



Tuesday, March 31, 2009

## Fulfillment/Logistics Trends

### Import Compliance a Measure of Readiness for 10+2

Now is the time for an importer to assess and correct any deficiencies in its processes to prevent an impact on the company's import compliance record as well as its bottom line  
By Jeff Chiu

February 27, 2009 —In the past year U.S. Customs and Border Protection (CBP) issued the Proposed Rule on the Importer Security Filing (ISF, or "10+2") to satisfy section 203 of the Security and Accountability for Every Port Act of 2006. CBP received and reviewed comments from the import community; the Office of Management and Budget officially signed off on the Proposed Rule; and on November 25, 2008, CBP published the [interim Final Rule in the Federal Register](#).

The requirements of the Importer Security Filing —unofficially named "10+2" for the 10 data elements supplied by the importer and the two elements supplied by the ocean carrier —took effect on January 26. The interim Final Rule allows for public comments (on six of the importer's data elements) to be received on or before June 1 and provides a compliance date of one year from the effective date.

Although much has been said and published on this subject, many have remained on the sidelines contemplating the resources in preparing for the implementation. CBP has granted a 12-month informed compliance period, during which importers are expected to gradually comply without the threat of full enforcement and monetary penalty.

#### Getting Ready

What do importers need to do to get ready? Who has the responsibility of gathering, validating and transmitting this information? How will this latest security initiative affect importers' businesses? The importer is required to submit these "10" data elements:

- » Manufacturer (or supplier) name and address
- » Seller name and address
- » Buyer name and address
- » Ship-to name and address
- » Container stuffing location
- » Consolidator name and address
- » Importer of record number
- » Consignee number
- » Country of origin
- » Commodity HTSUS number (minimum 6 digits)

The vessel carrier is required to submit these "2" data elements:

- » Vessel stow plan
- » Container status messages

The Importer Security Filing initiative states that the electronic transmission of the data elements must be executed no later than 24 hours prior to the loading of cargo onto a vessel destined to the United States. Chronologically, this requirement shifts the transmission to an earlier stage of the supply chain. An importer may designate, with the proper power of attorney, its freight forwarder to submit the data elements. A freight forwarder normally receives shipping documents with the cargo. Thus, it has access to, and may be familiar with, six of the "10" data elements: manufacturer (or supplier) name and address, seller name and address, buyer name and address, ship -to name and address, container stuffing location, and consolidator name and address.

#### Role of the Customs Broker

Many mid to large importers employ the services of a customs broker. In the course of electronically filing a customs entry, the broker normally transmits eight of the 10 data elements: manufacturer (or supplier) name and address, seller name and address, buyer name and address, ship -to name and address, importer of record number, and consignee number, country of origin and HTS number.



Global4PL Supply Chain Services  
Vice President Jeff Chiu  
Global4PL Supply Chain Services



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[Home](#) » [Fulfillment/Logistics Trends](#) » Article

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The customs broker may be asked to submit the information to CBP. Customs brokers normally have transmitted electronic entry summary information to CBP while an ocean vessel was on the water. The Importer Security Filing, as noted above, would shift the transmission of data to an earlier stage of the supply chain. CBP will allow for a single transmission of the ten data elements and entry summary information by the importer or a licensed Customs broker to help in reducing the amount of data entry.

The Importer Security Filing initiative states that the importer is the party ultimately responsible for the submission of the "10" data. Between the freight forwarder and the customs broker, the importer should have all the data required. It would be a simple exercise of providing the appropriate party the respective missing elements. The freight forwarder and customs broker would require the respective balances of data elements. CBP provides some flexibility in the reporting of four of the importer's data elements. Importers are allowed to provide a range of responses for the manufacturer/supplier, ship-to party, country of origin and commodity HTSUS number. Although this helps in meeting the filing deadline for each shipment, it requires the additional work of submitting one or more subsequent update(s) to the original filing.

CBP provides additional flexibility in the reporting of two additional importer's data elements. Importers are allowed to provide the container stuffing location and the consolidator name and address no later than 24 hours prior to arrival of the vessel at a U.S. port.

#### Getting to the Data

All the required data elements certainly exist. However, whether the data are transmitted by the freight forwarder, the customs broker or the importer, there remains an uncertain level of burden in the exercise of data collection.

Taking the "10" data elements and turning them into questions is the very first step. How many suppliers/vendors do I have? How many manufacturers do my suppliers/vendors represent? With how many manufacturers do I deal directly? From how many countries do I import? What are the products' countries of origin? What are the tariff numbers for those products?

An importer must be able to answer this set of questions with practically 100 percent certainty, as the penalty for the submission of false information to CBP would result in a penalty of 100 percent of the value of the shipment. That was the penalty under the Proposed Rule; the penalty under the Final Rule is \$5,000 for each violation of the Importer Security Filing. (One hundred percent accuracy of the data elements has the additional benefit of contributing to overall import compliance.) Whatever the penalty amount, with which department should the responsibility lie within each importer's organization? Who will take charge?

An importer's organization may include both Customs Compliance and Logistics departments. These groups are heavily involved in daily operations and generally do not have the time nor the perspective to execute this data collection. Even when the data are easily accessible, the task of validation could be daunting. For example, Accounts Payable has an address for a vendor to which it sends payment, but is that vendor the actual manufacturer? Is that vendor's mailing address the physical location at which the goods were made or stuffed into the ocean container?

Some other questions to consider are:

- » How many customs brokers does an importer employ? Does each broker have the authority to classify product independently, or does the importer supply all classifications?
- » Does the customs broker have the support and coverage overseas to avoid lengthy delays due to time zone difference and the timing to correct those issues at origin?
- » Does the vendor know how to classify products correctly, and does it provide the information in a timely and consistent manner?
- » Does the contract manufacturer provide support needed for its products?
- » Do the Procurement, Logistics, Import and Trade Compliance groups work together to coordinate the information and avoid customs delays? Is there an inefficient inbound of materials due to lack of information from origin?

An importer's current processes may work well, but without a clean and efficient operations model, including the documentation with the required information from contract manufacturers, vendors, suppliers, etc., at origin, not only will an importer subject itself to potential delays and penalties under the Importer Security Initiative, the import supply chain will suffer. Now is the time to assess and correct any deficiencies before they affect a company's import compliance record as well as its bottom line.

**About the Author** : Jeff Chiu is vice president at Global4PL Supply Chain Services, a supply chain solutions and service provider based in Santa Clara, Calif. More information at [www.global-4pl.com](http://www.global-4pl.com).



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