

March 6, 2009

Via electronic submission at <http://www.regulations.gov>
re: Docket No. APHIS-2008-0136

TO: Animal and Plant Health Inspection Service

RE: Ahlstrom USA Inc. Opposition to Form of Import
Declaration Required by the Lacey Act Amendments
Docket No. APHIS-2008-0136

Dear Sir or Madam:

This letter sets forth the comments of Ahlstrom USA Inc. ("Ahlstrom") on behalf of itself and its subsidiaries in response to the Federal Register Notice, Vol. 74, No. 2 ("Notice"), published Monday, January 5, 2009, by the Animal and Plant Health Inspection Service ("APHIS"), Docket No. APHIS-2008-0136, seeking an extension of approval of an information collection and comment request concerning the Lacey Act Declaration Requirement.

Ahlstrom strongly opposes the proposed format of the Plant and Plant Product Declaration Form PPQ Form 505 (the "Declaration") because its burdensome requirements will impede the flow of international trade, will add unnecessary costs to importation, and will compel the disclosure of proprietary information by importers. Ahlstrom urges APHIS to reconsider the form of the Declaration, and to adopt an alternative which will not burden importers or hamper trade.

I. Background

Ahlstrom is a corporation duly organized and existing under the laws of the State of Delaware, with headquarters in Windsor Locks, Connecticut. We have six (6) subsidiaries with nine (9) manufacturing sites, and together with those subsidiaries, we are a leading manufacturer of specialty papers and nonwovens. In our manufacturing, we use raw materials, including imported wood pulp, to produce "roll goods" for customers who use them to manufacture hundreds of products used every day, such as medical face masks, drapes and gowns, food tray pads, water, air and transportation filters, flooring coating, labels and tapes, and wipes, including baby, medical and automotive.

II. The Current Format of the Declaration Will Severely Hamper Trade in Certain Affected Imported Goods, Will Force Importers to Disclose Their Proprietary Information, and Will Not Further the Goals of the Lacey Act

A goal of the Lacey Act, as amended, is to prevent the illegal harvesting of plants, woods, and products thereof. While the goal is admirable, the Declaration does not assist in that goal. Instead it will impose time and financial burdens on the importer and will divert government resources towards the processing of unnecessary information during the current economic crisis when resources are scarce. The Declaration imposes an affirmative duty on importers and relevant government agencies to gather, declare, and process information about plant and plant products that have been *legally* harvested. This information will then need to be analyzed and shared among agencies. This process actually distracts from the goal of preventing the illegal harvesting of plants, and is an unnecessary administrative

exercise which adds time and expense to already burdened importers and governmental agencies, without targeting illegal harvesters.

A. The Burden on Importers for Compliance Is Severely Underestimated

In the Notice, APHIS sets forth the estimated time and paperwork burden on importers required to comply with the Lacey Act, but has grossly underestimated that burden. APHIS estimates that an importer will file one Declaration per month, 12 per year, which is based on importing one container per month (see box number 3 of the Declaration). However, at one site alone, Ahlstrom imports more than 50 containers per month, and presumably must complete a declaration for each one.

If every importer averaged a mere five containers per month, five Declarations would be required, totaling 60 Declarations per importer per year (not the estimated 12). Based on APHIS's estimated number of importers of 279,398, the estimated annual number of Declarations filed will approach 17,000,000 – five times the estimate from APHIS. Additionally, such filings at 1.5 hours each will place a total annual burden on respondents of over 25,000,000 hours (not the estimated 5,029,164 hours proposed by APHIS) – this is over 2,000 years.

Even if the information is electronically processed, the sheer volume of data to be processed will be enormous. Imposition of the added requirements on importers, when American businesses are facing lay-offs and furloughs, must be undertaken with care and consideration. Notably, while American importers will need to rely on foreign suppliers for some of this information, neither those suppliers nor foreign competitors will be burdened; rather, the burden will be on U.S. importers to comply or face stiff penalties.

B. The Proposed Declaration Will Reveal Proprietary Information

The Declaration requires disclosure of information beyond what is currently required by Customs. A tariff classification can be relatively broad and encompass different products within a particular subheading. With the new requirements, however, the country of origin, and the genus and species of a plant or plant product must be declared. This information may be proprietary to an importer. APHIS itself has instructed importers that the country of harvest is not necessarily the same as the country of origin currently required on customs documentation. Some types of wood pulp are generally known in the industry, while others are proprietary. In Ahlstrom's case, the type, source, quantity and cost of our raw materials are considered highly confidential. Therefore, revealing any of this information may allow competitors to access what is considered proprietary sourcing information, thus hindering American manufacturers in remaining competitive in our dealings with both our foreign suppliers and competitors.

Moreover, there may be a situation wherein a manufacturing importer's customer will require this proprietary information if it re-imports certain products that still fall within the scope of the Lacey Act. Again, we as a manufacturer may be forced into revealing confidential information so that our customer will be able to file the Declaration. Such a situation could threaten the competitive position of American importers.

C. Collection of Information Will Not Assist With Goal of Lacey Act, as Amended

Even with the recent narrowing of the tariff classifications affected by the Lacey Act, the number of products impacted remains extensive. Customs will need to gather the required information, process it, organize it into a useful format, and then analyze and disseminate it. The result will be a list of importers who are following the law. But how this information can be practically utilized in accomplishing the goals of the Lacey Act is doubtful. In reality, there will be an overwhelming amount of data collected every day, which data will show only the importers who comply with the law. The non-compliant importers will not declare information showing that they are using illegally harvested plants. The Declaration is a feel-good measure with no practical utility towards accomplishing the goals of the Lacey Act.

III. Alternative Formats

Focusing on the types of plants and plant products that are being illegally harvested and seeking certification from importers that they do not deal in these types of plants or woods will actually decrease the amount of information gathered and make for a more manageable and useful database. This type of certification is used today by manufacturers, such as a certification that a manufacturer does not use wood from rain forests, and could be a model format for a revised Declaration.

IV. Conclusion

While the ultimate goal of the Lacey Act is admirable, the practical effect for U.S. importers in complying with the Act's onerous requirements is that trade will be slowed, extensive time expended, and huge financial burdens incurred. Ahlstrom urges APHIS to reconsider and revise the format of the Declaration.

Sincerely,



David T. Pluta
Vice President and General Counsel