



International Trade Association of Greater Chicago

**Presented by
BDG International, Inc**

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Credentials:

**Bachelors of Science in International Business
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Licensed Customs Broker

Certified Customs Specialist

Certified Export Specialist

IATA (International Air Transportation Association) Certified

DG (Dangerous Goods) Certified

Committee head for Export Compliance of the CBFFAC

Committee member of Export Compliance of the NCBFFA

*** BDG International Inc. Security Administrator**

- CTPAT, TSA, ISF, AES, USC





(3 sectors)

(1) DHS

- CBP (Customs & Border Protection)
 - APHIS – Animal Plant Health Inspection Services
- USCG (U.S. Coast Guard)
- ICE (Immigration & Customs Enforcement)
- TSA (Transportation Security Administration)
- USCIS (US Citizenship & immigration Services)

(2) other FED

- DOC (Commerce)
- DOJ (Justice)
- DOS (State)
- DOT (Transportation)
- GSA (General office)
- HHS (Health Services)
- Intelligence
- **USDA (Agriculture)**
 - **Veterinary Services**

(3) PUBLIC SECTOR

- **Congress (rep Citizens)**
- **Trade / Attorneys**

Lacey Act Awareness



“Protecting our
Trees and Plants”



The Lacey Act

- Original Act passed in 1900
- Introduced by Congressman John Lacey of Iowa
- Originally was to prevent foreign birds from being introduced into our environment which may harm agriculture.
- Control for poaching
- Control for out of season hunting



1930-1981

- 1930 - Added: Black Bass Act along side Lacey
- 1935 – Expanded the Fish and Wildlife provisions (including Marking requirements)
- 1947 – Black Bass Act was expanded to incl all game fish
- 1952 – Expanded to include all fish
- 1969 – Along with Lacey and Black Bass Act and Endangered Species Act now included Amphibians, reptiles, mollusks and crustaceans
- 1981 Combined Lacey and Black Bass Act
- 1988 Expanded processes for Lacey



Lacey Act Purpose Today:

- Regulate Markings of F&W, Failure to mark
- Prohibit the falsification of documents of wildlife shipments
- Prohibit the trade in wildlife, fish or **plants** that have been illegally taken



Who administers the Lacey Act?

- Department of Interior
 - U.S. Fish and Wildlife Service
- Department of Commerce
 - National Marine Fisheries
- Department of Agriculture
 - Animal and Plant Health Inspection Service

WANTED - DEAD OR ALIVE!



Originating from
Any part of the world.



Plant and Plant Material

- Any wild member of the plant kingdom, including
 - ROOTS
 - SEEDS
 - And parts thereof
- Excludes :
 - Common Food crops
 - Common Cultivated plants i.e. apples



Department of Interior

- May 22 2008
 - US Congress passed law banning commerce in illegally sourced plants and their products



2008 made the following changes:

- Prohibits all trade in plant and plant products that are illegally sourced from any U.S. State or any foreign country.
- Requires importers to declare country of origin or harvest and species name of all plants contained in their products
- Establishes Penalties
 - Seizure, fines and jail time



PLANTS include:

- Plants
- Trees
- Roots
- Seeds
- Nuts
- Plant Material (i.e. Pulp, fiber)



Lacey act includes:

- DOMESTIC CARGO
- CANADA
- MEXICO
- HAWAII / ALASKA
- PUERTO RICO and other U.S. freely associated states



Marking requirements:

- Mark and Label containers of Fish and Wildlife
 - Species
 - Country of origin (Harvest) of Fish and Wildlife item
 - Different from Country of Export or Country of Manufacturer
- Lacey Act does NOT designate Marking for Plants and Plant material



Documentation requirements:

INCLUDES Plants and Plant material

- penalizes the making or submitting of any false record, account, label, or identification of a wildlife shipment
- interstate commerce as well as International
 - watch your U.S. Goods Returned
- violation of this section carries either a misdemeanor or felony penalty, depending on certain factors



Lacey Act – Violations cover:

- - import, export, transport, sell, receive, acquire, or purchase
- - wildlife, fish, or plants that have been
- - taken, possessed, transported, or sold in violation of a
- - state, federal, foreign, or tribal law or regulation.



What does transport mean?

- The Lacey Act broadly defines "transport" to mean "move, convey, carry, or ship by any means, or to deliver or receive for the purpose of movement, conveyance, carriage, or shipment."



Possession is culpability

- The Lacey Act violator need not be the same person who took, possessed, transported, or sold the wildlife in violation of the underlying law.



Ignorance is not a defense.

- Similarly, the government is not required to prove that the defendant knows which underlying law was violated or the nature of the violation. [FN247] Neither must the government prove that the defendant knew of the Lacey Act or knew that he violated it. [FN248] The government need only prove that the defendant knew the wildlife was, in some fashion, taken, possessed, transported, or sold illegally. [FN249]



Exception:

- Cargo considered to be illegal may be Trans-Shipped via the U.S.
- Must be legally taken
- Final destination must allow the item



Felony versus Misdemeanor

■ Felony:

- Having knowledge
- Developing a cover up
- Fraudulent documents
- Over the value of \$350 + one of the other factors

■ Misdemeanor

- Violator should have known,
- There was not outright fraud
- use of due care

Penalties provided by the Lacey Act

- Civil fine up to : \$10,000
- Criminal Sanction: Federal Violation
 - Congress recently reclassified all fed criminal violations & increased their fines. [FN302] thus, max prison terms provided for in the Lacey Act are accurate,
 - the one-yr max penalty are now Class A misdemeanors, carrying a max penalty / 1 yr + maximum fines of \$100,000 for individuals & \$200,000 for organizations
 - [FN303] Lacey violations of 5 yr max penalty - now Class E felonies, [FN304] max penalty of 5 yrs // [FN305] & max fines of \$250,000 for individuals & \$500,000 for organizations [FN306]



More penalties:

- Permit Revocation
- Forfeiture of
 - commodity in question
 - Vessel, vehicles, aircraft and equipment involved

HOW DO WE COMPLY?





Qualify, verify and research:

- Qualify your supply chain
- Verify your supply chain
- Research your commodities
 - What is the commodity made of?
 - Where do they come from?
 - Are they considered protected?
 - Are they considered illegal?



CLASSIFY your product.

- Once you know that you have a product made of a plant or plant material
 - Obtain the genus and species of the plants
 - Find out the country of Harvest
 - Go to the **CITIES** website to research your product.



CITES

<http://www.cites.org/>

(the Convention on International Trade in Endangered Species of Wild Fauna & Flora)

- CITES was drafted as a result of a resolution adopted in 1963 at a meeting of members of IUCN
 - (The World Conservation Union).
- is an international agreement between governments.
- Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival.



SPECIES COVERED

- The species covered by CITES are listed in three Appendices, according to the degree of protection they need.

Appendices I and II

- Appendix I includes species threatened with extinction. Trade in specimens of these species is permitted only in exceptional circumstances.
- Appendix II includes species not necessarily threatened w/ extinction, - trade must be controlled to avoid utilization incompatible w/survival.
 - The Conference of the Parties (CoP), the supreme decision-making body of the Convention /comprises all its member States, agreed Resolution Conf. 9.24 (Rev. CoP14) on a set of biological & trade criteria to help determine whether a species should be included in Appendices I or II.



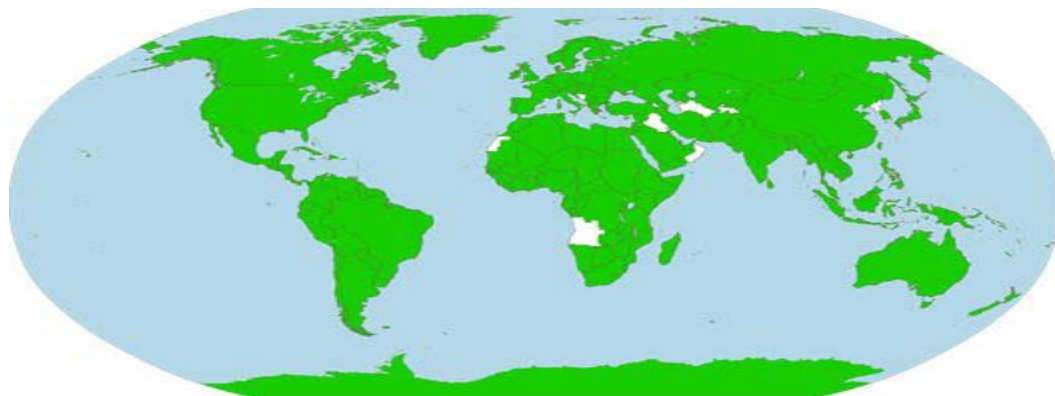
- **Appendix III**

- This Appendix contains species that are protected in at least one country, which has asked other CITES Parties for assistance in controlling the trade.

Member countries

<http://www.cites.org/eng/disc/parties/alphabet.shtml>
1

- Most countries listed – please look at website





EXPORT QUOTAS

<http://www.cites.org/eng/resources/quotas/index.shtml>

Export quotas are usually established by each Party

(member State)

unilaterally but can also be set by Conference of the Parties,

and they generally relate to a calendar year .



FLORA – Plants & Trees

- <http://www.cites.org/eng/resources/ID/index.php>
- **Search by FLORA**
 - **Country / Species or Parts**
 - Provides the list of protected plants and trees
 - Unknown if this there are other impeding regulations but this is a good start.
- The other option is Fauna (animals)
 - This is where you can look up wildlife



ILLEGALLY SOURCED??

- Content of the sovereign nations own laws
 - ?????
 - Check with your supplier – but who receives the fines?
 - Receive cert – okay but how do I know that this is not protected???



Classify your commodity through the HTSUS.

- At the same time you can classify your product with the HTSUS code

<http://www.usitc.gov/tata/hts/bychapter/index.htm>

<http://rulings.cbp.gov/index.asp>

http://www.cbp.gov/xp/cgov/trade/legal/informed_compliance_pubs/



Need more data?

- Contact : Customs Broker, Customs attorney or Customs & Border Protection
 - Apply for a binding ruling to clarify the HTSUS.
- Then confirm against the Lacey List



COMMODITIES EFFECTED in 2009

April & October 2009

- 4401 Fuel Wood
- 4403 Wood in the rough
- 4404 Hoopwood; poles, piles, stakes
- 4406 Railway or tramways sleepers
- 4407 Wood sawn or chipped lengthwise
- 4408 Sheets for Veneering
- 4409 Wood Cont Shaped
- 4417 Tools, Tool handles, Broom handles
- 4418 Builders joinery and carpentry of wood
- 4402 Wood charcoal
- 4412 Plywood, veneered panels except for :
 - 4412.99.57 and 4412.99.06
- 4414 Wooden Frames
- 4419 Tableware & kitchenware of wood
- 4420 Wood marquetry, caskets and statuettes



April 2010

- 4421 other articles of wood
- 6602 Umbrellas, walking sticks, riding crops
- 8201 Hand tools
- 9201 Pianos
- 9202 Other stringed instruments
- 9392 Revolvers and pistols
- 9302.10.20 Parts and accessories for revolvers and pistols
- 9401.69 Seats with wood frames
- 9504.20 Articles and accessories for billiards
- 9703 Works of art - sculptures

PPQ 505 / April 2009



Form for declaring the commodities
covered under Lacey.

PPQ 505 – Section 1

Standard shipping details

- 1. Date of arrival (first port of arrival into U.S.)
- 2. Entry #
- 3. Container # (leave blank if no Cntr)
- 4. B/L # (leave blank if no b/l)
- 5. MID # (19 CFR Appendix to Part 102)
- 6. Importer Name 7. Importer Address
- 8. Consignee Name 9. Consignee Address

I certify under penalty of perjury that, to the best of my knowledge and belief, the information furnished is true and correct:

Signature / Name / Date



PPQ 505 - Section 2 - Description

- 10. Description of Merchandise
 - Enter the plant or plant product and its use
 - (Bamboo toothpick, kitchenware)
- 11. HTSUS #
- 12. Entered Value
 - Find out your Customs Value by speaking with your broker.



PPQ 505 – Section 2 - Detail

For each article or component of an article,
provide the following

13. Article / Component of Article
14. Plant Scientific Name
(Genus and Species)
15. Country of Harvest
16. Quantity of Plant Material

17. Unit of measure
 1. (use the metric system)
18. % of Recycled Material

I certify under penalty of perjury that, to the best of my knowledge and belief, the information furnished is true and correct:

Signature / Name / Date



Unit of Measure

- doz - dozen
- kg – kilograms
- m - meter
- m² -square meters
- m³ - cubic meters
- t - metric tons
- bf - board feet



May 1 2010 – APHIS update

- On the PPQ 505
 - Do not use:
 - No. - number
 - pcs - pieces

- Actual plant content

- Two month grace period from
 - May 1 – July 1



Submission of Paper Declaration:

- Importers should have the form available for Customs and Border Protection (CBP) to review at the port of entry. After CBP clears the shipment, the importer must mail the form to the USDA at the following address:
 - The Lacey Act c/o U.S. Department of Agriculture
Box 10 4700 River Road Riverdale, MD 20737



SPECIAL NOTE:

- IF YOU HAVE FILED A LACEY ACT DECLARATION ELECTRONICALLY THROUGH THE CUSTOMS SYSTEM, THERE IS NO NEED TO FILE A PAPER DECLARATION.



Due care !!

- Degree of care in which you have qualified the commodity
 - Document your findings
 - Question supplier
 - Purchase agreement t&c
 - Purchase order requirements for cert
 - Obtain cert prior to shipping



Lacey Act - More questions

http://www.aphis.usda.gov/plant_health/lacey_act/index.shtml

Forms available on line.

Also contact your local Customs Broker and we will work with you to obtain Binding Rulings, proper Customs Entry, and details that you may need for the PPQ 505.





Thank you for attending !!



- Help prevent deforestation
- Protect our Global environment
- Keep the world beautiful.
- Be in compliance.