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## RE: Understanding Import Security Filing (10+2) Effective January 26, 2010

The following information will hopefully assist you in a better understanding of the data elements required in the Importer Security Filing (ISF) or 10-2.

On 11/25/08. The U.S. Customs and Border Protection, CBP, released its interim rule. A full text (266 pages) of the rule are available online at: [http://cbp.gov/xp/cgov/trade/cargo\\_security/carriers/security\\_filing](http://cbp.gov/xp/cgov/trade/cargo_security/carriers/security_filing).

In review the entire content, which largely consists of economic analysis and impact statements and charts, we feel that it is imperative to summarize for you the following:

- Interim rule goes into effect 60 days from filing, or January 26, 2010 for implementation
- Delayed enforcement for 1 year = No Do Not Loads will be issued for failure to file
- No Liquidated damaged assessed during the first year, however, Good Faith efforts towards compliance will be expected
- After the first year, penalties assessed will be \$5,000.00/violation
- Bond requirements: CBP is amending several Bond conditions to include damage of \$5,000.00 for violation of the requirements. **Check with your current bonding Company if your current Bond is sufficient.**

CBP has not determined how Single Entry Bonds will be considered. We will continue to monitor this area and revert.

CBP has recognized that some elements may be difficult to obtain within the time frame allowed. Currently, during this initial phase, they are allowing for some flexibility in the reporting requirements on 4 of the 10 elements. This flexibility is not meant to allow delays in filing. Rather it allows for "tentative details" to be reported within the required time frame 24 hours before departure foreign port of loading, but6 requires updates prior to arrival to be compliant. See the following table for reference.

Data Element	Flexible	24 Hrs prior to loading (AMS)	24 hrs prior to arrival update required
1. Manufacturer (supplier) name and address	Y	Y	Y
2. Seller (or owner) name and address		Y	
3. Buyer (or owner) name and address		Y	
4. Ship to Party name and address	Y	Y	Y
5. Container stuffing location and address			Y
6. Consolidator			Y
7. Importer of records/FTZ applicant #		Y	
8. Consignee number			Y
9. Country of origin	Y	Y	Y
10. HTSUS	Y	Y	y

**FAQ's:****1. Who is the ISF Importer?**

The party causing goods to arrive within the limits of the United States.

Foreign cargo (FROB), the ISF Importer is the Carrier.

Goods coming in on I.E. / T & E / goods going into the FTZ, the recognized ISF is the party filing the I.E., T & E, or FTZ doc with CBP.

**2. What happens if ISF cannot provide some of the elements prior to loading?****Can cargo still be imported?**

At this time, cargo will still be allowed to load as long as it is not a national security threat determined cargo. However, in order to be compliant, ISF must file as much information as possible and amend prior to arrival.

**3. Are records amendable after arrival into U.S. port?**

Any amendments after arrival are optional, not required. All elements must be filed prior to arrival. Post arrival is discretionary.

**4. Who can file amendments?**

Any and all elements must be corrected by the person who initially filed. A unique I.D. will be sent after a filing transmission. That unique number is a receipt that filing has been received. Only that filer has access to the record and can make corrections.

**5. What about general confidentiality issues?**

Important Security Filing data is treated as law enforcement sensitive when received by the CBP because it is used for national security targeting purposes. It may also be considered confidential commercial information, subject to the Trade Secrets Act, when providing the same or similar information as required on the CBP 3461 Entry Form. Therefore, the CBP would assert the applicable exemptions to withhold this information from public disclosure under the Freedom of Information Act (FOIA) unless authorized by law or required by a court order.

CBP considers this commercial data as business sensitive information which may constitute Trade Secrets and would protect such data from disclosure to the extent authorized by law. (The Trade Secrets Act prohibits the unauthorized disclosure of confidential commercial information.)

Any personal identifiable information is held securely with restricted access on a need-to-know basis and subject to the same handling.

Exhibit 2-5 from the full text of the interim rule provides definition to these 10 elements that may help provide a better understanding of the requirements. We have also provided you with a list of the acronyms used in the 10+2 program so you can better understand the verbiage of this new rule.

To summarize, the majority of the 10 elements are those which can be provided for at origin and filed through AMS. AMS and ABI are the only two Electronic Data Interchange systems CBP will allow. By entrusting us to assist you in your filing requirements, you will omit any concerns of compliance because we will have filed prior to departure. We can assist you in obtaining the details well in advance and, thus, your compliance will be recognized by Customs during this initial year. Our AMS vendor is already certified to transit these new ISF requirements as of the effective date.

As your ISF filing agent, we will continue to apprise you of the requirements as they become better defined through the CBP; keeping you current with the newest requirements.

We appreciate the opportunity to continue being your extended arm in the shipping of your cargo. For better service, contact **On Time Express International Headquarters at (866) 688-9327 at any time.**