



# DOCKET NO. APHIS- 2012-0036

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## IMPORT DECLARATION REQUIREMENTS

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Domtar submits these comments in response to request for public views concerning Lacey Act Declaration Requirement; Plants and Plant Products published by the Animal Plant Health Inspection Service (APHIS) in the Federal Register Volume 77, Number 109 (June 6, 2012).

As we have discussed in previous comments, Domtar continues to strongly believe that illegal logging is a serious global problem with detrimental environmental and economic consequences and will continue to work with participating Governmental Agencies, and at all levels, on this very important issue.

Following our core values, Domtar adopted policies to combat illegal logging well prior to the introduction of the 2008 Lacey Act amendment. We invite you to review our Lacey Act due care program which is a documented collection of our policies and processes demonstrating the efforts deployed in our obligation and the obligation of all forest products companies to provide not only legal, but also environmentally and socially appropriate practices that yield forest products. [http://www.domtar.com/files/sustainability/Lacey\\_Act\\_Due\\_Care\\_Program\\_0511EN.pdf](http://www.domtar.com/files/sustainability/Lacey_Act_Due_Care_Program_0511EN.pdf)

Production of pulp and paper is a continuous manufacturing process where wood chips are processed in the following order:

- **various species** of trees [hardwood & softwood] are purchased, ensuring they are legally sourced from forest products companies in accordance with Domtar policies,
- logs are **transformed** into wood chips at each mill, or, ensuring they meet Domtar's sourcing requirements, we purchase wood chips from third parties,
- wood chips are blended, then “cooked” with chemicals, heat and pressure to produce pulp and,
- the pulp is transferred to another machine to be made into paper or dried for shipment as market pulp.



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As we have repeatedly said in written and oral comments, determining the exact quantity and genus/species used in the production of pulp & paper is not possible due to the magnitude and inability to gain exact measurements from sourcing. The import declaration requirement impedes our ability to meet §3372(f)(1)(A)(B)(C)<sup>1</sup> triggering a violation of the Lacey Act and that despite all our efforts in combatting illegal logging.

Each year Domtar originates approximately 40,000 shipments of pulp and paper from mills in Kamloops BC, Dryden, ON, Espanola ON, and Windsor QC to customers in the United States. The wood fiber for these products originates wholly from within Canada and the United States, with the genus and species varying according to each geographical region.

The exacting reporting requirements that are currently applicable under Lacey (exact quantity, genus and species) cannot be met for our products. While we generally know the quantity and species, we cannot attest to the level of specificity required to meet existing import declaration requirements. On a consistent basis Domtar would be able to provide, at best, list of species that may be contained in the production of pulp & paper including the country(ies) of origin of the wood but **not** to the exactitude required by Lacey.

While Domtar can see the value of such information for certain products, we do not believe requiring information that is essentially impossible to determine aids in the laudable goal of preventing illegal logging. We also do not believe this information has any practical utility to the Agency or CBP as a risk assessment tool, particularly since pulp and paper is a highly refined product where the cellulosic fiber from times undergoes a complete transformation. Identifying specific fibers in a pulp and paper product, then determining the genus and species requires a high degree of technical proficiency.

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<sup>1</sup> Lacey Act import declaration requirements which must contain, among other things, the scientific name of the plant, value of the importation, **quantity of the plant used (including the unit of measure)**, and name of the country from which the plant was harvested.



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The annual cost of the import declaration requirement is estimated by Domtar to be in excess of \$80,000. Additional customs brokerage charges for the PPQ505 form will result from implementing current import declaration requirements on pulp and paper products. In addition, shippers will have to absorb additional costs to upgrade systems and implement training. Technology costs, additional maintenance costs and man-hours spent from our marketing and customer service personnel in responding to the numerous calls from our customers requesting that we divulge the species used in our products all must be factored in to the overall cost of Lacy compliance.

Another important point is that the import declaration requirement will compel us to divulge **proprietary information** not only to our customers, but also to competitors. Some of our product has unique “recipes” and we will be disadvantaged by disclosing this information to competitors.

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### ALTERNATIVES TO THE IMPORT DECLARATION REQUIREMENTS AS A MEAN OF PREVENTING ILLEGAL LOGGING.

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The Agency should consider having the first company introducing (or bringing) a wood product, or wood to the market for the first time to exercise due diligence with its suppliers attesting they do not practice illegal logging.

1. Presumption would be that if product is obtained from a legal source the first time it remains legal throughout its manufacturing cycle regardless its end use by the industry.
2. We recommend that the manufacturing identification number (MID) currently in place by CBP on form 7501 [entry summary] be used as a risk assessment tool.
3. The MID would be linked with the APHIS registry. Similar to goods subject to FDA requirements.



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4. Domtar would support any information necessary to APHIS in their duty of performing risk assessments along with our due diligence process and direct link to all of our certificates such as FSC, SFI, SFI chain of custody, PEFC, CSA, ISO etc.
5. We would welcome any guidelines provided by to be include as part of our due diligence methodology
6. We also recommend to include a statement on our import documentations and/or included on the 7501 along with our MID as part of our declaration fulfilling our obligations with Lacey.
7. The same MID number shall be given to our customers in Canada and US importing in the United-States as opposed to divulging all of our species, which again would simply be duplicative information.
8. Any company not registered with APHIS shall be subject to the import declaration requirements on form PPQ505.
9. If the agencies determine an Import Declaration Requirement is required for forest products, including pulp and paper products, in order to achieve a workable solution, we need to have consideration given to our unique circumstances. We therefore suggest:
  - a. Allow quantities to be expressed in ranges. For example, allow us to report along the lines of: 30-35% maple, 27-32% birch, 25-30% aspen and 7-10% ash.
  - b. Change the declaration from that of an absolute, to one whereby we are declaring “we are reporting to the best of our knowledge.” This change is needed in the event an errant woodchip (in the stream of billions and billions of woodchips handled each day enters our fiber stream without our knowledge.



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### Conclusion

Domtar fully committed to ensure that illegal material does not enter into the productions of our products through strict values, policies and procedures. We support the Lacey Act and its contribution toward preventing illegal logging.

Despite all our efforts in prevention of illegal logging, the import declaration's requirements in its current form are not realistic and require information that is not possible to provide. The requirements could trigger a Lacey Act violation because we cannot say with absolute certainty the exact quantity, genus and species and each (of the billions of) wood chips we process every day.

We would like the Agency to recognize the uniqueness and the difficulty of our industry to provide and comply in its current form and continue working with APHIS and CBP for a solution viable to all.

Domtar is pleased to have a continuing opportunity to provide feedback and comments and will continue to work with participating Government Agencies on this very important issue.

Should you require any additional information please do not hesitate to contact the undersigned.

Yours truly,

*Giuseppe Lobelia*  
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