My name is Laurie Everill, and I work for IKEA-North America in Westampton, New Jersey. My responsibilities as Regional Customs Compliance & Operations Manager include ensuring company compliance with the Lacey Act and other laws and regulations affecting IKEA's import operations. As a member of both the National Retail Federation and the Retail Industry Leaders Association, the two trade associations representing the U.S. retail industry, we at IKEA appreciate the opportunity to speak not only on behalf of our company, but also other retailers at today's hearing on the Lacey Act Amendments regulating the importation of wood and plant products.

With 325 stores in 41 countries and more than 1,000 suppliers in 53 countries, IKEA is one of the world's most recognizable retail brands. IKEA is also one of the largest retailers of furniture and house wares in the United States, where we operate 38 retail stores, five distribution centers, a service facility in Pennsylvania, a trading office in Texas, and support a manufacturing facility in Virginia. IKEA's U.S. workforce totals 16,000 associates in a wide range of jobs from product sourcing, manufacturing, sales and marketing to warehousing, logistics, and legal compliance.

The IKEA vision is to create a better everyday life for the many people. As a company with its roots in Sweden, IKEA has a long commitment to policies and practices that advance the highest degree of corporate social responsibility. Promoting and implementing good environmental stewardship and sustainability into its everyday business is one of IKEA's four corporate cornerstones.

Since many of the products we sell contain wood and plant material, IKEA is directly impacted by the Lacey Act Amendments, and we strongly support the law's objectives to end the illegal taking of trees and plants throughout the world. We support Lacey as it promotes those activities and efforts that IKEA has undertaken for over a decade and it will create a level playing field amongst importers that are serious about the prevention of illegal logging. IKEA sources 14.5 million cubic meters of round wood equivalents from 51 countries, making wood our most important raw material. As such IKEA has been performing due diligence and traceability to prevent illegally harvested wood and create a sustainable forest management program for over a decade and several years before the passage of the Lacey Act Amendments in 2008.

Notwithstanding IKEA's commitment to comply fully with the Lacey Act Amendments, we believe there are several challenges that we encourage Congress to review and consider options to address. There are four specific issues the retail industry believes require legislative action, which, if undertaken, will improve the operation of the law, make enforcement more effective, provide incentives for industry to adopt robust due diligence measures in their supply chains, and help better achieve the law's policy goals to end illegal logging.

Import Declaration

IKEA will not be recommending that the declaration requirement be removed from Lacey Act Amendments as we recognize the importance to sustainability and the value of importers knowing the type of wood used and the origin of wood in their products. Nevertheless, it has become apparent that there are some challenges with the declaration requirement as it is written and IKEA believes Congress should improve and streamline the import declaration requirement. IKEA has found that providing genus, species and country of harvest information on a transactional basis even for seemingly simple wood products requires a tremendous amount of data to be submitted to the U.S. Government. These submissions are costly and administratively burdensome for both importers and the U.S. Government while achieving little to prevent illegal logging. It is IKEA's opinion that, in its current form, the Import Declaration process is unsustainable long term and not the best use of resources in the prevention of illegal logging. IKEA suggests that Congress consider alternative means of providing declaration information and we would be willing to have further discussions on this point to identify the best alternatives to meet the needs of stakeholders in the business, environmental and enforcement communities.

The potential requirement of a Lacey Declaration for composite wood products (such as particle board and fiberboard) in the future makes the requirement even more untenable because composite wood products are generally made of byproducts such as sawdust, scraps, and other remnants from other manufacturing processes and therefore have a broad spectrum as to the potential genus, species, and countries of origin. While this type of materials reuse is positive from a recycling and sustainability perspective, it makes collection of useful data for the declaration requirement virtually impossible. IKEA also believes that the declaration requirement should not apply to composite products until it is determined that it is feasible, practical and effective to gather such information. However, we would like to underline that this should not in any way reduce the responsibility of the importer to exercise due care in procurement.

Due Process

The heart of the Lacey Act Amendments is the prohibition against the importation of products containing illegally-harvested wood or plant material, which the U.S. Department of Justice and the Fish and Wildlife Service enforce through criminal and civil penalties and seizure and forfeiture of merchandise. To avoid possible civil and criminal penalties, importers must exercise proper due diligence in their supply chains to ensure their products do not contain illegally-harvested wood or plant material.

The Lacey Act Amendments specifically state that seizures are governed by the Civil Asset Forfeiture Reform Act (CAFRA), which provides due process for parties to present their case and facts to petition through a legal process for return of government-seized property.[1] At the time of its passage, some Members of Congress made it clear that inclusion of this language would make this remedy available under the Lacey Act Amendments.[2]

[1] 16 U.S.C. sec. 3374(d).

[2] Commenting on addition of the CAFRA language, Senator Richard Burr (R-NC) said:

In practice, however, the enforcing agencies have nullified Congress' intent by treating as contraband wood and plants alleged to be illegally harvested. As a result, the Lacey Act Amendments have become a strict-liability law – an importer may exercise the highest degree of due care in complying with the law, yet still have its products seized with no legal recourse or due process. Therefore, IKEA believes that Congress should provide for a legal means for importers to address illegal logging allegations, forfeitures and seizures and preserve the rights of appeal in a court of law.

Retroactivity

While IKEA is not directly impacted, on behalf of the NRF and RILA membership we represent here today, we recommend that any change to the current law should correct an omission found in the original Lacey Act Amendments – the lack of language limiting retroactive application of the law. As recommended in consensus statements issued by US businesses and environmental NGO's, Congress should clarify that the Lacey Act Amendments do not apply to antiques and other products containing wood or plant material harvested or manufactured prior to May 22, 2008, when the Lacey Act Amendments went into effect. Since the provenance of the wood and plant material in these products cannot be verified, this change is logical and non-controversial.

Scope of Foreign Laws and Regulations

The scope of the Lacey Act Amendments is also an issue. The law defines "illegal taking" of trees or plants broadly to include any foreign law or regulation that protects wood or plants, limits their export or transshipment, or regulates the manner in which they are taken, including required authorization and payment of taxes or fees.[3] In practice, this definition is open to wide interpretation that sweeps in laws and regulations having little or no connection to conservation and preservation of trees and plants. As a result, importers have little clarity in exercising their due diligence obligations as to what foreign laws and regulations would be applied under the Lacey Act Amendments, creating a greater degree of uncertainty, especially when dealing with a strict-liability statute.

Therefore, Congress should clarify the Lacey Act Amendments to give businesses better guidance on which foreign laws and regulations may give rise to a violation, by specifying that applicable foreign laws and regulations be directed to the preservation or conservation of trees and plants. This clarification would exclude laws and regulations that have little or no relationship to this goal, such as export restrictions designed to protect manufacturing or processing in the country of export. This change would also improve enforcement and compliance by directing efforts in ways that truly advance the policy objectives of the law.

> It is crucial, that as this legislation is implemented, a clear distinction be drawn between ''innocent'' owners in the supply chain who in good faith trade in wood products that they believe to be legally harvested abroad, and those who knowingly traffic in illegal material. It is the concern of Congress that this line be clearly drawn when prosecutions occur under this act.

[3] 16 U.S.C. sec. 3372(a)(2)(B).

Current Legislation

The current bills in the House – Tennessee Congressman Cooper's RELIEF Act[4] and Georgia Congressman Broun's FOCUS Act[5] – have raised awareness of Members of Congress and the public to the practical challenges related to the Lacey Act Amendments. However, neither of these bills would adequately address these challenges, and in order to be credible, any change needs to be supported by the environmental community.

We are looking for a new legislative approach that effectively addresses the issues of business stakeholders, stands the best chance of generating broad, bipartisan support in Congress and all stakeholders, but without undermining the very important goal to stop illegal logging. We believe our recommendations will achieve these objectives by making enforcement of the law more targeted and effective; encouraging the adoption of strong compliance measures by industry; and advancing the policy goals of the law to promote proper forest stewardship and conservation practices around the world.

Thank you again for the opportunity to appear before you today.

[4] H.R. 3210.
[5] H.R. 4171.