

Timber Importation - Shipment Unprocessed/Primary Processed

CITES - Designated Port; 50 CFR 24

Leave foreign country

Not CITES - Any Port

Marking/Documentation Requirements

APHIS/PPQ; 7 CFR 319.40-2, 40-9

All, marked with genus and species of tree from which derived, country and locality where tree was harvested, quantity to be imported, use for which imported

If CITES species, document accompanying shipment must show genus and species, quantity of each, country and locality where collected from the wild or produced from cultivated stock, name and address of shipper, owner or person shipping or forwarding the plants, name and address of consignee, serial number and the type of document issued for importation, exportation or re-exportation

Customs: 19 CFR 142.3, also 141.11, 141.81

Invoice, Packing list, BOL or air waybill, entry summary (Customs form 7501), Customs form 3461 or 7533, USDA plant (general and/or protected) permits and/or CITES permits if applicable

Lacey Act Amendments: 16 U.S.C. 3372(f)(1) effective Nov. 17, 2008

Declaration of genus and species, value, quantity with unit of measure, and country where taken (except for material used exclusively as packing in a shipment)

Documents usually submitted by broker, NOT paperless entry

Permit Requirements

Permit to Import Regulated Articles; 7 CFR 319.40-4 (unless from Canada or Mexico)

If CITES species, Protected Plant Permit; 7 CFR 355.11 and CITES permits and/or re-export certificates, 50 CFR 23.12

Timber Importation - Shipment Unprocessed/Primary Processed (con't.)

Notification requirements

Advanced notice required 7 days prior to anticipated arrival in U.S.; 7 CFR 319.40-9
CBP Ag Specialist notified by DHS-CBP (per 2003 MOA);
if CITES, importer must so notify DHS-CBP upon arrival at designated port; 7 CFR 355.20(b)

Document/Shipment Review and Inspection

CBP reviews paper only, may or may not inspect containers
If inspect boxes and see pest issues, prepare 309 pest interception record that goes to PPQ for pest ID
If actionable pest found or treatment required, complete EAN and safeguard product til action taken

CBP itself would stop shipment for fraud only
If no fraud seen, no CITES declared, no violation history, regular commercial entry made per MOU with USDA

If CITES declared, take original permit, stamp, return copy to importer, periodically send all originals to FWS DMA
(originals sometimes remain only in CBP local port file; copies remain in CBP local port file for 5 years)

If CITES but lacks permits, CBP holds shipment, notifies APHIS PPQ which usually has responsibility for seizure, but does not notify FWS DMA; BUT if problem is belated CITES permit, CBP/PPQ will release upon permit arrival

Records in local office 3-4 months, then offsite storage filed by vessel and date of entry for 5 years

Unresolved problem with CITES shipment

- CBP gathers all relevant documents and turns them over to local USDA/APHIS/PPQ, holds shipment or release for transport from CES station, transport undertaken by importer; Inter-agency document transfer occurs by varied methods; MOA provides for direct referral from CBP to PPQ CITES Coordinator
- Local PPQ (if available) may handle initial investigation; if concern remains will contact PPQ CITES specialist (SF, Tim Torbett; JFK, John Arcery)
- No notification provided to FWS DMA

Timber Importation, Shipment, Processed

CITES - Designated Port; 50 CFR 24

Leave Foreign Country

Not CITES - Any Port

Marking/Documentation Requirements

APHIS/PPQ: 7 CFR 355.20

If CITES species only

document accompanying shipment must show genus and species, quantity of each, country and locality where collected from the wild or produced from cultivated stock, name and address of shipper, owner or person shipping or forwarding the plants, name and address of consignee, serial number and the type of document issued for importation, exportation or re-exportation

Customs, All: 19 CFR 142.3, also 141.11, 141.81

Invoice, Packing list, BOL or air waybill, entry summary (Customs form 7501), Customs form 3461 or 7533
These above documents do not require wood species to be described or declared **except** to the extent the applicable tariff code is species specific; examples: 4403.41.00.00 Wood in the rough...Dark Red Meranti, Light Red Meranti and Meranti Baku; 4403.91.00.20 Wood in the rough...red oak

CITES permits/certificates if applicable

Lacey Act Amendments: 16 U.S.C. 3372(f)(2) effective Nov. 17, 2008

Declaration of scientific name of wood used in product if known or, if not, all species that may have been used to produce product, country where taken if known or, if not, all counties where it may have been taken; value, quantity with unit of measure; and, if recycled contents, average % thereof (except for material used exclusively as packing in a shipment)

Documents usually submitted by broker, NOT paperless entry

Permit Requirements

If CITES species only, Protected Plant Permit; 7 CFR 355.11 and CITES permits and/or re-export certificates, 50 CFR 23.12

Timber Importation, Shipment, Processed (con't.)

Notification requirements

Advanced notice required 24 hours prior to anticipated arrival in U.S. or wheels up for air shipment; 19 CFR 4.3, 122.31
CBP Ag Specialist notified by DHS-CBP (per 2003 MOA);
if CITES, importer must notify DHS-CBP upon arrival at designated port, 7 CFR 355.20(b)

Document/Shipment Review and Inspection

CBP reviews paper only, may or may not inspect containers

If inspect boxes and see pest issues, prepare 309 pest interception record that goes to PPQ for pest ID

If actionable pest found or treatment required, complete EAN and safeguard product til action taken

CBP itself would stop shipment for fraud only

If no fraud seen, no CITES declared, no violation history, regular commercial entry made per MOU with USDA

If CITES declared, take original permit, stamp, return copy to importer, periodically send all originals to FWS DMA
(originals sometimes remain only in CBP local port file; copies remain in CBP local port file for 5 years)

If CITES but lacks permits, CBP holds shipment, notifies APHIS PPQ which usually has responsibility for forfeiture, but does not notify FWS DMA; BUT if problem is belated CITES permit, CBP/PPQ will release upon permit arrival

Records in local office 3-4 months, then offsite storage filed by vessel and date of entry for 5 years

Unresolved problem with CITES shipment

- CBP gathers all relevant documents and turns them over to local USDA/APHIS/PPQ, holds shipment or release for transport from CES station, transport undertaken by importer; Inter-agency document transfer occurs by varied methods; MOA provides for direct referral from CBP to PPQ CITES Coordinator
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- No notification provided to FWS DMA

POTENTIALLY RELEVANT U.S. STATUTES

- ALL PLANTS
 - Customs Laws: 18 U.S.C. 541, 542, 545
 - Plant Protection Act, 7 U.S.C. 7734
 - Class A misdemeanor (1 year, \$100,000 or twice the gross gain or loss)
- CITES/ESA LISTED PLANTS
 - Endangered Species Act, 16 U.S.C. 1538, 1540
 - Class A misdemeanor (1 year, \$100,000, or twice the gross gain or loss)
 - Lacey Act, 16 U.S.C. 3372, 3373
 - Class C felony (5 years, \$250,000, or twice the gross gain or loss)
 - Class A misdemeanor (reasonably should have known) (1 year, \$100,000, or twice the gross gain or loss)

**These are only some of the major statutes likely to be implicated in a timber trade case; particular fact patterns may bring to play additional statutes such as those related to false statements or obstruction of justice.

All United States statutes can be found at <http://www.access.gpo.gov/uscode>

All United States regulations can be found at <http://www.gpoaccess.gov/cfr/index.html>

CONTACTS/REFERENCES

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