

Consultation on proposals to amend the Plant Health (Fees) (Forestry) Regulations 2006

March 2009

Forestry Commission
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Published by the Forestry Commission Great Britain

PART 1 – THIS CONSULTATION

Topic of this consultation:	The Forestry Commissions proposals to amend its Plant Health (Fees) (Forestry) Regulations 2006
Scope of this consultation:	This consultation is seeking views on the level of increase in plant health import inspection fees for documentary, identity and plant health checks in respect of consignments of controlled wood, wood products and bark.
Geographical scope:	The amended legislation will apply to Great Britain only.
Impact Assessment:	A developmental Impact Assessment is included in this consultation and is attached. Both documents can be found at: www.forestry.gov.uk/consultations

Basic Information

To:	We would like to hear from importers of controlled wood, wood products and bark from third countries
Body/bodies responsible for the consultation:	Forestry Commission, Plant Health Service
Duration:	1 March – 9 April 2010
Enquiries:	Enquiries about the content or the scope of the consultation can be addressed to Ian Brownlee Tel: 0131-314-6480 email: ian.brownlee@forestry.gsi.gov.uk Requests for hardcopies can also be obtained from the above email address or Forestry Commission, Plant Health Service, Silvan House, 231 Corstorphine Road, Edinburgh, EH12 7AT or Tel: 0131-314-6414.

<p>How to respond:</p>	<p>Please send responses to either: ian.brownlee@forestry.gsi.gov.uk or to Ian Brownlee Forestry Commission, Plant Health Service, Silvan House, 231 Corstorphine Road, Edinburgh, EH12 7AT or Tel: 0131-314-6480.</p>
<p>After the consultation:</p>	<p>If you give us your permission we intend to put a copy of the responses on the Forestry Commission's website at www.forestry.gov.uk/consultations. This is so that the public can see them. Also members of the public may ask for a copy of responses under the freedom of information legislation.</p>
<p>Compliance with the Code of Practice on Consultation:</p>	<p>The consultation complies with the Code of Practice on Consultation.</p>

<p>Getting to this stage:</p>	<p>The Forestry Commission's Plant Health Service amended its plant health inspection fees in November 2006 and at that time the fees were based on the inspection of approximately 1 million cubic metres of controlled wood, wood products and bark entering GB annually. Since that time the inspectorate has been reviewing its income and expenditure accounts annually to ensure that it was fully recovering its costs as it is required to do in line with EU legislation and HM Treasury rules. Having performed this financial monitoring the inspectorate reported that it had under-recovered its costs by £30k at the end FY2008/09 (31 March 2009) and it forecasts that it will under-recover its costs by £64k at the end of FY2009/10 (31 March 2010).</p> <p>Additionally, assuming that the timber import trade does not fully recover from the effects of the global recession during FY2010/11 the inspectorate forecasts that it will under-recover its costs by a further £64k at 31 March 2011.</p> <p>In order to redress this situation the inspectorate has completed a developmental Impact Assessment as part of its financial review and as a result of this it proposes an increase to its current fees.</p>
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Part II - SUMMARY

1.1 Back in January 2005 the European Community Council Directive 2002/89/EC¹, introduced new elements to Plant Health Directive 2000/29/EC² (“the Plant Health Directive”).

1.2. One of the changes introduced was to make it obligatory for member States to impose fees for certain Plant Health inspections. The Plant Health Directive, as amended, prescribes the level of phytosanitary fee that member States may set, which may either be the ‘standard’ fee set out in Annex VIIIa to the Plant Health Directive or ‘actual’ costs incurred by the relevant Plant Health Service.

1.3. In 2006, as a result of this change to the Plant Health Directive, in 2006 the Forestry Commission’s Plant Health Service consulted with its stakeholders on proposals to revoke and replace the Plant Health (Fees) (Forestry (Great Britain) Regulations 1996 (as amended) with new regulations charging for plant health inspections. Having considered the responses to the consultation exercise the Forestry Commission implemented changes to its plant health charging regime via The Plant Health (Fees) (Forestry) Regulations 2006, which came into force on 6th November 2006.

1.4 In accordance with the consultation process the Forestry Commission undertook to operate a Trading Account, which would reflect the full costs of carrying out the inspections and the amount of income received, in order to assess whether the charges have been set at an appropriate level with a formal review taking place at least every 12 months.

1.5. Prior to the global recession having an effect on the timber import trade the Forestry Commission achieved full cost recovery for its inspection service but due to the significant down-turn in imports, especially of controlled bulk coniferous material in FY2008/09 and FY2009/10 it has under-recovered its costs. Having calculated the costs of providing an inspection service in FY2010/11, based on the reduced timber import volumes (0.5 million cubic metres per annum), the Forestry Commission has concluded that it must seek to increase its plant health inspection fees in order to fully recover its costs, especially as the import trade of controlled bulk coniferous material is unlikely to return to pre-recession volumes (1 million cubic metres per annum) in the short-term.

1.6 This paper therefore proposes new charges for the documentary, identity and plant health checks for our controlled timber import inspections (See **Appendices 3 & 4**).

1.7 This paper also proposes a specific level of plant health inspection fee for the inspection of wood chips and wood shavings in response to developing trade in these commodities.

1.8 You are invited to comment on these proposals which only apply to Great Britain.

¹ Council Directive 2002/89/EC of 28th November 2002 amending Directive 2000/29/EC – see footnote 2 below. This Directive can be found at <http://europa.eu.int/eur-lex/en/search/index.html>

² Council Directive 2000/29 of 8th May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community. This Directive can be found

at <http://europa.eu.int/eur-lex/en/search/index.html>

PART III - INTRODUCTION AND BACKGROUND

2.1 The Forestry Commission Plant Health Service's main role is to protect the nation's trees, woodlands and timber from pests and diseases. At an operational level this is achieved by the implementation of import controls on wood, wood products, wood packaging material (such as pallets, boxes and crates) and dunnage (loose wood used to wedge or support a cargo).

2.2 The responsibilities of all the UK's Plant Health services derive from a range of EU legislation of which the main instrument is Council Directive 2000/29/EC, "the Plant Health Directive". Current legislation in respect of forestry plant health import controls are set out in The Plant Health (Forestry) Order 2005 (SI 2005 No.2517) and The Plant Health (Fees) (Forestry) Regulations 2006 (SI 2006 No. 2697). Both of these Statutory Instruments can be viewed on the FC's website at www.forestry.gov.uk/planthealth. Additionally, guidance on the legislation is provided by the FC's Plant Health Service via a series of booklets and newsletters, which can also be viewed and downloaded from the FC's website.

2.3 In our fees consultation exercise which we conducted in 2006, we commented that the only case where standard EU fees did not recover our actual costs was the fee for each additional cubic metre of timber over 100m³ when bulk timber is inspected. The standard fee in Council Directive 2002/89/EC is €0.175m³ (£0.12/m³), however, in order to recover its costs the FC implemented a fee of £0.20m³ for each additional cubic metre of timber over 100m³.

2.4 Having closely monitored the income received from the plant health inspection fees on an annual basis since they were introduced in November 2006 the FC has managed to recover its costs until recently. Since September 2008 there has been a significant reduction in controlled timber volumes being imported from third countries (mainly Russia, USA and Canada) with the historical annual import volume of 1 million cubic metres having decreased by 50% to 0.5 million cubic metres. As a result of this reduction which has only had a significant negative impact on the bulk shipment trade we have noted we are under-recovering our costs and therefore need to increase our fees to address this situation (See **Appendices 1 & 2**).

2.5 During the 2006 consultation exercise one of the small group of respondents commented that they would favour a higher fixed charge for the first 100m³ as the costs involved in an inspector travelling to a port to inspect 40m³ are the same as travelling to a port to inspect 4000m³. Whilst this comment had merit it was not overly supported by other respondents who favoured the FC's proposal of the lower fixed charge and the higher variable rate for volumes greater than 100m³ and therefore the latter was implemented. However, through monitoring the controlled timber import volumes since September 2008 the FC noted that the volume of containerised imports of predominately hardwood material remained reasonably constant. As it is considered by the timber trade generally that the effects of the global recession on significantly reducing imports of bulk coniferous material will continue for some time in the foreseeable future, the Forestry Commission now proposes

to weight its inspection fee increases towards the trade of smaller containerised consignments ie those consignments comprising of loads up to 100m³.

Q1. Do you agree that the Forestry Commission should weight its proposed inspection fee increases towards the smaller containerised consignments ie those consignments comprising of loads up to 100m³?

Q2. If you do not agree to the Forestry Commission weighting its proposed inspection fee increases towards the smaller containerised consignments what alternative do you propose?

PART IV - THE PROPOSALS

3.1 The proposals, in terms of charging, for a reduced annual import volume of 0.5 million cubic metres comprising of predominantly containerised consignments are summarised in **Appendix 2** and the tables at **Appendices 3 & 4**. The current fees for the various charges are also provided in the tables for comparison.

Documentary, Identity and Plant Health Checks

3.2 The definitions of documentary, identity and plant health checks are as provided in Article 13a (1)(b)(i), (ii) and (iii) of the amended Plant Health Directive and the European Commission's Forest Products Vademecum for Plant Health Inspectors. These articles and guidance provide that the inspections will determine whether:

- the consignment or lot is accompanied by the required certificates or alternative documents and that these are properly completed (**Documentary check**);
- It shall be verified that the consignment presented for introduction into the EU meets the description given in the accompanying document. Therefore, the description of the consignment, that is its species, volume, etc, as set out in the certificates described in Procedures for Documentary Checks shall be compared with the accompanying commercial paperwork and, where practicable, with the material itself (**Identity check**) and,
- in its entirety or on one or more representative samples, including the packaging and, where appropriate, the transport vehicles, the consignment or lot or their wood packaging material comply with the requirements laid down in the Plant Health Directive (**Plant health check**).

3.3 When we introduced the charge of £5.29 for each documentary and identity check back in November 2006 we did so on the basis that the amount recovered our costs. Since that time we have competitively tendered all of our contracts for the performance of plant

health inspection work at points of entry throughout Great Britain and due to increases in the contractors rates we consider that it is necessary for us to increase these charges and we proposes a fee of £6.00.

3.4 A documentary check would therefore cost £6.00 per consignment. Where there is more than one certificate in a single consignment, we will continue to only make one charge as this system works well.

3.5 For identity checks other than bulk shipments we propose to charge £6.00 where the consignment is a load of up to one container, railway wagon or truck. We will continue to define a load as 30m³ based on our records of the average volume of wood shipped per container or truck. We also propose a further £6.00 charge for each additional 30m³ (or part thereof) per container, wagon or truck in the consignment. This is in line with the principle set out in Annex VIIIa item (b) of the Plant Health Directive.

3.6 For bulk consignments we propose an identity charge of £6.00 for consignments less than 100m³ and £12.00 for consignments of 100m³ or more.

3.7 For plant health checks at the point of entry into the Community we propose a charge of £26.00 (currently £12.25) per consignment up to and including 100m³. We do not propose to increase the charge of £0.20/m³ for each additional cubic metre of timber over 100m³ when bulk timber is inspected. This fee will, however, be kept under review and if the controlled timber import volumes return to the pre-recession import figure of 1 million cubic metres per annum it may then be appropriate to increase this fee and decrease the proposed fee for inspecting consignments up to and including 100m³.

3.8 The global recession has had the effect of increasing the unit cost of carrying out the remaining inspections (containerised hardwoods and softwoods predominately from North America) and this will remain the case unless we significantly reduce our resource and thus response time. As the Forestry Commission's level of phytosanitary fee for the cost of each additional cubic metre greater than 100m³ remains higher than the EU Directive standard fee, the inspection service actual cost recovery figure is provided at Appendix 5.

Examples of Charges -

Example Proposed Charge –		Example Current Charge –	
Consignment Volume 30m ³		Consignment Volume 30m ³	
<u>Charge Description</u>	<u>Rate (£)</u>	<u>Charge Description</u>	<u>Rate (£)</u>
Documentary	6.00	Documentary	5.29
Identity Check	6.00	Identity Check	5.29
Plant Health Check	<u>26.00</u>	Plant Health Check	<u>12.25</u>
Total	<u>£38.00</u>	Total	<u>£22.83</u>

Example Proposed Charge		Example Current Charge	
Consignment Volume 95m ³		Consignment Volume 95m ³	
<u>Charge Description</u>	<u>Rate (£)</u>	<u>Charge Description</u>	<u>Rate (£)</u>
Documentary	6.00	Documentary	5.29
Identity Check *	6.00	Identity Check *	5.29
“ “	6.00	“ “	5.29
“ “	6.00	“ “	5.29
“ “	6.00	“ “	5.29
Plant Health Check	<u>26.00</u>	Plant Health Check	<u>12.25</u>
Total	<u>£56.00</u>	Total	<u>£38.70</u>
*NB a further £6.00 charge is made for each additional 30m ³ (or part thereof) per container, wagon or truck in the consignment		*NB a further £6.00 charge is made for each additional 30m ³ (or part thereof) per container, wagon or truck in the consignment	

PROPOSED CHARGES FOR CONSIGNMENTS OF WOOD SHAVINGS AND WOOD CHIPS

3.9 During our fees consultation exercise in 2006 consignments of wood shavings (mainly imported for the equine bedding trade) and wood chips were included in the charging regime but they were treated as consignments of wood as per the EU Directive. As the numbers of consignments of wood shavings quickly increased post the consultation exercise we considered that the application of the wood, per cubic metre volume, fees were inappropriate and we, in consultation with the importers, agreed to administratively apply the fees for loose bark material to these commodities as follows –

3.10 Current Charge for 1 container load of wood shavings –

Documentary Charge	£5.29	
Identity Charge	£5.29	
Plant health check	<u>£12.25</u>	(per consignment up to 25,000kg - typically each container of wood shavings contains 14,400kg)
Total Charge	<u>£22.83</u>	

3.11 For consignments of more than one container, we currently charge £5.29 for each documentary check, that is, if more than phytosanitary certificate is involved the charge is

£5.29 per certificate. We charge an identity fee of £5.29 for each container in the consignment and for the plant health fee, we charge on the basis of the total quantity in the consignment ie £12.25 for up to 25000kg and £0.49 per 1000kg or part thereof thereafter, subject to a maximum charge of £98.00. Thus, for a consignment of 10 containers, imported as one consignment as identified on one phytosanitary certificate with a total quantity of 144,000kg, the total current charge is:

Documentary charge	£5.29
Identity charge	£52.90 (10 x £5.29)
Plant health check	<u>£70.56</u> [£12.25 (for 25,000kg) + (119kg x £0.49) = £58.31]
Total charge	<u>£128.75</u>

3.12 A comparison of the current and proposed fees for consignments of these commodities is therefore provided in the following examples –

Example Proposed Charge		Example Current Charge	
Consignment quantity 14,400kg		Consignment quantity 14,400kg	
<u>Charge Description</u>	<u>Rate (£)</u>	<u>Charge Description</u>	<u>Rate (£)</u>
Documentary	6.00	Documentary	5.29
Identity Check	6.00	Identity Check	5.29
Plant Health Check*	<u>26.00</u>	Plant Health Check	<u>12.25</u>
Total	<u>£38.00</u>	Total	<u>£22.83</u>
* per consignment up to 25,000kg		* per consignment up to 25,000kg	

Example Proposed Charge		Example Current Charge	
Consignment quantity 144,400kg		Consignment quantity 144,400kg	
<u>Charge Description</u>	<u>Rate (£)</u>	<u>Charge Description</u>	<u>Rate (£)</u>
Documentary	6.00	Documentary	5.29
Identity Check (x10)	60.00	Identity Check (x10)	52.90
Plant Health Check*	26.00	Plant Health Check*	12.25
Additional 119kg @ £0.49	<u>58.31</u>	Additional 119kg @ £0.49	<u>58.31</u>
Total	<u>£150.31</u>	Total	<u>£128.75</u>

* £26.00 per consignment up to 25000kg and £0.49 per 1000kg or part thereof thereafter, subject to a maximum charge of £98.00

* £26.00 per consignment up to 25000kg and £0.49 per 1000kg or part thereof thereafter, subject to a maximum charge of £98.00

Bulk Quantities of Wood chips for the Wood Fuel Market

3.13 The Forestry Commission's Plant Health Service has received a number of enquiries from companies that are interested in the phytosanitary requirements for bulk shipments of controlled wood chips etc that are intended for the wood fuel market and we are currently working with these companies to ensure that they will comply with the requirements of the EU Directive when they decide to start importing.

3.14 Neither we nor the European Commission have, however, considered what plant health inspection fees will be appropriate for inspecting the massive consignments onboard 60,000 tonne vessels that are being considered. Therefore, for the time being, we propose to implement the charges mentioned at paragraph 3.11 for these consignments until we consider what the more appropriate fee will be.

Level of Inspection

3.15 The Directive requires that all consignments of controlled wood, wood products and bark be physically inspected. There are, however, provisions under which the European Commission can set a reduced level of physical inspection based on risk i.e. on a random sample of consignments rather than each one. The Forestry Commission currently applies a Reduced Frequency of Inspection regime to wood of maple (*Acer saccharum*) which is imported from Canada and the USA and has done since 1st January 2008.

3.16 However, it should be noted that there are a number of provisos which govern what is eligible for a reduced frequency of inspection, one of which is that any commodity subject to either a derogation or emergency measures cannot be considered. Wood of oak is currently subject to emergency measures while wood of conifers from North America is subject to a number of derogations permitting alternative documents to the more usual phytosanitary certificate e.g. certificates of heat treatment etc.

Predictability of Charge

3.17 One of the critical factors that came out of our consultation with industry in 1996, when the introduction of import inspection fees was first proposed, was the need for importers to be able to accurately predict the actual cost of the inspection to which any particular consignment would be liable. In formulating the current proposals we have tried to continue to meet this need and believe that it still applies to the majority of inspections, that

is, where the material either complies fully with the landing requirement or where very minor infringements occur that can be dealt with quickly on the spot.

Effective Date for Implementation

3.18 We propose to implement the new rate structure as soon as possible after the short **6** - week consultation period ends on **Friday 9 April 2010** and apply them in respect of all consignments inspected on or after the date of implementation, regardless of the actual date of landing. This is to minimise the risk of further under-recovery in the financial year to 31 March 2011.

Timing

3.19 This consultation will commence on **1 March 2010** and any response should be returned by **9 April 2010**.

Who is being consulted?

3.20 We are consulting those importers of controlled wood, wood products and bark who are registered with us. We are also consulting the Timber Trades Federation, UK Forest Products Association, the British International Freight Association.

3.21 Copies of these consultation documents are also available on our website at www.forestry.gov.uk/consultations.

Purpose of the consultation

3.22 The consultation aims to give individuals and groups the opportunity to comment on the proposals and to make us aware of particular circumstances that may need further consideration. We will consider all information before reaching our conclusions on the appropriate amount of inspection fees and details will be published in a Plant Health Newsletter, which will be sent to all our clients and which will also be posted on our website.

Comments

3.23 You are invited to submit comments on the proposed fees set out above and on the attached impact assessment.

Commitment to consultation in accordance with Better Regulation Executive (BRE) Guidelines

3.24 We are committed to following the BRE guidelines on written consultation that can be found at: <http://www.berr.gov.uk/files/file47158.pdf>

3.25 This requires government departments to publish the seven consultation criteria prescribed by the guidance that are:

1. Formal consultation should take place at a stage when there is scope to influence the policy outcome.
2. Consultations should normally last for at least 12 weeks with consideration given to longer time-scales where feasible and sensible.
3. Consultation documents should be clear about the consultation process, what is being proposed the scope to influence and the expected costs and benefits of the proposals.
4. Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercises is intended to reach.
5. Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees buy-in to the process to be obtained.
6. Consultation responses should be analysed carefully and clear feedback should be provided to participants following consultation.
7. Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

Reason for Short Consultation Period

3.26 Our reasons for deviating from para 3.25 bullet point 2 above are that the subject matter of this consultation is appropriate to only a narrow/specific group of stakeholders. The Forestry Commission is ensuring that the consultation is being carried out according to best practice in every other respect.

PART V - IMPACT ASSESSMENT

3.27 A developmental impact assessment, which gives information on the costs and benefits that the increase in inspection charges may have on importers of wood, wood products and bark is attached. We welcome comments on the assumptions, costs and benefits set out in the developmental Impact Assessment.

PART VI - RESPONDING TO THIS CONSULTATION

3.28 If you wish to respond to this consultation, would you please do so in writing, by fax or by email, to Ian Brownlee at the following address by 9 April 2010.

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Plant Health Service
Silvan House
231 Corstorphine Road
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Telephone: 0131-314-6480
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Appendix 1
Forecast income based on an inspection volume of 0.5 million cubic metres and current level of fees
Bulk Shipment Volumes

 175 inspections of 306,441m³

306,441

<u>17,500</u> (less 175 x first 100m ³) Plant health check	x £12.25	= £ 2,144
288,941(each m ³ > 100m ³) plant health check	x £0.20	= £57,788

175 ID checks	x £10.58	= £ 1,851
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175 Documentary checks	x £ 5.29	= <u>£ 925</u>
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Sub Total		= £62,708
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Container Volumes

4000 x £12.25 Plant Health check		= £49,000
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4000 x £ 5.29 Documentary check		= £ 21,160
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8000 x £5.29 ID checks (based on 2 checks/Ave consignment of 48m ³)		= <u>£42,320</u>
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sub total		= £ 112,480
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Total		= £ <u>175,188</u>
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Forecast Income required FY2010/11	- £240,000
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Forecast Income based on current Fees	- <u>£175,188</u>
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Deficit	- <u>£ 64,812</u>
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Appendix 2
Proposed increase in Fees to achieve required Income FY2010/11
Bulk Shipment Volumes

 175 inspections of 306,441m³

306,441

17,500 (less 175 x first 100m ³) Plant health check	x £26.00	= £ 4,550
288,941(each m3 > 100m ³) plant health check	x £ 0.20	= £57,788

175 ID checks	x £12.00	= £ 2,100
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175 Documentary checks	x £ 6.00	= <u>£ 1,050</u>
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Sub Total		= £65,488
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Container Volumes

4000 x £26.00 Plant Health check		= £104,000
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4000 x £ 6.00 Documentary check		= £ 24,000
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8000 x £6.00 ID checks (based on 2 checks/ave consignment of 48m3)		= <u>£48,000</u>
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sub total		= £ 176,000
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Total		= <u>£241,488</u>
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Forecast Income required FY2010/11	- £240,000
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Forecast Income based on proposed Fees	- <u>£241,488</u>
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Over-recovery	- <u>£ 1,488</u>
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Appendix 3
Summary of Proposed Documentary and Identity Check Fees

Check	Unit	Current Fee	Proposed Fee
Documentary check	Per consignment	£5.29	£6.00
Identity check	Per consignment	£5.29	£6.00
	- for each load of up to 30m ³ forming part of the consignment contained in one truck, railway wagon, or comparable container	£5.29	£6.00
	- for each bulk load of less than 100m ³	£5.29	£6.00
	- for each bulk load of 100m ³ or more	£10.58	£12.00

Appendix 4
Summary of Proposed Plant Health Check Charges

Item	Quantity	Current Fee (£)	Proposed Fee (£)
Plant Health Check: Per consignment of Wood	Up to 100m ³	12.25	26.00
	Each additional m ³	0.20	0.20
Plant Health Check: Per consignment of Isolated bark (other than that which forms part of a component of growing medium, containing soil etc), wood chips, wood shavings and sawdust (typically each container of wood shavings contains 14,400Kgs)	Up to 25,000kg	12.25	26.00
	Each additional 1,000kg	0.49	0.49
	Maximum price	98.00	98.00

Appendix 5
INCOME 2010/11 (Based on Inspections of 0.5 million m³)

Calculated as follows-

Staff & Other running costs		*323,833	
Less costs not recovered			
Contractors	108,502		
		<u>- 108,502</u>	
		215,331	
20 %			(43,066)
Internal Charges	128,030		
Less FAS*	<u>64,711</u>		
	63,319		
20 %			+(12,664)
			(55,730)
Add FAS (100% recoverable)			64,711
Contractors (£108,502)			108,502 (*actual exp 2008/09 recoverable)
<u>Forest Research (Entomology & Pathology)</u>			5,000
Plant Health Seminar			5,000
INCOME Required			<u>238,943</u> (Rounded to £240k for budget purposes)

* **Financial Accounting Services – invoicing and creditor and debtor management.**

