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Gain a Major Competitive Advantage by Qualifying Goods Under New CAFTA Rules

Signed into law on Aug. 2, 2005, the Central America-Dominican Republic Free Trade Agreement (CAFTA) takes effect Jan. 1, 2006, with all participants that have given final approval. Only Nicaragua and Costa Rica have not, but they are expected to do so shortly. The United States, the Dominican Republic, El Salvador, Guatemala, and Honduras are the other parties.

Qualifying Goods = Competitive Edge

U.S. exporters already ship over \$15 billion annually to these nations, making them collectively the 10th largest market for U.S. exports. Two-way trade with this market is predicted to grow substantially under CAFTA, with companies that

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DISASTER PLANNING:

Expert Details 13 Best Practices to Handle Hurricanes

In the wake of Hurricanes Katrina and Rita, export-import managers nationwide are scrambling to reroute or locate cargo and, in many cases, deal with damage to or loss of goods. While these problems pale in comparison with the scale of the social crisis facing millions of people, the shutdowns of major ports and potential long-term damage to logistics facilities emphasize the need to put in place detailed contingency plans for such disasters.

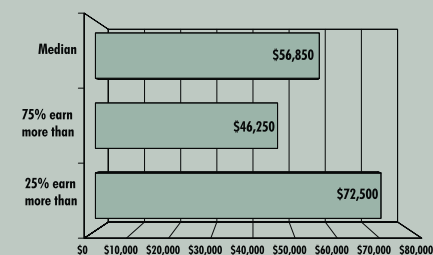
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CBP Implements Rule on Wood Packaging Material in 3 Stages

There has been considerable confusion among import and export professionals regarding implementation of a rule governing use of wood packaging material (WPM—pallets, crates, boxes, and dunnage used to support or brace cargo). The Web site of Customs & Border Protection (CBP: www.cbp.org) announced for some time that beginning Sept. 16, 2005, all WPM entering the United States would have to be heat

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Export Credit Manager Compensationsee page 5



(Source: Credit Research Foundation)





How to Prepare a Convincing Loan Case for Bank Export Financing

By Ravi Mehta, Ph.D.

Finding a bank willing to extend trade financing is often the precondition for proceeding with an export transaction. Although the idea has gotten around that banks in the United States are reluctant to finance global trade, no bank anywhere is reluctant by its nature or policy to lend. Rather, weaknesses in your loan case make a bank reluctant to extend financing. You must prepare a convincing loan case or business plan to show the bank that it will be repaid, or—in case repayment suddenly stops due to unforeseen reasons—that there's a good chance of recovery due to the health of your business.

Understanding Bank Lending Norms

Once you locate a suitable bank, prepare a business plan. Don't go to the bank without such a plan in hand. In preparing it, keep in mind banks' lending approaches and norms, which can be summarized as follows:

- Character of your business. The bank

will judge this from your latest credit report.

- Your professional ability to run the exporting business. The bank will judge this from the business plan you submit.
- The bank may not finance the full cost of an exporting transaction or of a fixed asset. The bank will see from your business plan whether you have the capacity to finance the difference.
- Whether the purpose of the loan is viable and conforms to U.S. trade regulations.
- Adequacy of loan amount.
- The bank will judge your repayment capacity from the following. International payment method you propose in the business plan (cash in advance; open account; letter of credit; documentary collections); from export risk management measures you propose;

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and from projected cash flow. The riskier the payment method, the lower the repayment capacity. The lower the repayment capacity, the greater the reluctance to lend.

The safest payment method to strengthen your case for financing is an irrevocable confirmed letter of credit. If you can negotiate one with the overseas customer, the odds of securing trade financing rise significantly.

Key Elements of Business Plan

The banks will judge insurance against uncertainty (collateral) from the tangible asset position of your business, which you include in the business plan. When preparing a business plan, include the following:

- A brief history of your business.
- An export marketing plan. This is your strategy for getting export orders and getting paid. The plan must convince the banker that your product is saleable and payable and that you have both marketing and risk management skills.
- Your export administration plan must show that you have the skills and capacity for executing orders, for efficient delivery, for error-free documentation, and for credit management—including overdue collection. Poor administration

means poor chances for winning the bank loan.

- The financial plan must show sources and uses of funds and should clearly indicate whether bank funds are required for use as working capital in export transactions or for acquisition of business-related fixed assets. As regards working capital finance, explain whether you need both preshipment and postshipment finance. In the plan, also include the services you need, such as back-to-back credits, stand-by credits, documentary collections, and hedging facilities.

The business plan must show how you will meet the following goals:

- Getting export orders continuously and their efficient execution.
- Getting paid. This is the crucial part of the business plan, which the banker will give close attention to. Remember, if international payments are not safe, bank financing is not safe and no bank will finance.
- International trade regulations compliance.

The business plan must also convince the banker that:

- You have the ability to run the exporting

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MANAGING EXPORTS & IMPORTS

business—that is, you have the necessary skills for both export marketing and administration.

- Your business has good chances for increasing export sales and earnings with the help of bank loans and services.

- Business performances will be well monitored and controlled. No bank will finance if your business lacks planning, monitoring, and controls.

- All export receivables will be well protected against both commercial and political risks, as well as foreign exchange risks.

- Your business has the capability to repay the loans taken against export receivables if they are not paid.

- Your business has the capability to meet the collateral condition.

MANAGING EXPORTS & IMPORTS CALENDAR

HAZMAT TRAINING—AIR FREIGHT. Jacksonville, FL, Nov. 1-2; Nashville, Nov. 10-11.

ADVANCED IMPORT/EXPORT OPERATIONS. Santa Clara, CA, November 2-4.

HAZMAT TRAINING—OCEAN FREIGHT. Jacksonville, FL, Nov. 3-4.

HAZMAT TRAINING—AIR FREIGHT. Nashville, Nov. 10-11.

C-TPAT CERTIFICATION WORKSHOP. Orlando, Nov. 30.

IMPORT/EXPORT COMPLIANCE CERTIFICATION: WORKSHOP & EXAM (PACMAN). New York, Dec. 12-13.

Contact IOMA: 212-244-0360; www.ioma.com

INCOTERMS FOR DOMESTIC USE. Las Vegas, Nov. 7; Salt Lake City, Nov. 8; Seattle, Nov. 15; San Francisco, Nov. 16; Los Angeles, Nov. 17; Phoenix, Nov. 18; Louisville, Nov. 29; Cincinnati, Nov. 30; Columbus, OH, Dec. 1; Cleveland, Dec. 2. Contact: USCIB, 212-703-5061; edhodge@uscib.org.

IMPORT DOCUMENTATION & PROCEDURES. San Jose, CA, Nov. 7-8; Atlanta, Nov. 14-15; Woodbridge, NJ, Nov. 28-29; West Palm Beach, FL, Dec. 12-13. Contact: Unz & Co., www.unzco.com.

EXPORT DOCUMENTATION & PROCEDURES. Dallas, Nov. 7; Grand Rapids, MI, Nov. 7. Chicago, Nov. 9; Philadelphia, Nov. 14; Houston, Nov. 29; Minneapolis, Dec. 6; Detroit, Dec. 8. Contact: Global Training Center, www.globaltrainingcenter.com.

LETTERS OF CREDIT, EXPORT & IMPORT. Dallas, Nov. 8; Chicago, Nov. 10; Philadelphia, Nov. 15; Houston, Nov. 30; Minneapolis, Dec. 7; Grand Rapids, MI, Dec. 8; Detroit, Dec. 9. Contact: Global Training Center, www.globaltrainingcenter.com.

U.S. CUSTOMS AUDIT & COMPLIANCE ASSESSMENT. San Jose, CA, Nov. 10; Atlanta, Nov. 17; Woodbridge, NJ, Dec. 1; Long Beach, CA, Dec. 8; West Palm Beach, FL, Dec. 15. Contact: Unz & Co., www.unzco.com.

EXPORT OPERATIONS. Long Beach, CA, Nov. 14-15; Woodbridge, NJ, Nov. 14-15; San Francisco, Dec. 5-6. Contact: Unz & Co., www.unzco.com.

Ravi Mehta (Ph.D.) is a contributor, Trade and Forfeiting Review, London; contributor, Global Trade Review, London; Contributing editor, LC Monitor, Toronto; Editor, LC VIEWS, USA; and author of Export LC Management: A Handbook for the Exporter and The Story of the World's Most Influential LC Specialist—Kim Christensen.

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New Survey Reveals Export Credit Managers Now Earn Median Pay of \$57,000

Obtaining compensation data on a specific title within the export function, such as export credit manager, is difficult. Even if you find such data, there's often the problem of comparing apples to apples. That is, with regional cost-of-living differences, different levels of responsibility, and variations in numbers of employees supervised and company size, benchmarking pay levels accurately—whether you're looking to hire and wondering what to pay, or comparing your own compensation to that of your peers—is hard.

When it comes to the export credit manager title, however, a just-released survey meets all these challenges. Among the 15 credit titles covered in the Credit Research Foundation (CRF)'s 2005 Credit and Accounts Receivable Compensation Study is that of export credit manager. CRF surveyed nearly 600 companies and over 2,000 individuals in credit, collections, and receivables for the overall survey.

Category Breakdown

CRF's data is broken down by receivables portfolio size, number of active accounts, size of staff supervised, geographic region, industry type, education level, and years of experience—both in the field and with the company. (You may want to inform your company's HR director that the complete survey, with data on all 15 credit and collections titles, can be ordered at www.crfonline.org; cost: \$40.)

CRF describes the export credit manager as "responsible for receivables portfolios of foreign customers, evaluating credit risks on countries and customer orders, approving orders up to a designated line of authority, and following up on collections."

Level of Responsibility

Median pay for the export credit manager is \$56,850, but it soars to more than \$72,500 for the best-paid 25% and drops to \$46,250 or less at the low end, illustrating the limitations inherent in "average" numbers (see table). Median bonuses for this title average 5% of pay.

As would be expected, pay is generally tied to level of responsibility. For example, while an export credit manager overseeing a receivables portfolio under \$5 million in value takes home \$55,000, a peer overseeing \$100 million or more earns \$97,750—and one in the top 25%, \$109,188. For active accounts handled, the difference in pay is less significant. An export credit manager supervising fewer than 250 accounts earns \$55,850, while one handling 250 to 499 makes \$59,000.

Size of staff supervised also affects pay level. The export credit manager who is a "staff of one" earns median pay of \$55,000, while one supervising between one and 10 other professionals takes home \$69,000.

Region and Industry Picture

Regional differences don't make a large difference in pay, with one exception: compensation in the South Central (median: \$89,100) area far outpaces that in other geographic regions of the country. Although this is not one of the highest cost-of-living regions, South Central is the home of ma-

Median pay for the export credit manager is \$56,850, but it soars to more than \$72,500 for the best-paid 25% and drops to \$46,250 or less at the low end.

major Gulf Coast ports such as New Orleans, whose importance as export points for an entire middle section of the nation (as Hurricane Katrina just reminded us) are very critical to U.S. trade.

When the data is analyzed by industry

Export Credit Manager Median Compensation

| | Median | 75% Earn More Than | 25% Earn More Than |
|--------------------------------|-----------------|--------------------|--------------------|
| Overall | \$56,850 | \$46,250 | \$72,500 |
| Receivables portfolio | | | |
| < \$5 million | 55,000 | 31,000 | 56,700 |
| \$5 million - \$9,999,999 | 50,000 | 36,875 | 61,500 |
| \$10 million - \$99,999,999 | 57,500 | 42,875 | 66,913 |
| \$100 million or more | 97,750 | 79,122 | 109,188 |
| Active accounts | | | |
| < 250 | 55,850 | 42,500 | 63,825 |
| 250 - 499 | 59,000 | 38,750 | 69,000 |
| Credit staff supervised | | | |
| 0 | 55,000 | 40,625 | 58,875 |
| 1 - 10 | 69,000 | 50,000 | 75,000 |
| Region | | | |
| North Atlantic | 55,000 | 40,625 | 59,313 |
| South Atlantic | 58,350 | 42,875 | 67,500 |
| North Central | 63,825 | 55,500 | 79,706 |
| South Central | 89,100 | 52,500 | 95,588 |
| West | 50,000 | — | — |
| Industry | | | |
| Consumer goods | 55,000 | 36,875 | 58,481 |
| Basic materials | 89,100 | 75,000 | 90,891 |
| Distribution & wholesale | 54,000 | — | — |
| Healthcare | 40,000 | — | — |
| Education | | | |
| < College degree | 45,000 | 33,250 | 50,000 |
| College degree | 63,825 | 55,000 | 82,500 |
| Years with company | | | |
| < 5 Years | 57,875 | 50,000 | 60,750 |
| 5 - 14 Years | 52,000 | 40,500 | 68,000 |
| 15 - 24 Years | 66,000 | 55,425 | 94,000 |
| Years in credit field | | | |
| < 5 years | — | — | — |
| 5 - 14 years | 47,500 | 35,000 | 55,000 |
| 15 - 24 years | 66,000 | 55,000 | 83,244 |
| 25 years or more | 63,825 | — | — |

(Source: Credit Research Foundation)

sector, basic materials is the best-paying sector for the export credit manager—by far—at \$89,100, over double the pay for this title in healthcare (\$40,000).

Education and Loyalty Count

Having a college degree, as opposed to one from “Seat-of-the-Pants U,” clearly counts in this area, with the export credit manager holding a BA outearning a peer without one by \$63,825 to \$45,000—and an even larger spread at the top 25% earnings range (\$82,500 to \$50,000).

Pay rises dramatically for those at the top end of the pay scale who stay with the same company. For example, the export credit manager in the top quartile with less than five years’ with a company earns \$60,750, one with five to 14 years makes \$68,000, and the loyal veteran with 15 to 25 years at his or her firm takes home \$94,000. Number of years in the credit field also affects pay, if not quite so dramatically except—once again—in the top quartile.

The finding that median pay for an export credit manager with five to 14 years with their company is lower (\$52,000) than for one with under five years (\$57,875) may be accounted for by the education factor already noted. That is, managers in this area with less experience may also be more educated, on average. The same may hold true for the apparent anomaly that an export credit manager with 25 years or more in the credit field underearns (\$63,825) a peer with 15 to 24 years (\$66,000). □

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New CAFTA Rules

CONTINUED FROM PAGE 1

invest the time and resources to participate standing to gain a substantial competitive edge. A recent IOMA (www.ioma.com) audio conference, "CAFTA-DR: Analysis of New Export/Import Rules & Regulations," provides an excellent first step for exporters and importers to achieve this goal.

The AC presenter, Robert Imbriani (robert.imbriani@teamworldwide.net), is a veteran in global transportation and logistics and has held various executive positions with major U.S. customs brokers and freight forwarders. He is currently vice president, international, for Team Worldwide (www.teamworldwide.net) and president of Team Customs Brokerage Inc. Imbriani is a popular educator on trade issues, an adjunct professor at Pace University and Baruch College, and a regular contributor to trade publications.

'Free' or 'Preferential'?

Imbriani begins by addressing what CAFTA and other FTAs don't do. Common misconceptions include the following:

- FTAs provide completely free trade for all products and services: "Duty rates don't go to zero for CAFTA overnight."
- Participation is mandatory: "CAFTA is entirely voluntary. If you don't participate, your goods are subject to normal duty rates."
- All items are immediately free of duty: "There are several phase-in periods. The initial one for a number of critical areas is 10 years."
- The exporter receives financial benefits: "The exporter receives no direct financial benefits—it is the importer who benefits in the form of lower duties and fees."

- I can have the benefits without the work: "The burden for certifying and documenting that goods are eligible lies with the exporter."

Be Proactive and Compliant to Benefit

"While the direct financial benefits go to the importer," Imbriani explains, "CAFTA qualification makes the exporter's product more or equally competitive against other suppliers whose goods qualify—and more competitive against those who don't qualify." To obtain the benefits, exporters must be proactive in determining eligibility. "Look at your product, not at the time of sale, but at the manufacturing or even development stage, well before marketing," he stresses.

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CAFTA-DR Definitions

- Good: the item being evaluated for CAFTA-DR eligibility.
- Material: thing from which a good is made.
- Party: CAFTA-DR participating countries.
- Territory: the total geographic area of the CAFTA-DR parties.
- Originating: goods or materials deemed CAFTA-DR eligible.
- Nonoriginating: goods or materials deemed not eligible.
- Indirect material: a good used in the production, testing, or inspection of a good but not physically incorporated into the good (i.e., fuel or energy; tools, dies, molds).
- Intermediate material: a material that is self-produced and used in the production of a good.
- Advance ruling: a ruling that may be issued by the customs agencies of any of the participating countries to determine whether or not: a good qualifies as originating; a specific regional value content (RVC) requirement or tariff shift is met; or proposed origin marking is satisfactory.
- Verification of origin: Customs service of importing country may request information from exporter to substantiate origin or visit the exporter to obtain necessary verification of origin. CAFTA-DR provides civil and criminal penalties for false declarations of origin.
- Certificate of origin: No prescribed format, may be in written or electronic form (required information same as for NAFTA). Not required for imports under \$1,500 or equivalent in importing country's currency.

(Source: Robert Imbriani)



NEWS BRIEFS

DÉJÀ VU AS EU THREATENS NEW FSC/ETI SANCTIONS

You thought this had already been settled? The European Union (EU) could reimpose sanctions it lifted on the United States for failing to comply with a World Trade Organization (WTO) ruling that determined tax breaks for U.S. exporters under the Foreign Sales Corporation/Extraterritorial Income (FSC/ETI) regime were illegal.

The EU dropped the sanctions in response to the U.S. Congress's repeal of the tax break last year, but the EU also challenged the repeal legislation because it provided two years of relief for companies that had earlier benefited from the breaks and exempted companies that had signed contracts prior to Sept. 17, 2003.

A confidential interim ruling handed down by a WTO panel in the case in July sided with the EU in their appeal.

UN REPORT REVEALS RISE IN TECHNICAL TRADE BARRIERS

What exporters have long sensed is now quantified by the UN Conference on Trade and Development, which reports that, over the past 10 years, technical barriers to trade have nearly doubled their share of overall nontariff barriers (NTBs) to trade, from 32% of all identified NTBs in 1994 to just less than 59% in 2004.

In developing nations, the increase was 22% to 50%; in underdeveloped, it was 34% to 59%.

The report also cites an industry study showing a sevenfold increase in government-mandated testing and certification requirements over the same time period. The UN report states that the burden is especially high for small to medium-size businesses entering global trade.

The report defines technical measures

as those referring to product characteristics such as quality, safety, or dimensions.

NEW INFORMED COMPLIANCE GUIDES FROM CBP

The Bureau of Customs and Border Protection (CBP) has released new informed-compliance documents, each titled "What Every Member of the Trade Community Should Know About..." They include the following three: Bona Fide Sales & Sales for Exportation to the United States; Household Articles of Base Metal; Personal Digital Assistants (PDAs) and Electronic Organizers.

The reports can be downloaded from the CBP Web site (www.cbp.gov).

CBP PUBLISHES INTEREST RATES FOR PAYMENTS OF DUTIES

On August 31, CBP published the quarterly Internal Revenue Service interest rates used to calculate interest on underpayments and overpayments of customs duties (70 Fed. Reg. 51,836 [Aug. 31 2005]).

They can be downloaded from pubs.bna.com/ip/BNA/itd.nsf/is/A0B1K0M4J2.

CHALLENGES TO U.S. COMPANIES IN CHINA DETAILED

In a new survey conducted by the U.S.-China Business Council (USCBC), U.S. companies doing business in China report greater difficulty compared to last year in enforcing their intellectual property rights (IPR) and providing market access for services: pubs.bna.com/ip/BNA/itd.nsf/is/A0B1K0M3R1.

LIBYA TRADE LIBERALIZATION IN WORKS

Before the end of 2005, the United States is expected to announce the lifting of its ban on high-tech exports to Libya. The action will parallel Libya's removal from the



NEWS BRIEFS

State Department's list of "state sponsors of terrorism."

The liberalization will be good news for U.S. computer and other high-tech manufacturers who have been unable to sell products to Libya. For more information, go to pubs.bna.com/ip/BNA/itd.nsf/is/A0B1K0M3K3.

TRADE INFORMATION DATABASE FOR MEXICO

The California-Mexico Trade Assistance Center (CMTAC) Trade Information Database (latrade.cmtac.org/trade_info/index.cfm) is a great international trade online resource.

The site, which is useful for companies beyond those trading with Mexico, features links, tutorials, and research on international trade generally. It also has links to trade terminology, export/import guides, international standards, market reports, trade leads, logistics tools, foreign trade offices, and lots more. This site is featured in the biweekly e-newsletter "Really Useful Sites for International Trade." For information on a free subscription, go to fita.org/useful.

CBP ANNOUNCES TEST OF ELECTRONIC FTZ APPLICATIONS

CBP recently announced the launch of a voluntary test to allow submission of electronic foreign trade zone (FTZ) admission applications. The notice can be found in the Federal Register (70 Fed. Reg. 48.774 (Aug. 19, 2005)). The test, in which FTZ applications for admission can be filed electronically with CBP via the Automated Broker Interface, will run for approximately six months. If you are not participating in the test, you can continue to file in paper format.

The test is limited to applications for merchandise reported to CBP by air, sea,

and rail manifest. There are plans to extend the test to FTZ admission applications for merchandise reported via truck manifest.

'ONE-WAY STREET' TRADE AGREEMENTS

In addition to bilateral FTAs, preferential arrangements exist in which the United States gives favored treatment to countries or groups of countries without required reciprocity.

Each agreement has its own specific certificate of origin, which, because it solely involves U.S. imports, can be provided only by a seller to the United States (a U.S. exporter would never prepare one). These include: Generalized System of Preferences (GSP) (1976); Caribbean Basin Economic Recovery Act (CBERA) or Caribbean Basin Initiative (CBI) (1984); African Growth and Opportunity Act (AGOA) (2000); U.S.-Caribbean Basin Trade Partnership Act (2000).

Need the answer to an export- or import-related question **fast?**

Send an e-mail to *ME&I's* "Ask the Experts" columnists, Bob Imbriani, Joe Zodi—consultants for Unz & Co.—and Alan Gaudio.

Questions answered in recent issues include:

- ▶ What is Focused Assessment? How does it differ from the Compliance Assessment Test?
- ▶ What are the differences between a bonded warehouse and a foreign trade zone?
- ▶ What are terminal handling charges (THC) and which party is responsible for paying them?
- ▶ How is regional value content (RVC) calculated under the U.S.-Chile Free Trade Agreement?
- ▶ Is cash against documents (CAD) still a viable option for securing export sales?
- ▶ When must a certificate of origin be used for exports to Israel?

Readers wishing to "Ask the Experts" export- or import-related questions can submit them to the editor at cdhorner@ioma.com.



New CAFTA Rules

CONTINUED FROM PAGE 7

"Importers can be proactive," Imbriani adds, "by posing a set of standard questions when submitting a request for quotation or a PO, early in the negotiations: Do these goods qualify for CAFTA? Will the supplier provide certification to this effect?" (See accompanying sidebar for CAFTA-DR definitions and terms.)

"Since the burden of recordkeeping and compliance is on the exporter," says Imbriani, "a CAFTA compliance program is essential to provide back-up documentation." He adds, "If you're an importer, you want to know that your supplier or the exporter has such a program, to ensure that information they supply you is accurate and documented." He stresses, "Penalties exist, ranging from standard customs-type penalties based on duty and value all the way up to criminal prosecution."

"Records must be kept for five years from the date of certification," says Imbriani, "including: all necessary documentation to support the certification of eligibility; purchase cost, value, payment for the good and/or materials used in the good; and production details of the good in the form in which it was exported." He says, "A reseller or exporter has the same obligations to support CAFTA-DR certification through knowledge or documentation, written confirmation from the producer, or an actual certificate from the producer."

How Do I Qualify Goods?

"There are four primary criteria—or 'Rules of Origin'—to qualify goods under CAFTA," Imbriani explains, "titled A through D." Two additional rules, E and F, are restricted to certain automotive data and originating agricultural goods, respectively.

● **Criterion A:** Goods wholly produced or obtained in the CAFTA-DR territory. "The

good must contain no non-CAFTA materials," Imbriani explains. "Obtained" does not mean purchased, and "produced" means the good is a product or naturally occurring (found in nature) material. "This will tend to apply to raw materials and certain agricultural products—rarely to manufactured items," he notes. "This doesn't preclude you from, in some cases, qualifying materials or items under 'A' that go into a finished good," Imbriani explains. "This elevates the purchasing function," he points out.

● **Criterion B:** Goods produced in a CAFTA country with some nonoriginating materials transformed in accordance with Annex 4.1. "Many, if not all, manufactured and produced items tend to fall under this criterion," Imbriani notes. "Some or all of the materials are of foreign origin and have undergone the required tariff shift or the good has met a RVC criterion," he explains. Annex 4.1 of CAFTA defines the tariff shift or RVC for each heading or sub-heading of the harmonized tariff. "Tariff shift and RVC speak only to the nonoriginating materials used within the good," Imbriani emphasizes.

Tariff shift: For your good to be eligible you must "transform" the foreign materials. Annex 4.1 will tell you the rules for transforming when you look up the harmonized number of the finished good. "CAFTA compliance requires a good working knowledge of the harmonized system to be sure you're working with proper classification to determine this transformation," Imbriani explains.

Regional Value Content (RVC): Imbriani illustrates the two methods for calculating RVC as follows:

1) **Net cost method.** "This calculates the RVC as a percentage of the net cost to produce the good minus sales and marketing, royalties, shipping, packing, and nonallow-

able interest," says Imbriani. "The value by net cost of the materials that are already originating—and any indirect material (which is always considered originating)—must be 50% of the net cost to produce the product or more," he explains. This method must be used if there is not transaction value or one that is unacceptable; the exporter or producer chooses accumulation of RVC; or the good is an intermediate material and subject to the RVC requirement.

2) Transaction value method. "This is more complex," says Imbriani. "You must take your net costs and, by a specific customs formula, determine the acceptable transaction value (not always your selling price)," he says. "The value by net cost of the materials already originating, and any indirect material, must be 60% of the net cost to produce the product or more," he explains.

De minimus: A third scenario under Criterion B is the de minimus provision. "Under this provision," Imbriani explains, "a good will be considered as originating if the value of nonoriginating materials that were not transformed in accordance with rules in Annex 4.1 is not more than 7% of the transaction value of the good, adjusted to an FOB (Free on Board) basis."

- **Criterion C:** Goods produced in a CAFTA country wholly of originating materials. "To be eligible under this criterion, all the materials used to produce the good must be, themselves, CAFTA-originating," Imbriani explains. "The materials may contain foreign components, but transformation with the CAFTA territory made the final material originating," he adds.

- **Criterion D:** Goods produced in a CAFTA country with some nonoriginating materials not satisfactorily transformed but that met a test for value added in the CAFTA country (RVC). "A good in disassembled form but classified as the finished product or a

final product classified in the same heading as its parts are examples," Imbriani says. "In this case, no tariff shift is possible," he points out.

"The rules of origin are complex," Imbriani concludes, "but by adopting a proactive approach and obtaining the proper training, the very real benefits of CAFTA can be realized." (For information on how to order this IOMA Audio Conference on CD or tape, see page 4.) □

Disaster Planning

CONTINUED FROM PAGE 1

This reality makes especially timely the publication of JPMorgan Chase Vastera (www.vastera.com) of "Natural Disaster/Emergency Planning: 13 Supply Chain Tips to Better Weather the Storm," by Bernie Hart, Vastera's global product head. Below, *MEI* provides Hart's 13 "best practices." (The accompanying sidebar highlights trade information available at Customs & Border Protection (CBP)'s "Trade Update for Hurricane Katrina" Web page.)

13 Supply Chain 'Best Practices'

1) Assess risk. In making your initial sourcing and fulfillment decisions concerning where to buy product, where to manufacture product, where to have distribution centers, and what ports to use, consider the following risk items: political risks of the country; physical and geographic risks; availability and proximity of primary and alternative logistics networks for all modes (air, ocean, rail, and truck); historic weather/natural disasters; infrastructure (power grids and backups, water supply, etc.); economic and market risks; fuel prices; currency exchange; inflation. Running different scenarios of best, average, and



worst case begins to get the organization thinking through how they'd handle normal variability and disasters alike.

2) Establish a team that will be responsible for the decision making during a crisis and ensure that it is communicated throughout the supply chain. Often the communication channels break down and a lot of people will act and react on their own—thinking that they are doing the right thing—when, in fact, it may

hurt the overall plan.

3) Don't put all your eggs in one basket. Develop and use ongoing-basis alternative relationships with suppliers and logistics networks. At all times, use the services of multiple carriers that use different ports of dispatch. This provides the ability to control costs and service levels in normal times and flexibility in times of high demand or disaster recovery. Have the ability to diversify transportation. Transportation routes maybe disrupted, so having alternate means of transportation is important.

4) Demand disaster plans from your suppliers and logistics providers, then review and update these plans regularly. Test the alternatives presented by your suppliers and logistics providers. By conducting such an audit, you will see their level of preparedness.

5) Detailed processes, procedures, and authorizations should be readily available for dispatch to new brokers that are being used in an emergency as a result of diverted cargo arrivals.

6) Constantly monitor each country and region for threats and trends that will impact your supply chain: weather, port and transportation problems, fuel prices, currency exchange, inflation, labor rates, pending legislation (i.e., trade sanctions, quotas, anti-dumping duties, free trade programs), political elections that may alter the country's view of trade.

7) Analyze your products. Understand how the emergency will affect demand for your products. For example, before Hurricane Charley, Home Depot and Lowe's set up a war room to monitor the storm. Then they supplied specific stores with plywood, generators, water, and medical supplies before the storm hit.

8) Develop a flexible supply chain

Katrina Trade Update Information

- American Association of Port Authorities (AAPA): www.aapa-ports.org. Daily updates.
- Homeland Security (DHS): www.dhs.gov. Daily updates on aviation and maritime transportation facilities' conditions.
- Customs & Border Protection (CBP): www.cbp.gov. Information to facilitate continuation of trade processes in the areas impacted by Hurricane Katrina. CBP "Trade Update for Hurricane Katrina" page: www.cbp.gov/xp/cgov/import/communications_to_industry/katrina/trade_update_katrina.xml. Site includes:
 - Contingency plan for CBP trade operations due to Hurricane Katrina
 - Vessel diversions
 - Cargo/trade operations in affected ports
 - CBP cargo/trade operations status
 - Use of port codes
 - Remote location filing (RLF)
 - Automated broker interface (ABI)
 - In-bond shipments
 - Entry summary filing
 - Entry cancellations
 - Merchandise destroyed
 - Protests, postentry amendments (PEAs) and supplemental information letters (SILs)
 - Seizures and penalties
 - Liquidation bulletin
 - Warehouse entry
 - Account management
 - Filer code issuance

(Source: IOMA)



that is able to capture the large fluctuation in demand. If your products are needed in case of an emergency, make sure your supply chain has the capacity to keep up with large increases in demand. If your products are not needed and demand drops, make sure that the pipeline can be slowed down to avoid a build up of unnecessary inventory.

9) Have a well cross-trained workforce that can react fast. If the disaster directly affects part of your supply chain, having people who can keep the operation running as best as possible is important.

10) Be prepared to avoid certain regions during certain months. For example, Florida ports are subject to hurricanes from June to November. For products destined to Latin America and the Caribbean that gateway out of Florida, carriers, distributors, and exporters should have alternate gateways with rates and frequencies established. Perishables or other time-sensitive goods may need to exclude South Florida ports from their distribution networks through the more hectic hurricane season months of August, September, and October.

11) Use customs facilities that enable clearances to be obtained and finalized at a location other than the port of entry. Doing so provides opportunities to avoid port congestion.

12) Back up your files. Ensure that all trade-related documentation—especially documents that require keeping for five or seven years, depending upon the regulatory agency—is backed up and saved in electronic format somewhere off-site. So, if all records are lost in the actual site, they're easily gotten to from a different location.

13) Conduct a risk assessment of your existing supply chain. If you are uncertain about how your supply chain will

hold up in times of trouble, hire outside global trade experts to assess risk and help strengthen it. □

CBP Rule

CONTINUED FROM PAGE 1

treated or fumigated according to certain standards—and marked accordingly.

Then, on September 14—two days shy of the target date—CBP announced it will phase in the new standards in a three-stage process. CBP is acting to implement WPM regulations of the Agriculture Department (USDA)'s Animal and Plant Health Inspection Service (APHIS: www.aphis.usda.gov) aiming to prevent introduction of invasive pests such as the Asian long-horned beetle into U.S. agriculture. The aim of the delay in enforcement is to give the importing community more time to comply.

Three Stages

The rule mandating that all WPM entering the United States is compliant with International Standards for Phyto-Sanitary Measures Publication No. 15 (ISPM 15) will be implemented as follows:

- **Phase 1:** On September 16, CBP initiated an informed compliance period with no stoppage of shipments for noncompliant WPM. CBP will conduct a WPM check in all visual exams of cargo performed during this stage.

- **Phase 2:** Beginning Feb. 1, 2006, CBP will continue informed compliance on all regulated WPM except pallets and crates. Pallets and crates in violation of ISPM 15 will be subject to full enforcement. As of this date, CBP will order immediate export of all shipments containing noncompliant pallets or crates if the port director finds that merchandise cannot be separated from noncompliant WPM.





- **Phase 3 (full enforcement):** On July 5, 2006, full enforcement will begin. CBP will not conduct informed compliance at the shipment level beyond this date. CBP will also order immediate export of all shipments containing noncompliant WPM if the port director finds that separating the noncompliant WPM from the merchandise is not feasible.

Note: Treatment at ports is not permitted under the WPM rule, nor are alternative disposal methods allowed. ISPM 15 only allows for immediate export of noncompliant WPM.

What is ISPM 15 Compliance?

Under ISPM 15, heat treatment to a minimum wood core temperature of 56 degrees Celsius for a minimum of 30 minutes or fumigation with methyl bromide are approved. Treated WPM must be marked with the approved International Plant Protection Convention (IPPC) logo. Unmarked WPM will be considered noncompliant.

For the entire rule, click on: www.ippc.int/servlet/CDSServlet?status=ND0xMzM5OSZjdG5faW5mb192aWV3X3NpemU9Y3RuX2luZm9fdmllld19mdWxsJjY9ZW4mMzM9KiYzNz1rb3M~ and scroll down to publication No. 15.

What About WPM in Exports?

The ISPM 15 standard has now been implemented in the EU, Switzerland, Australia, New Zealand, Argentina, Bolivia, Columbia, Brazil, Chile, Venezuela, Peru, Costa Rica, Guatemala, Panama, India, Philippines, South Korea, Nigeria, South Africa—with Mexico, Columbia, Canada, and the United States added on Sept. 16, 2005—so U.S. export pros have been dealing with its provisions for shipments to those nations for some time. Later this year, it will be implemented in China, Ecuador, and Turkey.

In regard to how the rule will be implemented between the United States and Canada, there has also been considerable confusion among U.S. export and import pros. To help clarify the issue, *MEI* turned to Robert Abrahams, director of the Commerce Department Export Assistance Center in Toledo, Ohio.

- **Canada:** Abrahams says: “Canada and the United States have agreed not to regulate wood-packing materials moving between the two countries, but rather to recognize the existing regulations already in place as providing sufficient pest protection. In other words, wood-packing material made from U.S. or Canadian origin wood is exempt from the heat-treatment and marking requirements of ISPM-15.”

However, Abrahams adds the following crucial point: “Canadian or U.S. untreated wood (non-ISPM 15 compliant) that has gone to another country cannot re-enter the United States or Canada without treatment and marking under ISPM-15 rules.”

- **Mexico:** “No such agreement exists between the United States and Mexico,” Abrahams stresses. Beginning Sept. 16, 2005, Mexico began implementation of ISPM 15 through NOM (Norma Oficial Mexicana) 144. Surveillance and enforcement of NOM

Coming in future issues of *Managing Exports & Imports*:

- Compliance Tips: Directorate of Defense Trade Controls (DDTC) Steps Up Enforcement
- Survey Details Biggest Challenges to Effective Management of International Supply Chains
- How Importer CIBA Achieved C-TPAT Validation—Lessons Learned
- Impact of Sarbanes-Oxley on Choice of Incoterms
- Experts Detail Latest U.S. and Global Import Developments
- Best Practices for Protecting Intellectual Property Rights in Global Markets



144 is the responsibility of PROFEPA (Federal Attorney's Office of Protection of the Environment), which is part of SEMARNAT (Secretariat of the Environment and Natural Resources). PROFEPA personnel will carry out the inspections at entry points around Mexico.

Stay Tuned, However

As *MEI* goes to press, however, a group of four states (New York, California, Connecticut, and Illinois) has filed a lawsuit in federal court seeking to block implementation of the WPM regulation. The states allege that USDA and APHIS failed to comply with both the National Environmental Policy Act (NEPA) and the Plant Protection Act in promulgating its rule.

The lawsuit argues that NEPA was not complied with because the final environmental impact statement accompanying the WPM rule was inadequate. The suit also states that USDA and APHIS failed to consider or evaluate the "reasonable and feasible alternative" of entirely phasing out use of raw wood packaging. The four states also note the danger—both to public health and the ozone layer—of using methyl bromide, which is being phased out under the Montreal Protocol, an international treaty agreed to by the United States. The lawsuit also argues that the current rule is not acceptable under the Plant Protection Act and that USDA failed to address the issue of fraud in certification of WPM treatment.

For More Information

Customs & Border Protection (CBP):

On the home page (www.cbp.gov), click on the "Wood Packaging Materials" link for listings of where and how wood pallets can be treated to conform to the rule.

U.S. Animal and Plant Health Inspection Services (APHIS): On the home page of the APHIS Web site (www.aphis.usda.gov), click on "Hot Issues," then "Wood Packaging Materials." □

ASK THE EXPERTS

MEI's 'Ask the Experts' team—Alan Gaudio, Robert Imbriani, and Joseph Zodl—answer readers' export- or import-related questions. This month's response is by Joseph Zodl, consultant for Unz & Co. We attempt to answer all inquiries submitted but cannot guarantee a response. Readers may submit questions to cdhorner@ioma.com.

Debra A. Barrett, senior logistics associate—International, Harcourt Education Inc.: Per U.S. Customs & Border Protection (CBP), must a carton state in which country of origin the product was produced? Must this information be printed on the actual product? We have books coming in from Singapore and this issue came up.

Zodl: For imports, the quick and sure answer is have the manufacturer mark the English name of the country of origin on the product itself and the container the ultimate purchaser will see. (If your product consists of 12 boxes, all in one master carton, it need not be marked.) The regulations actually require a marking to "indicate the English name of the country"—for example, Italia can be used for Italy and some abbreviations (such as UK) are allowed—but it's safest to use the full English name.

I call this answer "quick and sure" in that it covers Part 134 of the Customs Regulations. However, there are many exceptions, and taking advantage of them can save some marketing costs. By the same token, if you misconstrue the regulations, the product may have to be marked after arrival—and CBP may even assess penalties. Marking is required unless there is an available exception. (There are also marking regulations required by the federal government for certain products.)

Some exceptions subject to interpretation are as follows: 1) the product is a crude substance, such as oil or salt; 2) the article will be used by the importer and is not for resale; 3) the article was produced more than 20 years prior to importation; and 4) the product is on the "J-List" (specifically exempted from marking). In these cases, the box or other container the ultimate purchaser will see must be marked. There is also an exception if the "marking of a container of such article will reasonably indicate the origin of the article" (5 USC 1304).

Marking issues with CBP can also result when the words "United States" or a U.S. address appear on the product or packaging. Taking your books as an example, if your U.S. name and address is imprinted on the back covers, the words "Printed in Singapore" would be required to appear, according to 19 CFR 134.45, "in close proximity." Your licensed U.S. Customs Broker is the best source of information on the regulations.

Readers wishing to "Ask the Experts" other export- or import-related questions can submit them to the editor at cdhorner@ioma.com.





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