

ISA: Making the Grade for Self-Governance of Trade Compliance

- **Moderator:**

- **Richard Wallio**, Branch Chief, Partnership Programs, Office of International Trade, CBP

- **Panel:**

- **Leon Sample**, Field Director, Fort Mitchell Field Office, Regulatory Audit, Office of International Trade, CBP
- **Jim Ervin**, Customs Compliance Specialist, Customs & International Trade Department, Valero Energy Corp.
- **Sandra Fallgatter**, Manager of Private Brand Compliance and Vice President of Private Brands, J.C. Penny Company, Inc.
- **Amy Magnus**, District Manager, A.N. Deringer, Inc.
- **James T. Madden**, Field Director, New York Field Office, Regulatory Audit, Office of International Trade, CBP



ISA Overview

Richard Wallio
Chief, Partnership Programs
Trade Policy & Programs
Office of International Trade



U.S. Customs and Border Protection
2009 Trade Symposium

Importer Self-Assessment (ISA)

ISA is a voluntary approach to trade compliance. The program provides the opportunity for importers who have made a commitment of resources to assume responsibility for monitoring their own compliance in exchange for benefits from CBP. The primary objective of the ISA program is to maintain a high level of trade compliance through a cooperative CBP/Trade partnership and a cooperative interchange of ideas and information with CBP.



ISA Vision:

To promote and build partnerships between CBP and importers that facilitate trade by recognizing importers who demonstrate an acceptable system of controls over trade compliance and assume responsibility for self-assessment in exchange for less government oversight.



Importer Self-Assessment (ISA):

- The ISA program represents an opportunity to establish a joint informed compliance effort between CBP and the importer.
- Built on knowledge, trust, and the desire to maintain an ongoing CBP/Account relationship.
- The ISA program does not exempt the importer from statutory penalties or sanctions in the event of noncompliance.
- However, the extent to which the importer has shown compliance with the terms of this program will reflect favorably and may be a mitigating factor toward any CBP decision or recommendation on final case disposition.



ISA Process Overview

- Importer Applies (MOU & Questionnaire)
- Profile Development/Planning and Preparation
- Strategy Meeting
- Application Review Meeting (ARM)
 - **Recommendation**
- Vetting
- Approval/Denial
- Annual Re-certification



ISA Process Overview

- ISA benefits extend beyond one area of trade
- Many of CBP occupations are involved
 - Auditors
 - Import Specialists
 - Account Managers
 - International Trade Specialists
 - FP&F Staff
 - OR&R Attorneys
- ISA is risk management in action
 - CBP resources can be redirected to higher risk issues
- ISA supports the Commissioner's priorities Trade Partnership Programs



Priority Trade Issues

- CBP priority high-risk areas that can cause significant revenue loss, hurt the U.S. economy, or threaten the health and safety of the American people.
- The core of CBP risk management approach:
 - Drive the investment of CBP resources
 - Enforcement and facilitation efforts
 - Selection of audit candidates
 - Special enforcement operations
 - Policy issuance
 - Outreach and legislative and regulatory initiatives



ISA - a Team Effort

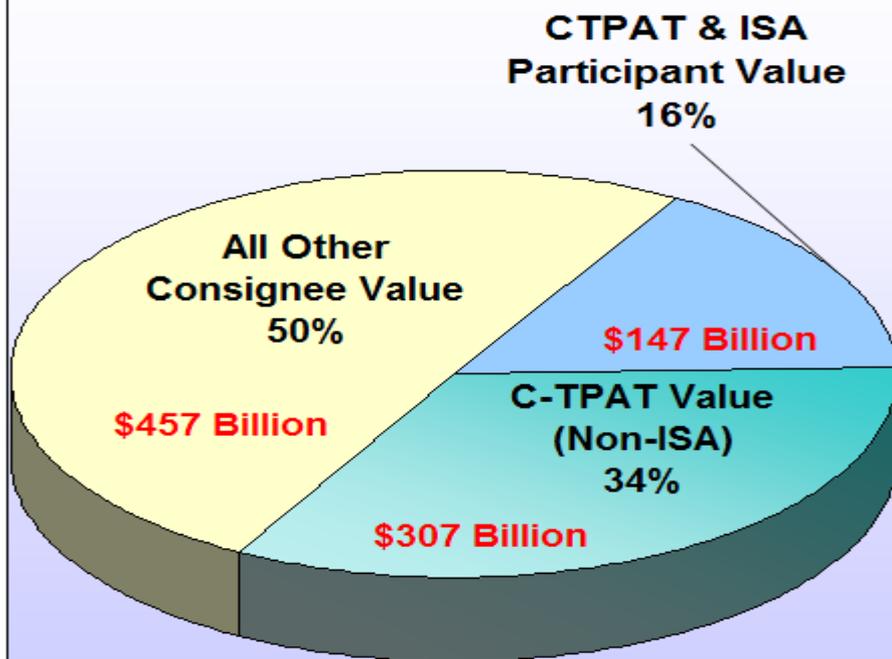
- Office of International Trade
 - Regulatory Auditors
 - Account Managers
 - Fines Penalties & Forfeiture Staff
 - International Trade Specialists
 - Regulations & Rulings Attorneys
- Office of Field Operations
- Immigration and Customs Enforcement (ICE)



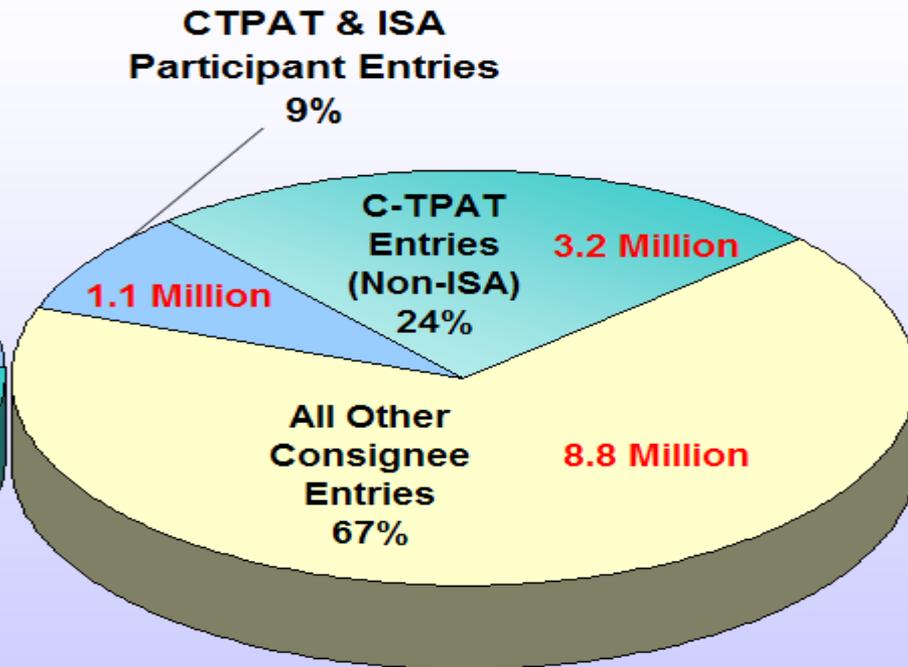
C-TPAT & ISA Value and Entries

Percentage of Total Entries Through FY 2009 Mid-Year

Value Percentage & Amount



Entry Percentage & Count



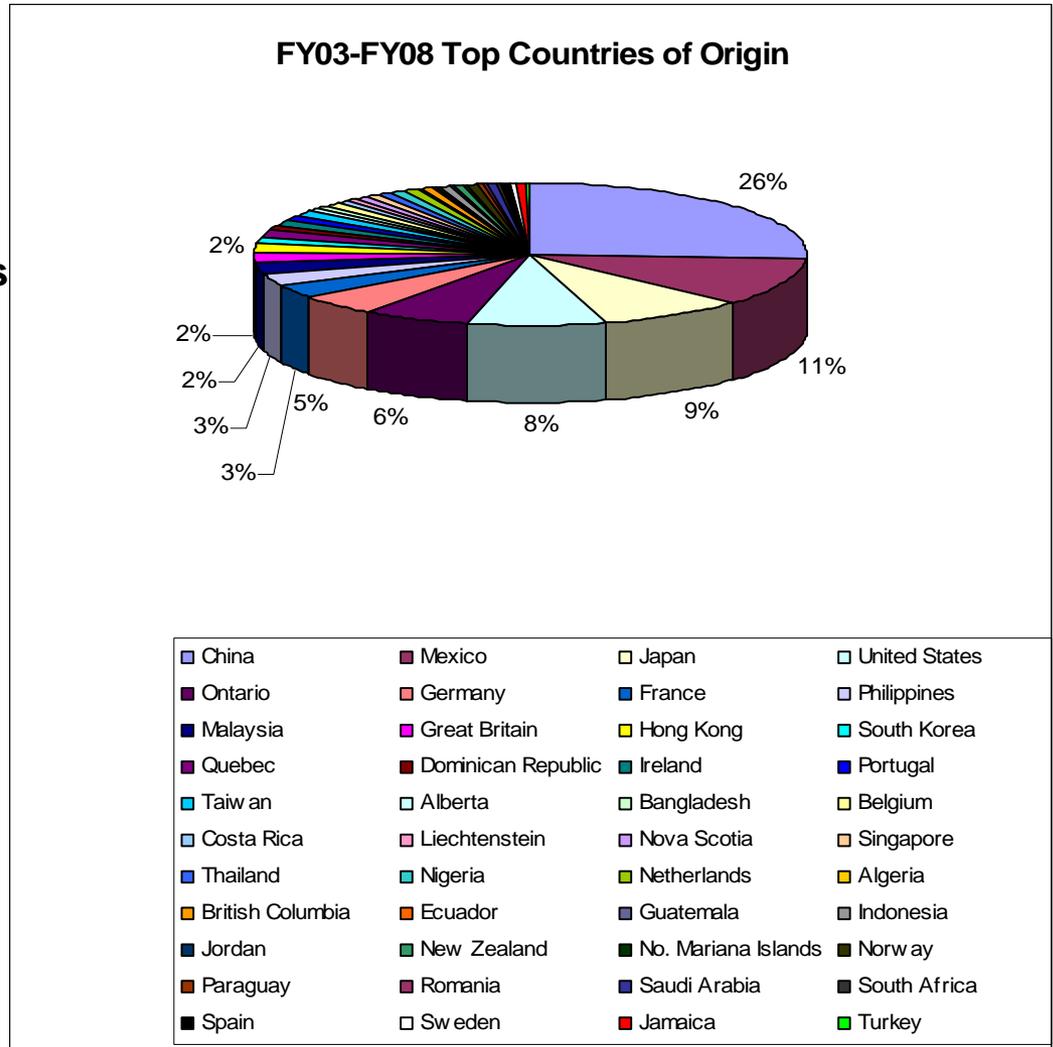
ISA – Current Statistics

- 198 participants (820 different Importer of Record)
- ISA participants were 99.28% compliant in FY 2008.
- ISA participants had approximately 16% of the total value imported (FY 2008). \$314 billion.
- ISA participants had over 15% of the revenue paid (FY 2008). \$3.9 Billion
- ISA participants had only 0.44% of the revenue gap (FY 2008).
- 18 ISA applicants have been denied
- 47 ISA applicants are under an improvement plan
- 20 members have withdrawn from ISA



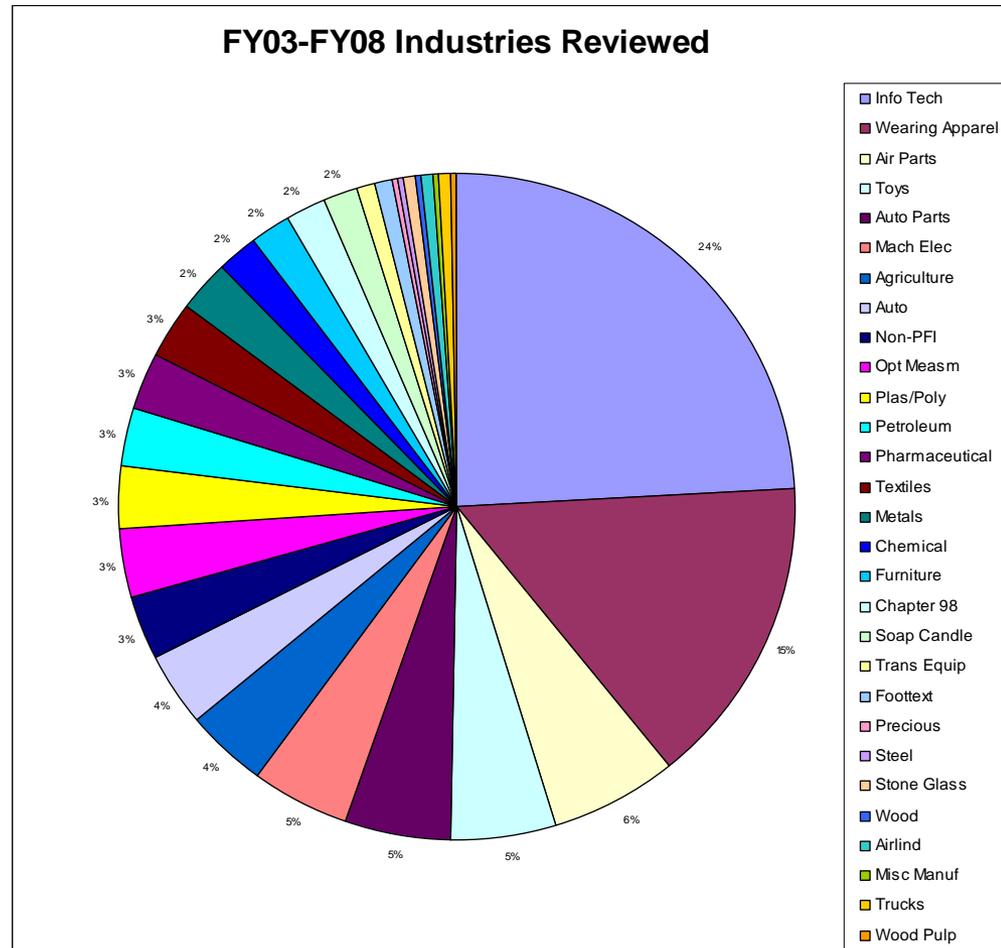
ISA Countries Of Origin:

- Top countries of origin are:
 - China for 65 of the 252 applicants
 - Mexico for 28 of the 252
 - And Japan for 22 of the 252



ISA Industries By Count:

- **Info Tech** and **Wearing Apparel** comprise the largest number of industries reviewed, at **24%** and **15%** respectively



Benefits (from CBP)

- Exemption from comprehensive audits (Regulatory Audit)
 - Focused Assessments
 - Drawback and Foreign Trade Zone audits
- Less Customs intrusion
- Coverage available for multiple business units
- Greater business certainty
 - More accurate data
 - Company control over the process

Consideration as a mitigating factor in penalty or liquidated damages

- Additional tailored benefits – industry specific



Benefits (from CBP)

- Enhanced Prior Disclosure
 - If CBP becomes aware of errors in which there is an indication of a violation of 19 U.S.C. 1592 or 1593a, CBP will provide a written notice to the importer of such errors and allow 30 days from the date of the notification for the importer to file a prior disclosure pursuant to 19 CFR 162.74
 - This benefit does not apply if the matter is already the subject of an ongoing CBP investigation or fraud is involved



Benefits (Company See)

- Company control over the process
- Less CBP intrusion
 - Reduced cargo examinations
 - Less document inspections, CF-28, CF-29...
 - Quicker clearance
 - Fewer rejects



Benefits (Company See)

Proactive action

- Reports with analysis
- Intervention in the event of issue
- Familiar with your company
- 2 day meeting vs. months (possibly years) of audit



ISA Cost Benefit

Cost	With ISA	Without ISA
Audit cost	None – only cost to enroll and ARM	FA could cost hundreds of thousands of dollars
Cost control	Importer controls cost	Customs controls costs
Time commitment	2 day ARM meeting plus follow up	Months, possibly years of meetings and follow up
ISA consulting	Free data analysis, risk assessment, review of procedures...	None
Penalties/ liquidated damages	Mitigating factor	No mitigating factor



ISA Cost Benefit

Cost	With ISA	Without ISA
Cargo exam, entry reject, doc review, CF-28, CF-29...	Fewer – need to calculate the cost per then project	More
Shared best practices of other companies	Free	Not available
Prior disclosure	Automatic, could save significant \$ in penalties	Not automatic
Product Safety	Additional savings	No savings



ISA – What's New

- Product Safety
 - Overview or purpose of the program
 - Who's eligible to participate
 - How to sign up
 - Where to get additional information



Benefits of ISA-PS Pilot

- Reduced product safety tests on goods
- Front of the line in labs if testing is done
- Destruction of products in lieu of redelivery
- Fast Track Product Recall Program
- Dedicated points of contact for NEISS codes
- Special training on compliance, internal controls, and audit trails



How ISA Partners Can Apply for Product Safety

- Interested ISA partners email: isa@dhs.gov
- Partners will be asked to complete a product safety questionnaire
- Interagency team will visit to discuss product safety controls
- Foreign factory visit may be scheduled
- CBP/CPSC review board decides on readiness



Broker Self-Assessment (BSA)

- Program patterned similar to ISA except it is for Brokers
- Voluntary partnership agreement between CBP and Brokers to effectively assess and manage risk and foster uniformity in the application of trade laws and processes.
- Current Status - Under Pilot
- Four brokers selected





U.S. Customs and Border Protection

Application Review Meeting (ARM)



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ISA Process – Objective

To assess the applicant's Internal Controls for achieving compliance with U.S. Customs and Border Protection (CBP) laws and regulations in order to evaluate the applicant's readiness to assume the responsibilities of the Importer Self-Assessment (ISA) program.



ARM – Preparation

- Field Director Receives Company's ISA Application Packet from Partnership Programs Branch
- Field Director Assigns Auditors to the ISA Team
- ISA Team (CBP)
 - Contacts Company to Schedule On-Site Application Review Meeting (ARM) Date
 - Reviews ISA Application Packet Materials
 - Reviews Applicant's Internal Control Manual
 - Discusses Applicant's CBP History with National or Port Account Manager, if Company has been Assigned an Account Manager
 - Determines Areas for Review
 - Selects Walk-Through Entries
 - Provides Agenda to the Importer



ARM – Preparation (cont.)

- Importer
 - Prepare PowerPoint Slide Presentation Utilizing the Five Components of Effective Internal Controls (SAS 78) for the Areas Identified on the Agenda
 - Obtain Documentation for Walk-Through Entries (Purchase Order thru Payment)
 - Invite Company Representatives to Attend the Application Review Meeting (ARM)
 - Prepare Hard-Copies of the Presentation and Walk-Through Entries for the ISA Team's Use During the ARM
 - Prepare 2 Compact Disks Containing Electronic Versions of All Information (i.e., Presentation, Walk-Through Entries, Any Supporting Documentation) Provided to the ISA Team during the ARM



Discovery of Error

- If while preparing/reviewing the presentation or walk-through entries an error is identified:
 - Review the error to determine the cause.
 - Identify whether the error is systemic or a one-time occurrence.
 - If systemic, go back for a 5-year period to determine the extent of the error and loss of revenue due CBP.
 - Be prepared to discuss the error, in depth, at the ARM and provide either a verbal disclosure or completed prior disclosure, if applicable.



ARM – On-site Visit

- 2-Day Visit
- Presentation from CBP
 - ISA History and Background Information
 - Importer Trade Activity (I-TRAC) Data
- Presentation from the Importer
 - Present Review Areas Using the Five Components of Effective Internal Controls (SAS 78)
 - Provide a Walk-Through of Automated Systems
 - Provide Walk-Through of Sample Transactions Selected by ISA Team
 - Explain ISA Self-Testing Plan
- Tour (Optional)



Post ARM

- ISA team documents the meeting and follows-up with any questions.
- ISA team prepares an internal report submitted to a multidisciplinary CBP Review Board.
- ISA team, including Account Manager, participates in a conference call for ISA determination.
 - ISA acceptance is determined by the multidisciplinary CBP Review Board.
- Company will receive Importer Trade Activity (I-TRAC) data from CBP on a quarterly basis.



Annual Notification Letter

- Due 13 months from the ISA acceptance letter date, which is signed by the Assistant Commissioner, and every 12 months thereafter.
- Letter should include:
 - Changes to the Customs Compliance Department and/or Personnel
 - Changes in the Organization (e.g., Ownership, Acquisitions, Divestures, etc.)
 - Results of the ISA Self-Testing
 - Utilization of a Special Trade Program(s) not Reviewed during the ARM (e.g., U.S.-Peru Trade Promotion Agreement, Chile Free Trade Agreement, Central American Free Trade Agreement, Oman Free Trade Agreement, etc.)



Internal Controls: Presentation Approach

- Provide Documented Policies & Procedures for all 5 components of internal control
 - Corporate, Divisional, Departmental, Individual (desk procedures)
- Address all Risks (potential & realized)
 - Reg. Audit will work with you to define the risks for the ARM.
 - Address all risks on the FTZ Matrix as applicable.
 - Present best practices.
 - Incorporate All 5 components of internal controls (throughout)



Internal Controls: Presentation Approach

- Demonstrate that policies, procedures, internal control activities actually occur/are followed
 - Show me, example documentation, have the people present, tours, electronic examples, walk-through's, etc.
- Emphasize monitoring, self assessing, self-testing
 - Documented policy, desk procedure for who, what and when, documenting results, documenting corrective action taken.



CBP – ISA 10 Best Practices

1) Have management's commitment. – (*Control Environment*)

Demonstrate management's commitment to compliance.

Establish a statement of corporate policy that addresses Customs and Border Protection (CBP) matters.

Solicit a statement from the Board of Directors that assigns authority and responsibility to the customs group.



CBP – ISA 10 Best Practices

2) State compliance and cost goals. – (*Risk Assessment*)

Identify and analyze relevant risk and develop internal goals to manage the risk.

Conduct post-entry reviews and compare these against established goals.

Determine how risk areas should be managed.

Resolve control weaknesses in a timely manner.



CBP – ISA 10 Best Practices

3) Develop formal policies. – *(Control Activities)*

Develop, implement and/or modify formal policies and procedures to ensure that management's goals and objectives are met.

Verify the accuracy of the Internal Control Manual to ensure processes and procedures achieve prescribed goals and objectives.

Modify controls that are ineffective or inefficient and report to management.

Define accountability and controls in job descriptions.



CBP – ISA 10 Best Practices

4) Establish training programs. – (*Information & Communication*)

Ensure that employees receive appropriate training and guidance to effectively discharge their responsibilities.

Convey pertinent information to the right people at the appropriate time.

Disseminate CBP information via company's communication system (i.e. intranet, bulletin board, mail).



CBP – ISA 10 Best Practices

5) Conduct internal control reviews. – (*Monitoring*)

Conduct periodic process reviews to assess the performance quality of the internal controls.

Use external or internal audit to periodically review each business unit to confirm that corporate policies are implemented and mandate corrective action when necessary.

Adjust testing in response to changing risk.



CBP – ISA 10 Best Practices

6) Create compliance group. – *(Information & Communication)*

Establish a customs group.

Foster open communication channels between all departments that may be involved in the CBP processes.

Establish control activities and self-testing processes to verify the accuracy of the company's internal control system since the quality of the information generated affects the ability of management to make decisions.



CBP – ISA 10 Best Practices

7) Access executives for needed resources. – *(Control Environment)*

Raises the importance of the Customs group and provides adequate authority for the group to interact with other departments as needed.

Organize the customs group so that it is visible to top level management. (e.g. attaching to tax or legal department/division)

Provide an awareness of supply chain structure. Many executives know their sales figures but do they know their key import statistics and suppliers?



CBP – ISA 10 Best Practices

8) Develop compliance requirements for suppliers. - *(Control Activities)*

Develop contract language on purchase agreements.

Develop and implement controls to help ensure that CBP transactions are valid, properly authorized and accurately processed.

Request suppliers provide regulatory reporting information when applicable (NAFTA, GSP, etc.).

Exercise reasonable care over operations performed by service providers.



CBP – ISA 10 Best Practices

9) Establish a record-keeping program. - (*Control Activities*)

Establish a record-keeping program.

Maintain a record keeping system that forms an audit trail from production control through payment to CBP entry.

Provide supporting documentation for CBP transactions in a timely manner.



CBP – ISA 10 Best Practices

10) Partner with Customs & Border Protection - *(Information & Communication)*

Enhance partnership by:

Participate in voluntary CBP programs such as:
C-TPAT, CSI, ISA, FAST, ACE, etc.



Hurdles, Sand Traps, Roadblocks, & Pitfalls...Helpful Hints To Keep On Course:



- Incomplete ISA applications
 - C-TPAT and ISA applications from different companies
 - Using ISA as an FA escape route, rather than applying for ISA proactively
- Including multiple IR #s on one ISA application, when many and/or all of the IR #s pertained to divisions with differing procedures
- Non-resident importer issues
 - Companies with previously unresolved issues



Hurdles, Sand Traps, Roadblocks, & Pitfalls...Helpful Hints To Keep On Course:

- Inadequate preparation for ISA ARM meeting
- Uncooperative & uncommunicative with CBP consultants; viewing them more as auditors than as true partners in the ISA program
- Not responding timely to CBP requests for Post-ARM support documentation requests



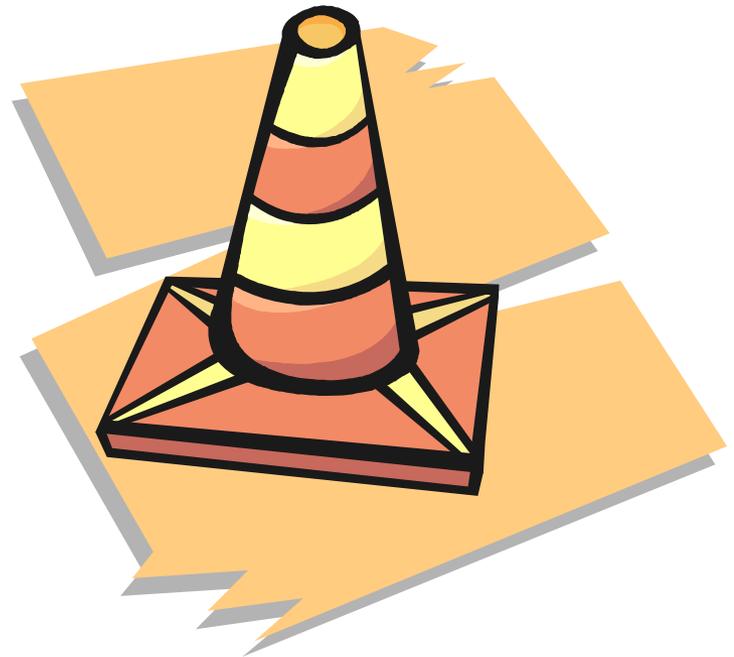
Hurdles, Sand Traps, Roadblocks, & Pitfalls...Helpful Hints To Keep On Course:

- Internal Controls are a “work in progress”
- Internal Controls not in existence
- Internal Controls unwritten and/or lack documentary support
- Deficiencies in Internal Control system...leading to lack of assurance that the company would be compliant with CBP laws and regulations



Hurdles, Sand Traps, Roadblocks, & Pitfalls...Helpful Hints To Keep On Course:

- Little internal communication between the Import Compliance Department & other import-related Company Departments
- Weak CBP-Import training provided to employees



Hurdles, Sand Traps, Roadblocks, & Pitfalls...Helpful Hints To Keep On Course:

- Companies in a “Risk Environment,” & lack understanding of the risk assessment process
- Failure to develop & implement annual self-testing plan based on potential risks identified



Hurdles, Sand Traps, Roadblocks, & Pitfalls...Helpful Hints To Keep On Course:

- Not all companies are ISA-Ready



- ... We don't want that!! So....Use Best Practice examples to keep you & us happy.



CBP Contact Information

- Richard Wallio, Chief, Partnership Programs (202) 863-6508
- Albert Queen, Trade Liaison, Partnership Programs (202) 863-6071
- Anita Harris, Trade Liaison, Partnership Programs (202) 863-6069
- Leon Sample, Field Director, Regulatory Audit (859) 331-9020
Ext.101
- **CBP Web site:**

http://www.cbp.gov/xp/cgov/trade/trade_programs/importer_self_assessment/



The Importer's Responsibility with ISA

December 9th, 2009



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Introduction



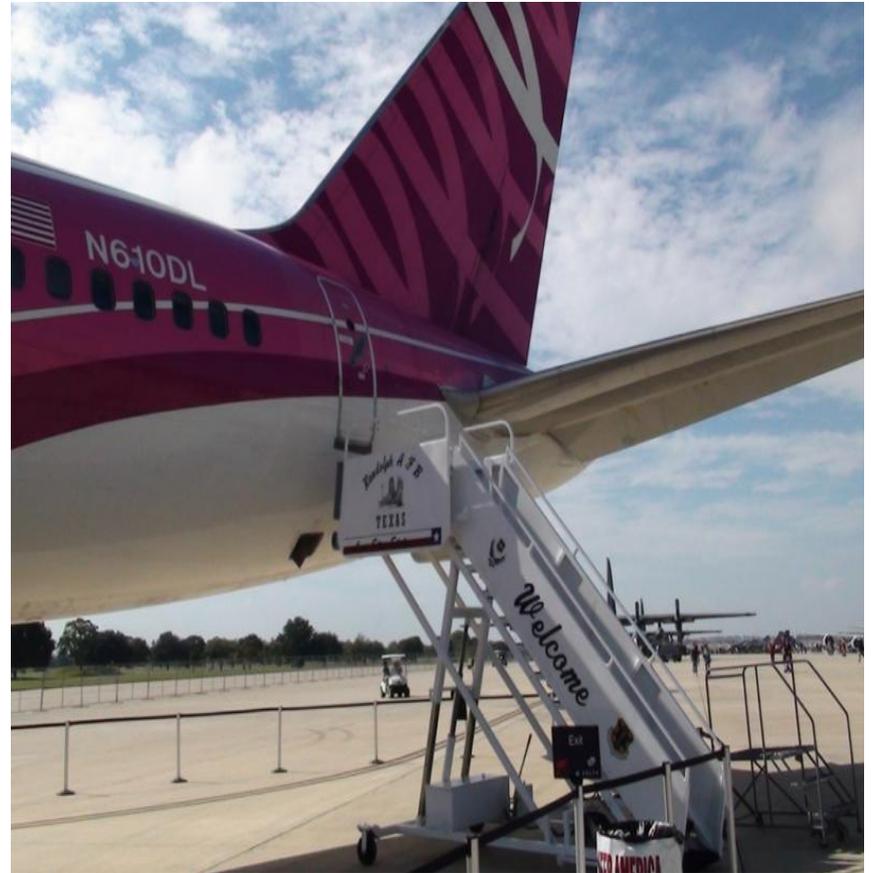
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How Could this Possibly Happen?



How Could This Possibly Happen?

- Didn't Know the Rules
- Poor Planning
 - Improper Preparation
 - Lack of Details
- Poor Communication
- Poor Execution
- = Failed Assignment



The Importer's Responsibility

How to Avoid a Failed Assignment

- Didn't Know the Rules
- Poor Planning
 - Improper Preparation
 - Lack of Details
- Poor Communication
- Poor Execution
- = Failed Assignment
- Agree to comply with all applicable Customs laws and regulations
- Maintain C-TPAT Certification



The Importer's Responsibility

How to Avoid a Failed Assignment

- Didn't Know the Rules
- Poor Planning
 - Improper Preparation
 - Lack of Details
- Poor Communication
- Poor Execution
- = Failed Assignment
- Plan for periodic testing of Risk Matrix
 - Validation of processes, procedures and results
 - Adjust as necessary



The Importer's Responsibility

How to Avoid a Failed Assignment

- Didn't Know the Rules
- Poor Planning
 - Improper Preparation
 - Lack of Details
- **Poor Communication**
- Poor Execution
- = Failed Assignment
- Dialogue with CBP, internal business lines, broker
- Make appropriate disclosures
- Annual Notification Letter
 - **Organizational Changes**
 - **Personnel Changes**
 - **Procedural Changes**



The Importer's Responsibility

How to Avoid a Failed Assignment

- Didn't Know the Rules
 - Poor Planning
 - Improper Preparation
 - Lack of Details
 - Poor Communication
 - Poor Execution
 - = Failed Assignment
- Annual Notification Letter (con't)
 - Risk Indicators
 - Anything else that could affect compliance or internal controls
 - Short paragraph about testing (area, description of procedures, results, corrective action)



The Importer's Responsibility

How to Avoid a Failed Assignment

- Didn't Know the Rules
 - Poor Planning
 - Improper Preparation
 - Lack of Details
 - Poor Communication
 - **Poor Execution**
 - = Failed Assignment
- Good execution of testing plan
 - Desk procedures are being followed
 - Risk Matrix/ Desk Procedures Updated as living documents



The Importer's Responsibility

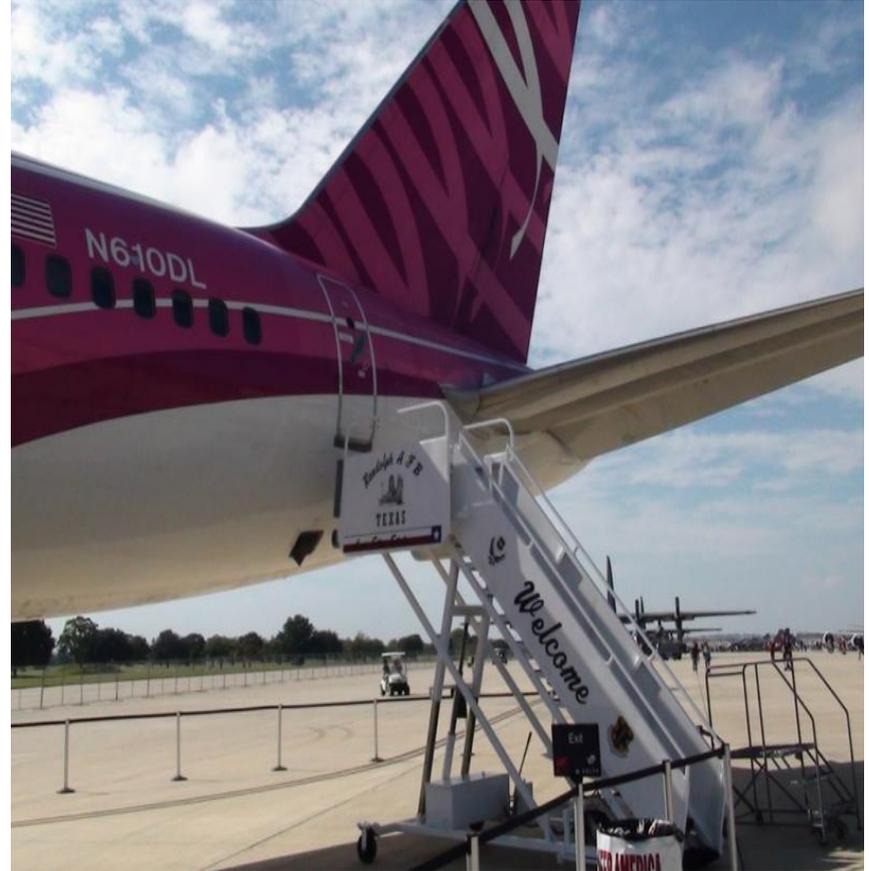
How to Avoid a Failed Assignment

- Didn't Know the Rules
 - Poor Planning
 - Improper Preparation
 - Lack of Details
 - Poor Communication
 - Poor Execution
 - = Failed Assignment
- A successful ISA program should keep an importer from failing in compliance
 - Keep compliance program on track
 - Makes company more organized and more compliant



Bottom Line?

A successful ISA program will keep you from “falling short”!



U.S. Customs and Border Protection
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ISA- Product Safety

Sandra Fallgatter

JCPenney

December 9, 2009



U.S. Customs and Border Protection
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JCPenney



- Established in 1902 by James C. Penney
- Multi-channel retailer
- 1,109 Department Stores
- Sales of \$18.5 Billion in 2008
- 150,000 Associates



CBP Partnership Programs

- Benefits of Partnership Programs
 - Right thing to do
 - Business certainty & efficient flow of products
 - Lower exam rates

- JCPenney Participation in CBP Programs:

- ACE/TSN
- CTPAT-Tier 3
- ISA
- ISA-Product Safety



**U.S. Consumer Product
Safety Commission**



Compliance and Product Safety Part of JCPenney CSR Strategy

Corporate Social Responsibility (CSR)

- **C**ommunity Activities
- **A**ssociate Programs
- **R**esponsible Sourcing
- **E**nvironment
- **S**ustainable Products



JCPenney Supplier Legal and Product Safety Compliance

- Clear Corporate Policy Requiring Legal and Product Safety Compliance
- Stringent Screening of Suppliers
- Contract Documentation and Product Safety Procedures
- Required Product Testing
- Monitoring – in-season, in-store audits
- Training of Associates and Suppliers
- Emergency Stop Sale and Recall Process



ISA-Product Safety: Questionnaire

- Control Environment
- Risk Assessment
- Control Procedures
- Information & Communication
- Monitoring



ISA-Product Safety: Verification

- CBP and CPSC Visit
 - Review of controls and procedures
 - JCPenney Home Office in Plano, Texas
 - Testing Lab in Carrollton, Texas
- Agenda
 - Overview of JCPenney and Private Brands
 - Legal Compliance and Product Safety
 - Sourcing Process
 - Quality Control and Factory Compliance Programs
 - Customs Compliance Program
 - Testing Labs



ISA-Product Safety: Verification

- Foreign Visit
 - Factories
 - JCPenney Hong Kong Lab
 - Third Party Lab
 - Hong Kong Toy Industry Association
 - Consolidator and Port Visits



QC & Compliance Programs

- “Always First Quality” became the hallmark of Penney’s merchandise strategy
- Mr. Penney would wash test garments in his hotel room which led to our first test laboratory in 1929
- 1970: Apparel inspection teams
- 1990: Factory Evaluation program
- 1999: Legal Compliance program
- 2002: Factory Security Survey developed to meet Customs Trade Partners Against Terrorism (C-TPAT) requirements



QC & Compliance Programs

- Factory Evaluation
- Legal Compliance Survey
- Factory Security Survey
- During Production Inspections
- Final Inspections
- Product Testing
- In-Season Monitoring



Factory Evaluation



- All factories producing Private Brand merchandise must have Factory Evaluation
- Focuses on quality processes at the factory
 - Product Audit
 - Factory Management Commitment to QC
 - General Attributes



Legal Compliance Survey



- Factory Tour
 - Building Safety
 - Fire Safety
- Worker Interview
 - Child and Forced Labor
 - Harassment and Abuse
 - Payment of Minimum Wage
- Records Review
 - Payment of Minimum Wage
 - Obey the Laws



Factory Security Survey (CTPAT)

- Determines factory's ability to monitor and control security in and around the facility
- Plant tour and a general review of procedures/systems
- Concentrates on security issues around the finished product
 - Physical Access Controls
 - Personnel Security
 - Procedural Security
 - Security Training and Threat Awareness
 - Physical Security



JCPenney Testing Labs

Mr. James C. Penney



Carrollton, TX RTL



Singapore MTC



Hong Kong MTC



JCPenney Testing Labs

- Suppliers are required to submit products to appropriate JCPenney lab for testing
 - Testing Manual, Toy Testing Process and updates to legal requirements are communicated to suppliers and posted on Supplier Website
- Suppliers are required to submit independent third party test results to demonstrate legal compliance along with production sample.



Consumer Product Safety Improvement Act (CPSIA)

- New Safety Standards and Requirements
- Certification Requirements
- Increased Penalties
- Covers All Children's Products
 - Any consumer product designed or intended primarily for children 12 and under
 - Includes: toys, strollers, car seats, apparel, shoes, furniture, jewelry, fashion accessories, bedding, dishes, and utensils, etc.
- Became effective August 14, 2008



ISA-Product Safety Annual Notification Letter

- Product Safety Compliance Committee
- CPSIA Implementation
- Education and Training Efforts
- Supplier Bulletins on Product Safety
- Changes to Standards and Testing Procedures
- General Conformity Certificate
- Additional Equipment
- Quality Control Procedure Changes
- System Enhancements



Broker Self Assessment

Presented by:

Amy Magnus

A.N. Deringer, Inc.



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Background Discussions

- June 2006 – Concept discussed at the NCBFAA Large Brokers and Freight Forwarders Committee Meeting
- Goal - work with CBP to come up with legitimate performance standards and report card system that satisfies CBP that the broker falls within defined standards
- In return, CBP would have no need to issue “parking ticket” penalties



More Background

- By December of 2006, several mega-sized brokers met with CBP to discuss a potential program including:
 - A list of benefits to CBP and the Broker
 - A review of compliance processes vs. transactional accuracy
 - A definition of compliance
 - Defined audit methodology
 - Fostering and maintaining individual CBP/broker relationships
 - The identification of a “go to” person
 - Using all available automation, so as not to add to paper files



Continued Background

- By July 2007, Members of the NCBFAA Large Broker Committee and Customs Committee met with Dan Baldwin, and other CBP officials to discuss specific benefits to brokers such as:
 - Capping penalty amounts
 - A self-assessment plan
 - Prior disclosure benefits
 - National Treatment
 - Voluntary Participation



Moving Along

- August 2007
 - The NCBFAA Large Broker Committee continues to meet and discuss aspects of the program in light of discussions with CBP's desire to raise Broker Penalty Amounts.
 - Not all brokers agree the program is a good idea for brokers and stress the need for benefits of membership.



More History

- By October 2007, NCBFAA Customs Committee Chairman appointed a sub-committee to work directly with CBP on the concept.
- NCBFAA wanted a program that is voluntary, not a tool for penalties, and a benefit for brokers.



More History

- By April 2008, CBP expressed a desire to have a program along the 5 standards of compliance:
 - Control Environment
 - Risk Assessment
 - Internal Control Activities
 - Information and Communication
 - Monitoring

CBP does not want a score card or BEAR report type program.



White Paper

- In June of 2008, A White Paper is drafted outlining the following benefits to CBP:
 - Improved Broker Management
 - Collaborative program that demonstrates enhanced compliance
 - Documented guidelines for improved risk assessment
 - Redeployment of resources to high risk security and trade enforcement activities



White Paper

- The benefits to the broker are the following:
 - Additional mitigation options for Liquidated Damages and Penalty demands
 - Preferential treatment for post-summary submissions
 - Removal from the Regulatory Audit Division and individual port broker management audit pools
 - Prior Disclosure under 19 USC 1641
 - Eligibility for risk-based surety bond amount calculations
 - Expanded National Permit privileges



White Paper

- Mutual Benefits
 - Primary points of contact for CBP and Broker
 - Improved communications
 - Efficient implementation of process changes



White Paper

- Qualifying Elements
 - Completion and submission of Memorandum of Understanding, Questionnaire, and Applicant's BSA Program Documentation
 - Application Review Meeting
 - CBP risk assessment and evaluation
 - CBP finding and notification
 - Approval
 - Denial – 90 day correction period



The Program Takes Shape

- Control Environment
 - Demonstrate management's commitment to compliance
- Risk Assessment
 - Identify and analyze relevant risk and develop internal goals to manage risk
- Control Activities
 - Develop, implement and modify formal policies and procedures to ensure that management's goals and objectives are met
- Information and Communication
 - Ensure employees receive appropriate training and guidance
- Monitoring
 - Conduct periodic process reviews to assess the performance quality of the internal controls



The Questionnaire

1. Broker's information – license number, legal entity type, individual qualifying license, national permit number, filer codes, IOR #, and addresses
2. Volume of entries by type code
3. Scope of Broker's business operations that involve interaction with CBP



The Questionnaire

4. Does the broker participate in CBP programs
5. Bonds on file by type and activity code
6. Policies and procedures in place to determine when and how a broker's bond is obligated
7. Waiver under 19 CFR 111.19(d)(2)



The Questionnaire

8. Copies of documented policies and procedural manuals or copy of the table of contents for such manuals
9. Centralized records?
10. Information relating to broker's accounting system
11. How does the broker assess, identify, analyze and manage risk related to CBP activity?



The Questionnaire

13. Hiring methods

14. How does the broker ensure employees are trained?

15. Brokers procedures governing the availability of a licensed broker

16. Procedures related to POA's

17. Provide procedures used to determine which employees of the broker are granted a POA to sign documents



The Questionnaire

18. Describe procedures in place to inform clients of their duty liability to CBP
19. Describe procedures in place for billing the actual importer of record
20. Describe procedures that the broker has in place for forwarding a copy of the entry documents to actual importer of record
21. Describe the policy for refund of duties, taxes, and fees.



The Questionnaire

- 22. What are the internal controls utilized by the broker to ensure the accuracy and timeliness of CBP entries?
- 23. Procedures related to release of cargo from CBP's custody
- 24. Procedures relating to handling rejected entries
- 25. Procedures relating to CBP informed compliance notifications and warning letters



The Questionnaire

- 26. Broker's internal and external procedures relating to requests for information (CF 28's, 29's, 4647)
- 27. Procedures in place relating to corrections after summary filing.





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