



**Canadian
Manufacturers &
Exporters**

**Manufacturiers et
Exportateurs du
Canada**

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**Appearing before the Committee on Natural Resources, Subcommittee on
Fisheries, Wildlife, Oceans and Insular Affairs**

Mr. Chairman, Members of the Subcommittee, thank you for inviting me to testify at today's hearing on the Lacey Act. I appear today on behalf of Jayson Myers, President and CEO, Canadian Manufacturers & Exporters.

Introduction

CME is the largest business association in Canada representing thousands of Canadian companies across many sectors. More importantly, a significant portion of our members are either Canadian operations of U.S. multinationals, suppliers of component products to U.S. assembly operations, or buyers of U.S. manufactured goods. Our offices are in every provincial capital in Canada as well as our nation's capitol, Ottawa.

I would like to ask that the Committee accept my formal written testimony as part of today's record.

The business community we have built – together.

I appear before this panel today as the voice of the Canada-U.S. business partnership - one that is unique in the world. Long gone are the days when a truck travelling across our shared border is filled with finished products destined to retail shelves. Today, almost half of cross-border shipments are either intra-

company supplies or component part destined for intra-industry manufacturing plants.

The volume, the immediacy and the nature of our cross-border business partnership has been a key contributor to our shared economic health and will continue to play a vital role as our communities on both sides of the border return to economic health.

So while I am representing CME at this hearing, I like to think that I am also representing our U.S. business partners and the thousands of workers in the United States who depend on our vibrant business relationship.

Canada is not part of the problem, rather we are part of the solution.

An American or Canadian truck crosses our land border approximately every two seconds. Hundreds of these trucking companies and their customers have voluntarily partnered with U.S. and Canadian border agencies to bolster and secure their cargo supply chains. Programs such as Customs-Trade Partnership Against Terrorism (C-TPAT), and Partners in Protection (PIP) in Canada.

In addition, their truck drivers and rail crews have been fully vetted by CBP and other agencies under the bilateral Free and Secure Trade (FAST) program. In both directions, our trucking and rail shipments arrive at ports of entry where Canadian and U.S. customs officials work in partnership every day to mitigate commercial or security risk to our communities. There is no other trading partnership that comes close to what U.S. and Canadian companies together have pledged with our border agencies.

Our forests

Canada has one-third of the global boreal forest in a band that stretches from coast to coast. Canada also has more boreal forest that is federally protected than any other country in the world. This is in addition to the fact that 93% of Canada's forests are under public stewardship. The area of certified forest in Canada is greater than the combined area of all other country certifications; representing almost 40% of the world's certified forests. This certification system

complements Canada's comprehensive and rigorous forest management laws and regulations.

What our companies are doing

Our member companies have implemented stringent due diligence standards on their entire supply chain. They must, because they know that any misstep would damage their corporate standing and their commercial access to U.S. and Canadian markets. Further, Canadian companies involved in cross-border shipments of wood and plant products are well known to U.S. agencies. They send thousands of the same and repetitive shipments to the same U.S. customer and supply chain each and every day. These are hardly fly-by-night or unknown entities, but brand name prominent companies in both countries.

To them, their sustainability efforts are their competitive advantage. Or as one CEO put it, "*sustainability is in our fiber*".

This responsibility extends to our members' supply chain by their conducting reviews and verification of purchased inputs and requiring a compliance standard throughout their supply chain to guard against illegally logged or improperly harvested forests.

If any compliance concern is detected, companies immediately cease their purchasing from suppliers, period.

In short, Canadian companies and our US business partners know the value of good stewardship.

For our businesses to survive we must keep unnecessary clogs out of our cross-border supply chains and to recognize by regulation and policy the safeguards either or both countries together have put in place to protect our communities from illegally harvested wood, plants, or related products from third countries.

What our two countries are doing – together

Next month Canadian regulators will be in Washington to meet with their American counterparts and American business leaders on the next steps towards regulatory equivalence between our two countries.

Launched in 2011, the U.S. and Canada Regulatory Cooperation Council aims to eliminate redundant or obsolete regulations that burden our integrated cross-border supply to partner our resources at the North American perimeter. The statement at its launch tells that story – “The President and the Prime Minister have taken this initiative because they believe that their citizens deserve smarter, more effective approaches to regulation that enhance the economic competitiveness and well-being of the United States and Canada, while maintaining high standards of public health and safety and environmental protection.”¹ Cooperation on regulatory inspections not only raises the comfort level for US and Canadian enforcement agencies, it raises the comfort level for our consumers and our families.

Also in 2011, our two countries launched the ambitious “Beyond the Border” Action Plan that also aims to partner border enforcement resources against external risks, harmonize cargo data requirements and reduce transactional compliance costs on our intra-North American supply chain.

One of the key initiatives under the Border Action Plan is an import management approach that contemplates stepping away from the now obsolete transaction-by-transaction import process to an account-based system that reports import shipments on a periodic even annual basis. Participating companies will share more information on their global supply chains with Customs authorities in exchange for periodic import reporting. To be clear, this does not mean a reduction of scrutiny, or a risk to security – it means better security. Customs authorities can better allocate precious resources to target the high-risk elements of international trade, while simultaneously reducing costs for our best corporate citizens.

On the multilateral front, Canada and the United States are joined in their commitments made in 2011 at the Asia-Pacific Economic Cooperation (APEC) work to implement appropriate measures to prohibit trade in illegally harvested forest products.

In Canada, our *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act* (WAPPRIITA) is the legislation through which Canada

¹ http://www.whitehouse.gov/sites/default/files/us-canada_rcc_joint_action_plan3.pdf

enforces and administers its responsibilities under the Convention on the International Trade in Endangered Species of Wild Flora and Fauna (CITES), an international agreement to protect endangered species. Canada is one of more than 150 countries which have signed the Convention. The Canadian law stipulates the federal permit requirements for the international trade of wildlife, their parts, and products made from them.

How does this work? CITES operates through an import/export permit system which require that our companies

- Obtain CITES Permits before an import or export occurs.
- Verify that Customs or the federal department of authority validated the CITES permits at the time of export and/or import. Without validation, permits will not be accepted. Also, a copy of the permit will be retained by Canada Customs and will be forwarded to Environment Canada for compliance purposes.
- Ensure all valid cities documents accompany the shipment. Note: CITES-listed wildlife may be subject to regulations by other Acts of Parliament or provincial and territorial legislation. Other government agencies should be contacted, particularly the Canadian Food Inspection Agency (CFIA) when importing or exporting live animals or plants.
- Advise Environment Canada of wildlife imports in advance, to speed the inspection process.
- Comply with the International Air Transport Association (IATA) Regulations and the CITES Guidelines for Transport and Preparation for Shipment of Live Wild Animals and Plants when shipping live specimens.

The Lacey Import Declaration

A transactional Lacey Import Declaration is unnecessary and a tax on North American competitiveness. A better approach might be Blanket Plant declaration similar to the existing U.S. regulations covering importing chemical substance,²

In our public comments submitted to the U.S. Department of Agriculture, CME expressed unwavering support for the goals of the Lacey Act – that of combating illegal harvesting and trafficking of wood and plant products.. But given that the

² 19CFR 12.12

vast majority of Lacey regulated shipments originate in Canada, the border compliance requirement, specifically the transactional import declaration, must be revisited.

In our view, not only because of the commercial costs but because we believe that only through combined government efforts based on sound and proven risk management principles can we protect our industries and our communities from the scourge of illegally harvested plant products.

In a time when governments on both sides of our border are reducing their operational budgets, it is important that agencies be able to target high-risk shipments and to act quickly. If those same agencies are buried in paper import declarations – mostly from Canada – they have fewer resources to go after the much higher or unknown risk elements.

Beyond the horizon

The current implementation of the Lacey Act declaration is limited to a few tariff chapters but the underlying statute clearly indicates the intent of Congress at the time was that all products containing plant materials would be subject to the a declaration requirement.

When the import declaration requirement is pushed farther upstream in the manufacturing chain, it will become impossible to comply with. As an example, a manufacturer of plastic auto parts which contain inputs from a myriad other components, such as resin, will not be able to determine the origin of the plant that the resin was made from, let alone the cultivar and species, or weight and value.

In addition, the nanotechnology industry today – in both our countries – is developing exciting new products from plant fibers. These industries, among others, are the job-creators of tomorrow. It is this innovation that will spur North American manufacturing competitiveness in the years ahead. Applying the Lacey import declaration to these products of the future will be impossibility.

In terms of costs, under the current product coverage for the Lacey Import Declaration, the broker cost borne by US importers is raised by 5-7 times –

imagine what any future application of the declaration might mean for the US business community. This cost is without a doubt a tax on our NA manufacturing sector at a time when our communities can least afford additional burdens.

A better way

CBP and USDA at the border already have at their disposal highly sophisticated risk targeting tools, armed with data carriers and shippers must provide hours if not days before the truck or rail shipment even physically arrives at the land border. It is the success of these tools and the risk management approach to cross-border trade that allows these agencies to know what will be arriving, from where, and at which ports of entry. It allows them to target the unknown or less-known elements of what is coming into the United States – be it a carrier, a shipper, a commodity, or even an anomaly of shipping patterns. CBP officers at ports of entry are highly trained in the use of the information and determine which shipments should be given more scrutiny at ports of entry.

CME member companies enjoy an exceptionally high import compliance performance rate. They fully support efforts to stem illegal logging of endangered forests around the globe. They have and will continue to work with U.S. and Canadian agencies – in short, these companies are not part of the problem but welcome the opportunity to be part of the solution.

Our business community is not asking for any country carve- out of the Lacey Act regulations but only reasonable changes to the import declaration.

1. First and foremost, we ask that a transactional import declaration be reconsidered and that a blanket declaration tied to the Customs transaction be adopted.
2. Second, that the data required to meet Lacey import requirements reflect an understanding of business practices and business confidentiality concerns. We ask that data regulations be reasonable and implemented in such a way that the regulated community can be able to comply. .
3. Third, that the certification that the Lacey-regulated shipment does not contravene any logging regulations in third country be shelved. It is an

impossible task for the industry, now and certainly when the regulated HTS coverage is expanded.

On the Canada-U.S. front at least, the cumbersome Lacey import declaration is not the solution.

It is yesterday's thinking and yesterday's enforcement tool.

Thank you and I look forward to any questions you may have.

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