



# INTERNATIONAL TRADE NEWSLETTER

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## CONTACT US

840 Tollgate Road • Elgin, IL 60123  
 Phone: 800-327-6392  
 Fax: 847-760-0005  
[www.bdginternational.com](http://www.bdginternational.com)

### E-MAIL ADDRESSES

[import@bdginternational.com](mailto:import@bdginternational.com)  
[airfreight@bdginternational.com](mailto:airfreight@bdginternational.com)  
[ocean@bdginternational.com](mailto:ocean@bdginternational.com)  
[domestic@bdginternational.com](mailto:domestic@bdginternational.com)

### USDA EASES LACEY ACT DECLARATION REQUIREMENT FOR IMPORTED GOODS

The Lacey Act was passed in order to control the import of plants that the local lobby groups and Department of Interior want to protect from being destroyed in our global environment.

With this new law being passed under the Farm Act through the Department of Interior, the import regulatory entities were shocked. U.S. Customs (USC) and U.S. Department of Agriculture (USDA) were apparently not consulted in advance.

The new requirements and documentation caused USC & USDA to request the Department of Interior to compromise on the full scope requirements. At first the Act required the scientific name of each plant to be provided on the commercial invoice and reported through a new government document. These commodities included Chapter 6 (Live trees, Plants, bulbs, cut flowers, ornamental foliage etc), Also included Chapter 44 (wood and articles of wood), Chapter 47 (wold pulp), Chapter 48 (paper and articles thereof), Chapter 92 (Musical instruments), and Chapter 94 (furniture). Now, the process has been clarified and the industry is creating a new process for reporting.

In short all of Chapter 6 – will not have to complete the new Department of Interior requirements. The flower industry will not have to comply with the Lacey act at this point.

The Wood or Paper industry must pay special attention to the upcoming changes. If you export products to the USA and your commodity will be regulated under the Lacey Act please read the information and refer to the references.

If your importer in the USA has questions on how to comply. Please have them contact Lisa Victoria Waller of BDG International, Inc. and we can assist them through the process. If your company is a FOREIGN IMPORTER or record. Please note that you also will have to comply with the new regulations.

**“Please read the following for the up to date information as of 21<sup>st</sup> of Jan 2009 (written by Edward Steiner, Attorney specializing in Customs Law)**

“The Department of Agriculture had published a notice announcing various steps that will ease the new import declaration requirement under the amended Lacey Act. These changes address the scope of the declaration requirement, the timeframe for implementation, the definition of certain terms, effects on trade and industry, and enforcement issues.

**Enforcement Delayed.** Imports of certain plants and plant products must be accompanied by import declaration containing the scientific name of the plant, the value of the importation, the quantity of the plant and the name of the country from where the plant was harvested. For paper and paperboard products containing recycled content the declaration must also include the average percent of recycled content regardless of species or country of harvest.

U.S. Customs and Border Protection is currently modifying the Automated Commercial System to collect this information and the USDA does not plan to begin enforcement of the declaration requirement until that process is completed, which CBP continues to anticipate will be no later than April 1, 2009.

However, in response to public comments, the USDA is extending the schedule of

phased-in enforcement of the declaration requirement and has provided a list of products that fall within each phase, as follows.

. Present-March 2009 (phase I): plant import declaration form available on USDA Web site; domestic and international outreach will be conducted

. April 1-Sept. 30, 2009 (phase II): HTS headings 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), and 4418 (builders' joinery and carpentry of wood)

. Oct. 1, 2009-March 31, 2010 (phase III): in addition to phase II, HTS headings 4402 (wood charcoal), 4405 (wood wool [excelsior]), 4410 (particle board), 4411 (fiberboard of wood), 4412 (plywood, veneered panels), 4413 (densified wood), 4414 (wooden frames), 4415 (packing cases, boxes, crates, drums), 4416 (casks, barrels, vats, tubs), 4419 (tableware and kitchenware), 4420 (wood marquetry; caskets; statuettes), 4701 (mechanical wood pulp), 4702 (chemical wood pulp, dissolving), 4703 (chemical wood pulp, sulfate), 4704 (chemical wood pulp, sulfite), and 4705 (combination mechanical and chemical)

. April 1-Sept. 30, 2010 (phase IV): in addition to phase III, HTS headings 4421 (articles of wood, not elsewhere specified or included), 4801 (newsprint), 4802 (uncoated writing paper), 4803 (toilet or facial tissue stock), 4804 (uncoated kraft paper), 4805 (other uncoated paper and board), 4806 (vegetable parchment, etc.), 4807 (composite paper and board), 4808 (corrugated paper and board), 4809 (carbon paper), 4810 (coated paper and board), 4811 (paper coated, etc. other than 4803, 4809 or 4810), 9401.69 (seats with wooden frames), 9403.30 (wooden office furniture), 9403.40 (wooden kitchen furniture), 9403.50 (wooden bedroom furniture), 9403.60 (other wooden furniture), 9403.90.70 (wooden furniture parts)

The USDA is seeking comments by March 24 on (a) the products covered under phases III and IV, (b) whether any additional HTS chapters should be included in this schedule and (c) how the declaration requirement should be enforced with respect to products not listed in this schedule.

**Scope of Affected Goods Narrowed.** The USDA will only require a declaration for the product being imported and not for sundries that ordinarily accompany it, such as tags, labels, manuals and warranty cards.

**\* In addition, the USDA will only enforce the declaration requirement for formal consumption entries (i.e., most commercial shipments). It does not currently intend to enforce the declaration requirement with respect to informal entries (i.e., most personal shipments), personal importations or mail (unless subject to formal entry), transportation and exportation entries, in-transit movements, carnet importations (i.e., merchandise or equipment that will be re-exported within a year) and foreign-trade zone and warehouse entries.**

ST&R continues to closely follow all issues concerning the Lacey Act amendments and can help you understand how it applies to your company's products and operations."

#### REFERENCES:

Sandler, Travis & Rosenberg, International  
Transportation Attorneys [www.strtrade.com](http://www.strtrade.com) // [Edward Steiner, esteiner@strtrade.com](mailto:Edward.Steiner@strtrade.com) // or [Laura Rabinowitz, lrabinow@strtrade.com](mailto:Laura.Rabinowitz@strtrade.com)

Customs / Lacey act / Page & Links -  
[http://www.cbp.gov/xp/cgov/trade/trade\\_programs/cargo\\_summary/laws/food\\_energy/amended\\_lacey\\_act/](http://www.cbp.gov/xp/cgov/trade/trade_programs/cargo_summary/laws/food_energy/amended_lacey_act/)

U.S. Harmonize Tariff -  
<http://www.usitc.gov/tata/hts/bychapter/index.htm>

If you have any questions please contact .  
Lisa Victoria Waller (English or Spanish).

#### Comments and Information Provided by:

**Lisa Victoria Waller, CHB  
Vice President**

**BDG International, Inc.  
840 Tollgate Road  
Elgin, IL 60123**

**Tel: 847-760-0014  
Cell: 630-776-5648  
Fax: 847-760-0045  
skype: lisa.victoria.waller  
[www.bdginternational.com](http://www.bdginternational.com)**

#### Freight Forwarder and U.S. Customs Broker

### Transpacific Westbound General Rate Increases

US Midwest Origins GRI  
US Gulf Origins GRI

Please note the following General Rate Increases (GRIs) for the Transpacific Westbound trade, effective April 15, 2009.

### US Midwest Origins GRI

All shipments originating from US Midwest origins destined to Asia and the Indian subcontinent shall be subject to a GRI quantum of usd 160/20' 200/40' (dry and reefer).

#### US Gulf Origins GRI

All shipments originating from US Gulf origins destined to the Indian Subcontinent shall be subject to a GRI quantum of usd 160/20' 200/40' (dry and reefer).

#### Maersk to Bump Bunker Surcharges

Increase affects services from South America to Middle East and India.

Maersk Line plans to raise bunker surcharges imposed earlier on cargo moving on its services from the West Coast of South America to the Middle East and the Indian Subcontinent.

Effective April 1, the surcharges will be \$270 per TEU and \$540 per FEU. Up from \$250 and \$500 levied at present, the carrier said in an advisory to the trade.

The revised surcharges will be \$500 per TEU and \$1,000 per FEU compared to \$470 and \$940 imposed earlier.

#### Export Documentation Requirements

Effective February, 1, 2009 Customs and Border Protection increased the fines and penalties for failure to file timely export information. Fines will range anywhere from \$1100.00 to \$10,000.00 per violation. This was following the Census Bureau's final rule to amend its regulations to implement provisions in the Foreign Relations Authorization Act.

In response to the enforcement of CBP's increased penalties for export violations, ocean carriers and NVOCC's have implemented a strict "no docs, no load" policy.

At the time of booking BDG is made aware of the documentation cut off for each shipment. We will be

providing this date to our clients in conjunction with the export booking information. The documentation cut off may be the same as the rail or port cut off or as early as the date of the vessel docking in a US port. We are working to establish some guidelines for our customers in conjunction with the requirements of each carrier.

In the meantime shippers should be prepared to submit a proforma invoice or Shippers Letter of Instruction as early as the date of booking so we can file for timely export clearance to avoid roll fees and late documentation fees as assessed by carriers.