reference to all possible species in a genus is not accurate (based on geographical or other factors), importers are expected to provide either the single genus and species, or a specific list of all possible species that may have been used to produce the plant product.

B. Covered Products that Incorporate Composite Wood Material

Until further notice by APHIS, for those products covered by the declaration requirement, the species scientific name and country of harvest do not have to be declared for components that are constructed from composite, recycled, and/or reused wood material. Rather, the specific type of composite material (e.g., particle board, fiber board, MDF, etc.) should be identified in the “Plant Scientific Name” section of the plant declaration form in lieu of the scientific name. Additionally, “N/A” should be indicated in the “Country of Harvest” section.

If a product is not composed entirely of composite, recycled, or reused material, an importer must indicate the genus, species, and country of harvest for all other product components.

C. Types of Entries Subject to the Declaration Requirement / Filing Format

APHIS has announced that the declaration requirement will only be enforced for formal consumption entries. APHIS has stated that currently it is not enforcing the declaration requirement for informal entries, personal importations, mail shipments (except those shipments that are required to be formally entered), transportation and exportation entries, in-transit movements, carnet importations, and foreign trade zone and warehouse entries. However, APHIS has advised that it will accept and review comments as to whether such entries should be subject to the declaration requirement.

D. Declaration Requirement only Applicable to the Imported Product

APHIS has stated that the declaration requirement will only be enforced for the product actually being imported. Thus, ancillary items derived from plant material that accompany or are included with a product (e.g., tags, labels, manuals, instruction booklets, warranty cards, etc.) will not be subject to the declaration requirement.

Should you have any questions, please feel free to contact our offices.

II April 1, 2009	III October 1, 2009	IV April 1, 2010
<p>HTS Chapters:</p> <p>Ch. 44 Headings (wood & articles of wood) 4401—(Fuel wood) 4403—(Wood in the rough) 4404—(Hoopwood: poles, piles, stakes) 4406—(Railway or tramway sleepers) 4407—(Wood sawn or chipped lengthwise) 4408—(Sheets for veneering) 4409—(Wood continuously shaped) 4417—(Tools, tool handles, broom handles) 4418—(Builders' joinery and carpentry of wood)</p>	<p>HTS Chapters:</p> <p>Ch. 44 Headings (wood & articles of wood) 4402—Wood charcoal 4412—Plywood, veneered panels, except 44129906 and 44129957 4414—Wooden frames 4419—Tableware & kitchenware of wood 4420—Wood marquetry, caskets, statuettes</p> <p>PLUS PHASE II</p>	<p>HTS Chapters:</p> <p>Ch. 44 Headings (wood & articles of wood) 4421—Other articles of wood</p> <p>Ch. 66 Headings (umbrellas, walking sticks, riding crops) 6602—Walking sticks, whips, crops</p> <p>Ch. 82 Headings (tools, implements) 8201—Hand tools</p> <p>Ch. 92 Headings (musical instruments) 9201—Pianos 9202—Other stringed instruments</p> <p>Ch. 93 Headings (arms and ammunition) 9302—Revolvers and pistols 93051020—Parts and accessories for revolvers and pistols</p> <p>Ch. 94 Headings (furniture, etc.) 940169—Seats with wood frames</p> <p>Ch. 95 Headings (toys, games, & sporting equipment) 950420—Articles and accessories for billiards</p> <p>Ch. 97 Headings (works of art) 9703—Sculptures</p> <p>PLUS PHASES II & III</p>

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