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Docket: APHIS-2008-0136

Extension of Approval of an Information Collection; Lacey Act Declaration Requirement; Plants and Plant Products

Comment On: APHIS-2008-0136-0001

Notice of Request for Extension of Approval of an Information

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General Comment

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Regulatory Analysis and Development

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Subject: Written Comments on Notice of Request for Extension of Approval of an Information Collection; Lacey Act Declaration Requirements; Plants and Plant Products, Docket number APHIS-2008-0136

To Whom It May Concern;

IKEA Wholesale Inc. appreciates the opportunity to provide comments to the above mentioned legislation and Federal Register notice published on January 5, 2009.

IKEA Wholesale Inc. ("IKEA") is part of the IKEA group of companies and is an importer of home furniture and various home furnishing articles. IKEA views wood as an excellent choice from a thriftiness, innovative and environmental point of view because it is a renewable, recyclable and biodegradable resource. It is important to IKEA that the wood it uses in its products comes from responsibly

managed forests. At IKEA, we try to treat wood as the valuable resource it is. Economizing with renewable resources is part and parcel of the IKEA approach to product development. It helps to save not only money, but the environment, too. The principle is to make use of as much of the material as possible, and designers and product developers are constantly searching for new techniques to get the best possible return from every tree trunk.

IKEA understands the need to prevent illegal logging practices around the world and this view is supported by our work with such environmental organizations as: Forest Stewardship Council, World Wildlife Foundation, Greenpeace International, Rainforest Alliance, Yayasan Sabah Group, and the Swedish University of Agricultural Sciences, among others.

In light of this background, IKEA does not see the practical utility in requiring an importer of plant or plant products, which in many cases will be two, three or more steps removed in the supply chain from the harvesting of initial trees, to complete an import declaration form with this amount of detail. The requirement of the declaration at the time of entry places an undue burden on the importer for information that in most cases will not even be used for import clearance or any investigation. IKEA anticipates having to make of approximately 200,000 declarations, based on FY2008 import numbers as reported by Customs and Border Protection. Based on APHIS' own estimate of 1.5 hours to collect information to complete each declaration, IKEA will spend an estimated 300,000 hours collecting information for declarations. This equates into having to add 192 people just to collect information for declarations at the time of entry for one company. This does not include the systems costs in development, programming and communications that must be developed to handle the transmission of these declarations. This is an extreme cost and burden to any importer, but will be devastating when applied to the industries targeted in the February 3, 2009 notice on the implementation of revised Lacey Act provisions, specifically the lumber, board, paper and furniture industries.

IKEA believes that the burden estimate provided by APHIS in this notice is severely underestimated for the legislation as written. IKEA which represents only 4.8% of the U.S. furniture market is estimating we will make close to 200,000 declarations at the entry level based on entries filed during FY2008. While IKEA recognizes that not all importers will have the volume of declarations that IKEA is expecting to have to make, 200,000 is a significantly higher number than the average of 12 annual declarations APHIS has in its estimate.

IKEA believes that a simple declaration that the product to the best of the importer's knowledge complies with all applicable laws governing the harvest of plants and that the specific traceability information pertaining to genus, species, and country of harvest are available upon request would be far more administratively advantageous for both the Agency and the importers. The statement could be written similar to the following:

Articles contained in this shipment comply with all requirements of the Lacey Act amendments of 2008 16 U.S.C. SS 3372. A complete listing of raw material information including genus and species, country of harvest, quantity and value breakdowns are available upon request. This statement is true and accurate to

the best of Importer's Name knowledge and ability.

The statement could be transmitted similar to a TSCA statement as the product does or does not comply with the governing laws. The importers would still have to maintain the traceability of their plant or plant products to be able to answer requests for the information for specific products. This would reduce the amount of data required at the time of entry and reduce the amount of information that Customs and Border Protection systems would have to retain in association with the electronic entry but that CBP does not review. This statement and request process would relieve the importer from the administrative nightmare of having to produce unique and specific declarations for shipment at the time of entry. The importer would provide APHIS, CBP, or any other government agency that requested the traceability information just the information that would be necessary for specific products upon request similar to CBP's CF28 Request for Information. This process has successfully been used by CBP in the requesting of production records to substantiate preferential treatment claims made at the time of entry under numerous trade agreements and duty saving programs with no delay in the movement of goods, limited administrative costs for the importer, and minimum delays in having the information provided to CBP when performing a specific investigation of an article, supplier or importer.

While this scenario does not match the exact declaration mandated in 16 U.S.C. SS 3372(f), we believe that 16 U.S.C. SS 3376 allows the Secretary to issue regulations that would enhance the quality, utility and clarity of the traceability information being collected. The above suggested statement and request scenario would fulfill all three. As already stated it would save on system resources, allow the agency to better target the information they truly need for review or investigation and would sustain the traceability originally intended by the amendments.

In order to minimize the burden of the information collection on those who are required to respond IKEA emphasizes the following two points:

- 1) The need to expand the rule for reporting of recycled material from paper products alone to include all plant and plant products.
- 2) The need for de minimis limits to be put in place for both species and lowest reportable quantity. The following illustration and descriptive information on specific materials will help demonstrate the need for the above mentioned topics

Solid wood

Harvesting for sale as solid wood is very often made in fairly limited areas compared to other uses, especially for visible use of wood. Normally the harvesting for solid wood in IKEA is limited to 3-7 countries and 2-3 species for a furniture article.

A typical IKEA producer buys solid wood from 1-2 wood suppliers and in some cases uses a sub-supplier which also buys wood from one more wood supplier.

Board materials

Board materials are mainly harvested over similar areas as for solid wood, but may contain several more species; normally 1 or 2 species makes up more than 90% of the plant material. The total number of species varies depending of area. In

Sweden you may during the course of a year have 10 different species, most in very minute volumes with a slight risk of including another 25 species in extremely minute amounts. In southern Europe, the number of potential species increases with a factor of two and in U.S. states such as VA, PA, and NY the number of species could be 4 times as high as in Sweden.

The area of harvest typically includes 7-15 countries for a European mill.

Recycled wood is also added to virgin wood and used for board production. The recycled wood appears both in the form of saw dust and as old wood from buildings, scrap pieces from product lines, etc.

A typical IKEA producer purchases boards from 3-5 different board producers, directly or via a wholesaler. In addition most have 1-3 component suppliers, each of which in turn, use board from 2-4 different board producers.

Paper

Many types of modern furniture are made using paper in different shapes for raw material-- typically as edge band, foil or melamine -- and often all three are used in the same product for different uses. With a foil for the outside from a foil supplier, which sources paper from 2 or three paper mills, which both harvest wood in the areas around the mill (approximately 350 miles) often with mixed species and being sourced from 7-15 countries. The number of species can be anything from 5-70 species in a European pulp, twice as many in a US pulp and as many as 500 in a Brazil pulp.

In addition to the "local" harvesting a mill could buy pulp from Sweden, Brazil, US, Canada, where the wood used in each pulp could be anything from 1-15 countries and anything from 20 to 720 species depending on how many regions the base pulp were purchased from.

A typical IKEA producer would probably use "paper containing" composites from as many as 2-4 different paper mills, bought through 2-3 wholesalers of materials and 1-2 of the component suppliers. The total amount of paper in flat line products is typically below 0.5% and may represent more than 50-80% of the species-countries combinations.

Recycled Material

The legislation specifically mentions that recycled materials in paper do not need to be traceable. We strongly suggest that this exception for recycled materials be expanded to include composite wood materials or any recycled plant or plant product. Furniture (and other multi-material products) is made up of multiple or composite materials, and even individual components use multiple or composite materials. Many of these composite materials are highly refined such as paper, particleboard, and medium or high density fiberboard (MDF and HDF). Most of these are multi-species materials by design or by process of manufacture.

The use of recycled materials by operators of board mills in the production of fiberboard and particle board is a standard business practice. Nearly all of the particle board, fiberboard, and hardboard IKEA uses are partly made using pre-consumer recycled sawdust from saw mills, with some board mills also using recycled wood from buildings. Identification of the species for the recycled

sawdust is extremely difficult to trace and would be nearly impossible to do for the wood recycled out of buildings.

The consequence of requiring that recycled material be traceable back to the species and country of harvest will severely hamper efforts and advances made in the recycling of wood. This will also cause an increase in the use of virgin plant materials in the production of these board materials increasing the amount of virgin trees and plants in an effort by manufacturers to reduce tracking, administration, and record keeping costs.

As mentioned above for most board material one to two species account for more than 90% of the plant material that make up most board materials. A de minimis exemption for an individual component represents less than 10% of the weight or value of a product, using our particle board example above, would allow APHIS to accurately capture 97% or more of the plant products used in the manufacture of particle board, without over burdening the entire supply chain, the importer, Customs and Border Protection, or APHIS with a listing of all possible tree species and countries from a greater geographic region.

De minimis

IKEA believes that a de minimis level for components which represent 10% or lower by weight or value should be exempted from the declaration requirement. This would allow importers to meet the reporting requirements without the concern that they would be in violation of the Act if a small percentage of material, which may or may not have been used in the production of complex articles such as board material, was not reported.

As our example from above also illustrates a de minimis level would also increase the accuracy and usefulness of the information being reported as it would allow for the reporting of the major species and remove the broad catch all species and country statements. Accurate declaration of the one or two primary species used in the board material and the few countries from which these species are harvested is much more useful when looking at traceability than a broad generalized statement that lists 25 possible species in unknown quantities from up to 15 different countries when looking at northern European board mills. When applied to domestic board mills, the species statements could include up to 100 or more possible species. It should also be noted that without a reasonable de minimis even different vines attached to the logs would have to be reported. (Logs are taken with bark and when chipped for board material, which means that vines clinging to the trees will also be chipped. This also includes any plants that get pulled out of the ground when loading the logs on trucks.)

IKEA would like to thank the USDA and APHIS for the opportunity to provide and express our concerns on this matter.

Respectfully submitted,

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