

Importer Security Filing (“ISF”) What is on the Horizon?

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ISF Data Elements

1. Manufacturer (or Supplier) Name and Address
2. Seller (or Owner) Name and Address
3. Buyer (or Owner) Name and Address
4. Ship To Name and Address
5. Container Stuffing Location (s)
6. Consolidator (or Stuffer) Name and Address
7. Importer of Record Number
8. Consignee Number (s)
9. Country of Origin
10. Commodity 6-Digit HTS
11. Master B/L
12. House B/L

+2 (Vessel Stow Plan and Container Status Messages)



ISF Data

Differs by Type of Shipment

- I. Shipments intended to be entered into the U.S. or an FTZ:
 - All 10+2 data elements required for each good listed at the 6 digit HTSUS number at the lowest bill of lading level (e.g., the house bill of lading).
 - Manufacturer (or supplier) name and address, country of origin, and HTSUS number must be linked to one another at the line item level.
- II. FROB (foreign cargo remaining on board) & In-Bond shipments :
 - Booking party name & address
 - Foreign port of lading
 - Place of delivery
 - Ship to name & address
 - HTSUS number (6 digit)



ISF Data

Differs by Type of Shipment

III. Bulk cargo

No Separate Filing Requirement -

HOWEVER - Importers of break bulk cargo must arrange to transmit the ISF data elements to CBP 24 hours prior to the cargo's arrival in the United States. CBP does not believe that manifest data alone is sufficient for targeting.



Responsibility for Filing

I. Importer or its Authorized Agent Responsible for Filing

- “Importer” - The party causing goods to arrive within the limits of the United States.
- “Authorized Agent” - (Including Brokers) Must possess a basic import bond, an international carrier bond, or a foreign trade zone operator bond.

The Authorized Agent must be an approved filer under ABI or AMS. (There is a proposal to amend 19 CFR §143.1 to permit an “authorized Agent” to participate in ABI solely for the purposes of making the ISF filing.)

Authorized agents must retain powers of attorney
How is this enforceable when so many ISF filers will be foreign entities?

II. For FROB, the importer is the carrier.

III. For IE, T&E and FTZ the “Importer” is the party filing the IE, T&E or FTZ entry.



ISF and Entry Can be Made in a Single Transmission

- The Importer may elect to have the entry/entry summary and the ISF presented via a single electronic transmission.
- Only licensed customs brokers and importer self-filers may make such transmissions – “Customs Business.”
- FTZ entry (Form 214) and ISF can also be filed in a single transmission.
- There is no requirement that there be a one-to-one relationship between the ISF and the Entry/Entry Summary.



ISF Confirmation

- Only the filer will receive an electronic acknowledgement that the ISF has been received.
- **Problem** - Other ABI and AMS filers will not be able to query whether the ISF filing is complete, identify who filed the ISF, confirm the ISF data is accurate, or correct/update the ISF filing.
- **Problem** - CBP has indicated importers and their designated agents will shoulder the burden of communicating the completeness and accuracy of an ISF.
- **Note** - The trade has proposed that CBP return a unique identifier (as used in AES) and informally CBP has indicated a willingness to look into such a system.



Verification of ISF

- Under the proposal the “presenting party” may electronically transmit the information on the basis of what that party reasonably believes to be true under the circumstances. (This is consistent with existing regulation under 19 CFR 4.7(b)3(iii).)
- If the information changes or more accurate information becomes available before arrival, the presenting party **must** update the transmission.
 - The trade has raised concerns regarding the difficulties this will cause and has requested that CBP allow such updates to be made by the filer or another designated party (i.e., the broker or freight forwarder).
 - The entry will not be allowed to act as the update.
- If shipment of goods covered by an ISF is cancelled, the presenting party **must** withdraw the ISF and transmit to CBP the reason for withdrawal.



ISF: Business Implications

- Client Education
 - Every client's supply chain is different.
 - Each originating shipment must be separately controlled.
- Technological Requirements
 - Engage with your vendors
 - Record formats, data exchanges, 6 digit or 10-digit HTS, to scrunch or not to scrunch, ABI or AMS, with entry data or without?
 - When do we start testing
 - CBP cannot even talk to the trade without a confidentiality agreement!*
 - At the last COAC meeting CBP indicated that it will release draft ABI/AMS record formats soon.
- Getting ready
 - How and when to prepare employees?
 - Staffing – 24/7/365 availability



ISF: Problems Abound!

- Confidentiality
 - Mfr, Seller, Shipper, Consignee, EIN, SS#, IRS#, invoice details
 - The Broker is bound legally - others are not.
- Consistency
 - It is unrealistic to assume that CBP will not compare the ISF to the Entry and Summary!
 - The filing party must make any and all ISF corrections.
- Liquidated Damages
 - New and scary: *Value of goods!*
 - Original discussions with CBP *only* focused on “no load.”
 - Liability without real control?



ISF: Problems Abound!

- Bonding requirements – Probable premium increases! Even the sureties are uncertain of the depth of exposure.
- Global Acceptance
 - WCO members unhappy with:
 - The data requirements - the elements and definitions do not match the WCO data model
 - The U.S. is acting unilaterally rather than introducing a global process
 - This may act as a non-tariff trade barrier



Final Thoughts

- What about ACS/ABI?
 - For years ACS has been unstable: Can ACS handle the additional volume? Will it finally crash?
 - Should/Could we bring it up on ACE?
 - Recent experience shows that ACE can have problems when it brings up new programs.
- What about CBP Resources?
 - How will CBP bring-up all of the new ISF filers onto ABI/AMS?
 - The next round of ACE implementation is coming up at same time (January 2009)!
 - Where will programmers/personnel be spending their time?