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Notes



Top Five

Customs Clearance Challenges for International Exhibitors

By Michelle Bruno

Booking a booth space, tailoring a marketing campaign to American tastes, and paying bills in a foreign currency aren't the only difficulties for international companies exhibiting in U.S. trade shows. When they choose to ship products (especially critical for those new-to-market), they encounter challenges from U.S. Customs. While there are no "easy" ways around the new and constantly changing regulations, there are ways that international companies can prepare for the rigors of importing exhibition goods into the U.S.

Challenge #1: 10+2 compliance

U.S. Customs and Border Protection (CBP) initiated an "Importer Security Filing and Additional Carrier Requirements" rule, also known as the 10+2 Initiative (for ocean freight shipments only) to require that importers provide ten data elements (see below) and the carrier provide two data elements; vessel stow plan and container status message, before clearance in the U.S. As of January 26, 2010, importers are subject to severe penalties and fines for non-compliance and shipments may not be cleared in time for the exhibition or denied clearance all together. The information is required before the shipment's departure from the port of exportation.

Ten data elements are required from importer:

1. **Manufacturer (or seller) name and address**
2. **Seller name and address**
3. **Buyer name and address**

4. **Ship-to name and address**
5. **Container stuffing location**
6. **Consolidator (stuffer) name/address**
7. **Importer identification number**
8. **Consignee identification number**
9. **Country of origin**
10. **U.S. harmonized tariff number**

SOLUTION: In anticipation of the requirements, exhibitors must build the requests for specific information into their business processes and work closely with their freight forwarders to supply the correct and full details required before the shipments are tendered to the ocean carriers. Working with freight forwarders that have end-to-end supply chains comprised of knowledgeable partners with built in data sharing systems, can help streamline the process and alleviate extra work.

Challenge #2: Importer of record

All imports into the U.S. must be performed on behalf of an "importer of record." The importer must be registered with the Internal Revenue Service and have purchased a bond to guarantee the payment of all duties and taxes. The importer is liable for all duties and compliance with all statutory and regulatory requirements resulting from importation of the goods for the show. First time exhibitors and those that have no established buyer networks in the U.S. are at a disadvantage because they have no official importer of record to designate unless the customs broker will act in this capacity.

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SOLUTION: International exhibitors should ask the freight forwarder in the country of origin, how this issue is being handled in the U.S. Some shipping companies (courier companies or freight forwarders unfamiliar with exhibition shipments) will hold high value shipments until an importer of record is identified in the U.S. In the case of time-sensitive shipments, the delay could prevent the goods from making it to the show on time.

Challenge #3: The Lacey Act amendment

In the Food, Conservation and Energy Act of 2008, amendments to the hundred-year-old Lacey Act became law, making it unlawful to import, export, transport or possess any goods in violation of plant protection laws of the U.S., Indian Tribes or any foreign country. In order to enforce the law, importers are required to document the scientific name of the plant (genus and species), quantity of the plant and name of the country from which the plant was harvested.

Under the amended Lacey Act, "plant" is defined as "any wild member of the plant kingdom including roots, seeds, parts or product thereof, and including trees from either natural or planted forest stands." While there are some exemptions to the reporting requirements, nearly every category of product (85 of the 97 chapters of the U.S. Harmonized Tariff Schedule) is affected.

SOLUTION: As with 10+2 compliance, international exhibitors should adapt their business practices to accommodate these requirements or choose not to include items that fall under the Lacey Act provisions in the shipment. The latter choice is more difficult since so many items are subject to the act. Checking with the local freight forwarder or the designated customs broker in the U.S. well in advance will help to ensure smooth handling of the shipments.

Challenge #4: Wood packing materials / ISPM 15

Wood packing materials used in shipping international shipments must conform to The International Standards for Phytosanitary Measures Guidelines for

Regulating Wood Packaging Material in International Trade (ISPM15). The U.S. and many other countries have signed onto a treaty to prevent the spread and introduction of pests to plants and plant products, and to promote appropriate measures for their control.

The ISPM 15 guidelines require that crates, pallets, wood cases, etc. constructed from any species of raw wood and used for international shipments, be fumigated or heat-treated to kill insects or fungus. Treated wood is stamped with an approval insignia before the cargo is allowed entry or transit through a participating country. Once the items are treated they will not have to be treated again.

SOLUTION: Exhibitors should check with freight forwarders to make sure that their country of origin has facilities available for fumigating wood materials. A list of countries requiring ISPM 15 compliance is also available online.

Challenge #5: Prior notice filings for food shipments

CBP requires "prior notice" of the arrival of food shipments to the U.S. The prior notice must be submitted and confirmed electronically by the U.S. Food and Drug Administration (FDA) no less than 8 hours (for food arriving by water), 4 hours (for food arriving by air/rail), and 2 hours (for food arriving by land/road) before the food arrives in the U.S. The filing can be done by the customs broker or online via the FDA's Prior Notice System Interface (FDA PNSI). Filing requires knowledge of FDA product codes, harmonized tariff codes and the exhibitor's FDA registration number.

SOLUTION: Exhibitors may file the prior notice directly with the FDA online themselves or pay a fee for the customs broker to file it on their behalf. Either way, the exhibitor must have registered their company in advance with the FDA to obtain a registration number (required for the prior notice filing) and identified a U.S. representative (the customs broker can also serve in this capacity). Working closely with the U.S. customs broker or their representative in the exhibitor's country of origin will make the process easier.

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