

Japan Machinery Center for Trade and Investment

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March 18, 2008

Border Security Regulations Branch
Office of Trade, U.S. Customs & Border Protection
1300 Pennsylvania Avenue (Mint Annex)
Washington D.C. 20229

Re: Agency: Customs and Border Protection, Department of Homeland Security
Docket ID: USCBP-2007-0077
Document Title: Importer Security Filing and Additional Carrier Requirements
Document ID: USCBP-2007-0077-0001

Comment on Notice of Proposed Rulemaking, Federal Register Vol. 73, No. 1,
January 2, 2008,
19 CFR Parts 4, 12, 18, 101, 103, 113, 122, 123, 141, 143, 149 and 192

The Japan Machinery Center for Trade and Investment (“JMC”) hereby submits comments on the Proposed Rulemaking issued by the Bureau of Customs and Border Protection (“CBP”) , Federal Register Vol. 73, No. 1, January 2, 2008, 19 CFR Parts 4, 12, 18, 101,103, 113, 122, 123,141, 143 and 192, “Importer Security Filing and Additional Carrier Requirements.”

JMC is an association of 300 firms that manufacture and export machinery products worldwide. It includes most of the major companies in Japan that export electronics and machinery goods to the U.S.A. JMC was established in 1952 under Japan’s Export and Import Transactions Law to represent the interests of Japanese machinery exporters.

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JMC understands that importance of strengthening security relating to international cargo. To that end, JMC has assisted Japanese exporters understand and comply with the requirements of the U.S. security programs including the 24-hour rule, and C-TPAT.

JMC strongly recognizes the importance of balancing trade facilitation and cargo security.

JMC conducted a survey to learn how our member companies could be affected by the proposed rule entitled “Importer Security Filing and Additional Carrier Requirements.” In view of the results of the survey, we are very concerned about the possibility that the proposed rule will place excessive burdens on companies involved in international commerce and will create disruptions in the efficient flow of international commerce. Many JMC members believe that the importer security filing will cause substantial delays or interruptions in the supply chain and cause significant increases in compliance costs if the proposed rule is implemented as written. In particular, compliance with the proposed rule (as written) would cause serious disruptions to those companies who employ just-in-time inventory management systems - and it is expected that exporters would bear a disproportionate share of the burden occasioned by such delays or disruptions. In view of the foregoing, JMC strongly recommends that CBP addresses these potential issues prior to enactment of the final rule.

In addition, we would like to thank CBP in advance for taking the following comments into account before issuance of any final regulation:

Comment 1

- It is necessary that U.S. importers fully comprehend or understand the requirements of the “Importer Security Filing”

JMC has learned that many Japanese exporters were unaware of the proposed rule or the proposed requirements of the Importer Security Filing. Furthermore, it is our understanding that there are importers in the U.S. who do not know or fully understand the proposed requirements associated with the proposed rule. The Importer Security Filing involves requirements primarily imposed on U.S. importers, and how well foreign exporters will be able to support their U.S. importers will depend on how well the U.S. importers understand and prepare for the new rule and communicate the requirements to the exporters. Because the Importer Security Filing will substantially change the import process, U.S. importers should fully understand the Importer Security Filing requirements so that the importers are

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able to ask their exporters for the correct and necessary data in a reasonable manner. If the new rule is enacted without sufficient understanding by U.S. importers, both importers and exporters will be sure to face great confusion and, in turn, compliance will become problematic or difficult.

Comment 2

- CBP Message responding to the Importer Security Filing

The proposed rule requires importers to submit the security filing 24 hours before loading containers aboard the vessel. While CBP has issued acceptance messages or “no-load” messages in the case of cargo subject to the 24-hour rule, CBP has not addressed messages responding to the submission of the Security Filing in the proposed rule. JMC members would like to diminish the likelihood of the issuance of a “no-load” message once the exporter has received confirmation that the importer properly submitted the security filing with CBP.

Comment 3

Issues/Problems related to some of the 10 data elements involved in the security filing

- Confidentiality concern regarding manufacture / supplier name and address:

For those Japanese exporters who outsource production by using contract manufacturers or original design manufacturers, the concerns regarding business confidentiality are serious. As a general rule, exporters do not wish to disclose the manufacturer’s name and address to importers. In fact, there are cases where a manufacturer refuses to disclose its name to anyone other than the exporter. In these cases, the exporter cannot provide the importer with name and address of the manufacturer. JMC requests that CBP add measures or alternative procedures in order to address the confidentiality concerns faced by exporters.

- Level of detail for data involving the Manufacturer

A product is not necessarily manufactured in a way that is vertically integrated within one firm, but rather is frequently manufactured and assembled by using parts and components that are widely procured from different sources. For example, a lead firm assembles the final products by using parts and components manufactured by primary cooperating firms. Each

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primary cooperating firm manufactures the parts and components by procuring parts and components from secondary cooperating firms. In many cases, the supply chain is even more complicated involving additional levels of manufacture. JMC members would like the proposed rule to address and confirm that providing the name and address of the lead firm in this example will suffice to meet the requirements of the proposed rule.

- Container stuffing location

The “scheduled” stuffing location should be accepted by CBP as the data element for container stuffing location because the stuffing location cannot be confirmed until stuffing is completed (in the case of cargo that involves using a container freight station). Also an amendment to this data element should be permitted if the actual stuffing has taken place in a location other than the scheduled location.

With respect to consolidated cargo, exporters do not usually know the location where the stuffing takes place. Meeting this requirement entails a cumbersome process for the exporter in order to timely provide the stuffing location data to the importer that will involve added logistics procedures in the exporting country – which undoubtedly will entail further delays in the supply chain movement.

- Country of Origin

Under the current logistics process, exporters send country of origin data to importers after cargo is loaded onboard the vessel. Importers can correct errors contained in this data during the approximate two week trans-Pacific voyage from Japan to the U.S. Under the proposed rule, this data must be provided 24 hours before loading at the foreign port – thereby entailing additional substantial delay in the supply chain.

Comment 4

- Enormous compliance cost

The proposed “Security Filing” will cause exporters to incur enormous compliance costs. Exporters will have to make significant changes to their logistics processes and reconstruct IT systems to meet the requirements of the proposed rule. Many JMC member companies export huge pieces of machinery or large complex articles to the U.S., in addition to numerous

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parts and components. Consequently, in many cases, it will be extremely difficult, if not impossible, to identify, sort and manage data such as manufacture/supplier or country of origin in an integrated fashion so that the importer receives the correct data in a timely manner. In order to avoid these enormous costs and likely delays to the movement of such goods, we respectfully request that CBP consider these circumstances in enactment of the final rule.

Comment 5

- Exemption of C-TPAT Participants from the requirements of the Importer Security Filing
CBP should exempt the certified and validated C-TPAT participants from the requirements of the Importer security filing. The certified and validated C-TPAT companies have made great efforts to enhance supply chain security, and CBP has validated these companies to ensure that each C-TPAT participant meets or exceeds the program's minimum security criteria. Nevertheless, the proposed rule (as written) will impose the new requirements without regard to a company's C-TPAT status – i.e., non-CTPAT participants who may not have made investments in supply chain security will receive the same treatment by CBP as companies that have spent considerable resources to participate in C-TPAT.

Affiliated U.S. companies of many JMC members are currently participating in the C-TPAT program. In such cases, not only must the U.S. affiliate and parent company in Japan likely undergo a C-TPAT validation by CBP security specialists, but also other affiliated companies in Asia or other regions must conduct internal security management reviews in order to comply with C-TPAT requirements.

In view of the above, JMC respectfully submits that CBP should recognize a company's participation in the C-TPAT program and exempt certified and validated C-TPAT partners from the requirements of the proposed rule.

Comment 6

- Ensuring consistency with the WCO SAFE Framework

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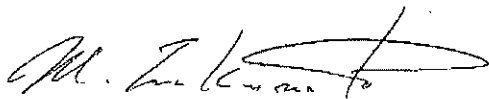
The following 5 data elements of the 10 total data elements required by the proposed Importer Security Filing are not listed in the data set of the WCO's SAFE Framework. Because the SAFE Framework is regarded as the global standard intended not only to secure, but also facilitate global trade, CBP should ensure the consistency of Importer Security Filing with the WCO SAFE Framework before the Importer Security Filing requirements are enacted.

- Manufacturer's Name and Address
- Seller's Name and Address
- Buyer's Name and Address
- Consolidator's Name and Address
- Country of Origin

While the use of advance electronic information to identify high-risk containers or cargo was agreed to in the SAFE Framework as the central tenet of Pillar one, there is a great likelihood that the requirement of submitting advance electronic information "before loading onboard" could impose significant constraints on global trade and supply chain efficiency. JMC believes that CBP should harmonize the proposed rule with the WCO SAFE Framework and consider introducing measures to minimize the negative effects from the collection of advance electronic information through international cooperative means such as Mutual Recognition under the WCO SAFE Framework.

Thank you for your consideration of our comments.

Regards,



Masanori Fukumoto
Chairman
Committee on Facilitation of Global Operation and e-Trade
Japan Machinery Center for Trade and Investment