

World ATA Carnet Council (WATAC)

Note to national guaranteeing organization

Subject: United States -- Importer Security Filing

The purpose of this note is to advise national guaranteeing organizations (NGOs) that foreign carnets entering (or US Carnets returning to) the United States via vessel will be required to complete an Importer Security Filing (sometimes referred to as a 10+2 filing) beginning on January 26, 2009.

This requirement **ONLY** applies to those goods entering via ship. Moreover, the ISF must be submitted to US Customs and Border protection (CBP) 24 hours prior to the cargo being loaded onto a U.S. bound vessel.

Following the passage of the Safe Port Act of 2006, and at the behest of the US Congress, CBP proposed in January 2008 that all goods entering the United States via a ship be required to provide new data elements (10 data elements for the importer and 2 for the carrier).

The ten data elements required are:

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| (1) Manufacturer (or supplier) name and address, | (6) Consolidator (stuffer) name and address, |
| (2) Seller name and address, | (7) Importer record number, |
| (3) Buyer name and address, | (8) Consignee number (s), |
| (4) Ship name and address, | (9) Country of origin, |
| (5) Container stuffing location, | (10) Commodity HTSUS (Harmonized Tariff Schedule of the United States) number |

The ISF must be transmitted to CBP by an approved electronic means, e.g., Automated Broker Interface (ABI). CBP will not accept filings by fax, e-mail, or paper.

To assure compliance, CBP would also require that all ISFs be accompanied by a third-party bond. CBP will impose penalties (i.e., liquidated damages) of \$5,000 per transaction when it is determined that the ISF is not timely, complete or accurate.

On behalf of the world carnet community, in March 2008, USCIB requested that carnets be exempt from the above requirements. Likewise, WATAC Chairman, Peter Bishop, urged CBP to do the same. However, on November 25, 2008, CBP published the interim final rule wherein it rejected USCIB's request for an exemption, noting that carnet "shipments are no less of a [security] risk than other shipments."

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NGOs are therefore advised that as of January 26, 2009 all carnets entering the US by vessel will also need an ISF and a suitable bond. It is our assumption that the customs house brokers/freight forwarders clearing the shipments will gather the necessary information working directly with the Holder (or representative) to fulfill ISF requirements.

From January 26, 2009 to January 26, 2010, CBP will be evaluating any compliance difficulties from the new provisions and should not be issuing penalties when they determine there has been noncompliance. This "informed compliance" approach notwithstanding, CBP reserves the right to take enforcement action when an importer is not achieving "satisfactory progress" or making a "good faith effort to comply" during this period.

USCIB will continue to press CBP to exempt Carnets from these new requirements. Failing that, USCIB will work with CBP to determine how carnet shipments can reasonably comply with these new requirements, including having the ISF compliance secured by the carnet itself.

USCIB will update WATAC members of any changes.

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