

## Questions for the Record from Senator Brian Schatz

**U.S. Senate Committee on Appropriations**  
*Subcommittee on Agriculture, Rural Development,  
Food and Drug Administration, and Related Agencies*

### **May 10, 2022 Hearing: A Review of the President's Fiscal Year 2023 Budget Request for the U.S. Department of Agriculture**

#### **Responses from Tom Vilsack, Secretary of the U.S. Department of Agriculture**

- 1. Question:** Illegal logging and associated trade has been ranked as the third-largest global transnational crime after counterfeiting and drug trafficking, generating between \$52–157 billion per year. In many tropical countries, over half of deforestation is illegal. Left unaddressed, persistent illegality and impunity undermine all conservation and climate efforts, including the recent pledge by the United States and 140 countries to halt and reverse forest loss by 2030.

In 2008, the United States, the world's largest consumer of forest products, became the first country to ban trafficking of products containing illegally sourced wood. The Lacey Act Amendments of 2008 were adopted with bipartisan support and have demonstrated their potential for impact. Yet unacceptable delays in full implementation and sporadic enforcement continue to limit their effectiveness.

In 2009, the Department provided a schedule where major product categories would be phased in by September 30, 2010.<sup>[1]</sup> However, the current Lacey Act declaration requirements, which are managed by USDA APHIS, *still only apply* to approximately 42% of the value of wood products imported into the United States. This leaves \$45 billion of annual imports subject to the prohibition in the Lacey Act, in practice, uncovered by the declaration requirement. This includes nearly all imports of wooden furniture, pulp and paper, particleboard, and fiberboard. It is long past due that APHIS fully implement the Lacey Act Amendments of 2008 – and there a growing chorus from industry, civil society, and lawmakers to complete this phase in by the end of 2022.

What is your plan to phase in all outstanding plant and wood product categories — including wood furniture, pulp and paper, particleboard, and fiberboard?

**Answer:** I agree that illegal logging and the resulting deforestation are enormous problems. The scope of the material covered by the Lacey Act is also significant—APHIS currently receives approximately 1 million declarations each year (1.1 million in FY 2021) but estimates that when the declaration requirement is fully implemented, the number could be as high as 12 million per year. Prior to FY 2022, APHIS' annual appropriation for the Lacey Act was \$1.9 million. APHIS implemented the program and rolled out the declaration requirement in six phases, starting with raw wood and working towards more processed

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<sup>[1]</sup> <https://www.federalregister.gov/documents/2009/02/03/E9-2232/implementation-of-revised-lacey-act-provisions>

products. APHIS also worked to implement an electronic filing system for the Lacey Act and to connect it to the Department of Homeland Security's (DHS) Customs and Border Protection's (CBP) Automatic Commercial Environment (ACE) system to allow for more efficient processing of declarations.

The program's annual appropriation supported the development and maintenance of the electronic filing system and staff. Additionally, APHIS works cooperatively with industry groups to effectively implement the declaration requirements, including reaching out to industry ahead of time to learn about the details of their supply chains, storage, and manufacturing processes. The most recent implementation phase; Phase 6 covering wooden pallets and essential oils among other products, was originally to be effective October 1, 2020, but it took an additional 12 months due to issues raised by the pallet industry and the government of Canada. Our lessons learned from Phase 6 show that adding more products to the implementation schedule will require significant outreach to launch effectively, a minimum of 12 months. Accordingly, APHIS will not be able to incorporate additional products by the end of FY 2022.

- 2. Question:** If your plan is not to complete the full phase in by the end of 2022, please explain why this deadline is not attainable?

**Answer:** The Agency has a plan to add remaining products in two large phases and appreciates the additional funding provided for the Lacey Act in the FY 2022 appropriation, which will allow the program to expand capacity to handle additional declarations. Phase 7 will include as many non-composite products as possible, including furniture, remaining essential oils, baskets, cribs, and cabinets, among other products. Phase 8 would then include the remaining products, those made with composite materials that include mechanically or chemically broken-down materials such as pulp and paper, particleboard, and fiberboard, among others. Many composite plant materials are currently manufactured in a manner that makes identification of the genus, species, and country of harvest of the plant content extremely difficult and costly. APHIS is continuing to evaluate and address the issues associated with composite products.