

To: Our Clients and Friends

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APHIS Postpones Enforcement of Lacey Act Declaration Metric Requirement

The Animal and Plant Health Inspection Service (APHIS) recently announced a grace period on the enforcement of the metric quantity and units of measure requirement. Under the 2008 amendments of the Lacey Act, the quantity and unit of measure of imported plant material on the Plant and Plant Product Declaration must be reported using standardized metric units (*i.e.*, kg, m, m², m³) beginning May 1, 2010. While importers should use metric units as soon as they are able, the grace period recently announced by APHIS postpones the enforcement until July 1, 2010.

Once enforcement begins, APHIS will no longer accept units of measure in denominations such as pieces, number, or boxes. The purpose of this requirement is to create a uniform dataset. According to APHIS, counts of items do not adequately address the “quantity of the plant material” requirement under the Lacey Act. Furthermore, differences in weight or size between the different plant items are not reflected by simple counts. The grace period allows the trade community some time to make the necessary changes to adjust to the metric system.

Bryan Cave’s International Regulatory Bulletin (IRB) No. 464, issued on April 15, 2010, outlines the new plant and plant products declaration requirements and a recent enforcement action taken by the U.S. Fish and Wildlife Service pursuant to suspected illegal importation of Madagascar rosewood by Gibson Guitar. The Lacey Act, as amended in 2008, makes it illegal for any person to import, export, transport, sell, receive, acquire, or purchase any plant or plant products taken, possessed, transported, or sold in violation of any U.S. law, treaty or regulation, State law or regulation, or foreign law. The amendment also requires import declarations covering plant products to be filed with the U.S. Department of Agriculture. The declaration requirement went into effect in phases, with the most recent phase becoming effective on April 1, 2010.

IRB No. 464 also urges importers of plant and plant products to exercise due care in ensuring that shipments are obtained legally by checking chain-of-custody certificates and other documentation and establishing a standard procedure in procuring wood products from suppliers.

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