

Import/Export Compliance Best Practices

<b>SUBJECT</b>	Import/Export Compliance And Transportation	<b>LAST UPDATE</b>	July 2018
<b>APPLIES TO</b>	<ul style="list-style-type: none"> <li>• Manufacturers</li> <li>• Importers</li> </ul>	<b>FOCUS ON</b>	Mitigating risk through transportation security best practices
<b>QUICK LINKS</b>	<ul style="list-style-type: none"> <li>• PPAI Corporate Responsibility: <a href="http://www.ppai.org/corporate-responsibility/">www.ppai.org/corporate-responsibility/</a></li> <li>• UL : <a href="http://industries.ul.com/premiums-promotional-and-licensed-goods">http://industries.ul.com/premiums-promotional-and-licensed-goods</a></li> <li>• Consumer Product Safety Commission: <a href="http://www.cpsc.gov">www.cpsc.gov</a></li> </ul>		<b>Intended for beginner compliance programs</b>

*Italic grey text indicates a hyperlink listed in the Online Resources section of this document.*

## Introduction

Supply chain security refers to efforts that improve the overall security within an organization’s supply chain. Protecting the supply chain from illegal and/or dangerous activity is an essential element in supply chain control in a global economy. As part of an overall responsible sourcing strategy, these global efforts increasingly insulate supply chains against terrorism, piracy, theft, and more. Safeguarding the world’s trading industry is vital to economic health.

## Risk Landscape

Numerous entities are involved in the movement of goods, providing challenges for even the most sophisticated organizations. The growth of the global supply chain has resulted in a dynamic and complex landscape whereby organizations are vulnerable to outside threats and hazards that are sometimes outside of their control.

Supply Chain Point	Risk
Factory	<ul style="list-style-type: none"> <li>- Tampering with cartons in packing areas and warehouse</li> <li>- Tampering with containers/trailers</li> <li>- Creating false shipping documents, amending existing documents</li> <li>- Contamination (intentional and unintentional)</li> </ul>
Inland trucking	<ul style="list-style-type: none"> <li>- Tampering with cartons or containers en route</li> </ul>
Warehouse/consolidator	<ul style="list-style-type: none"> <li>- Tampering with cartons in the warehouse</li> <li>- Tampering with containers</li> <li>- Amending existing shipping documents</li> <li>- Contamination</li> </ul>
Freight forwarder (office)	<ul style="list-style-type: none"> <li>- Creating false shipping documents</li> </ul>
Marine/port terminal	<ul style="list-style-type: none"> <li>- Tampering with containers</li> <li>- Contamination</li> </ul>
Carrier	<ul style="list-style-type: none"> <li>- Tampering with containers</li> <li>- Contamination</li> </ul>
US distribution center	<ul style="list-style-type: none"> <li>- Tampering with cartons</li> <li>- Contamination</li> </ul>

### Risk Landscape – Country of Origin

All products imported for use in the U.S. must be marked with

the country of origin unless exempted. Sometimes it is difficult or impossible to mark certain items such as diamonds, flowers or water. *Chapter 13 of NAFTA: A Guide To Customs Procedures* offers guidance for handling exemptions. Country of origin markings are used to clearly indicate to the ultimate purchaser of a product where it is made. *North American Free Trade Agreement (NAFTA)* marking rules are also used to determine the rate of duty, staging, and country of origin applicable for NAFTA goods.

In the U.S., the marking statute requires that, unless excepted, every article of foreign origin (or its container) imported into the U.S. shall be marked with its country of origin. *Section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304)*.

*Paragraph 1 of Annex 311 of the NAFTA* provides that the NAFTA parties shall establish “marking rules” to determine when a good is produced by a NAFTA country. The marking rules established by the U.S. are set forth in *19 CFR Part 102* and are used to determine the country of origin. The marking rules are distinct from the rules of origin that are used to determine whether a good is originating under Article 401 of the Agreement. The marking rules are all based on a tariff change and are largely the same in all three NAFTA countries.

What this means is, “For goods made in one country with no foreign inputs, determination of the country of origin is easy--it is the country of production. Increasingly, however, goods are processed in multiple countries using both domestic and foreign materials, thereby complicating the determination of the country of origin. The NAFTA provides that Canada, Mexico and the United States write specific rules defining “country of origin”. In the United States, the marking statute, Section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304) requires that, unless excepted, every article of foreign origin (or its container) imported into the U.S. shall be marked with its country of origin.” – *CBP Guide to Customs Procedures*

- Types of issues seen when importing include:
  - Consumer perceived value of stated country of origin
  - Special regulations in place for certain goods in the importing country (ex: anti-dumping / countervailing duty

- legislation in US)
  - Attempted tariff evasion
- Types of issues seen within the supply chain include:
  - Failure to follow special requirements to meet country of origin requirements (ex: outward processing arrangements)
  - Intentional illegal transshipment
  - Illegal transshipment: (Intentional illegal shipments into the U.S. from an unauthorized trading partner through a country with a more favorable trade status)
  - Goods manufactured without country of origin labeling
  - Original country of origin labeling removed and/or new country of origin labeling added in transshipping country

- Container security to prevent the introduction of unauthorized materials or people.
- Procedural security to ensure integrity and security of the transportation process: shipping, handling and storage.
- Security training and threat awareness to enable employees to detect and communicate issues and concerns through container inspections.
- Information technology including IT policies for changing passwords, processes for training and standards for operating systems.

**C-TPAT**

C-TPAT is the Customs-Trade Partner Against Terrorism and was launched November 2001. It is a voluntary program intended to increase security in global supply chains by mitigating risk. Implementing best practices in security allows members to take advantage of some benefits including:

- Decreased frequency of examination at port
- Faster entry of goods into the US
- Savings in examination fees
- Decreased delivery disruptions

“C-TPAT recognizes the complexity of international supply chains and security practices, and endorses the application and implementation of security measures based upon risk. Therefore, the program allows for flexibility and the customization of security plans based on the member’s business model.” - *Security Criteria for C-TPAT Foreign Manufacturers in English*

The core tenet of the program is a risk-based approach of self-assessment questionnaires, self-declarations, audits, and post-audit corrective action planning. Foreign manufacturers are expected to have “documented and verifiable” processes for determining and mitigating risk throughout their supply chains.

The C-TPAT recommendation *scope for foreign manufacturers* includes:

- Documented and verifiable business partner requirements must be documented and verifiable.
- Physical security inclusive of barriers (fences, walls, etc.) to prevent unauthorized access at storage and handling facilities.
- Access controls to prevent unauthorized entry, maintain control of employees and visitors and protect an organization’s assets.
- Personnel security for screening potential employees and periodically reviewing current employees. This includes pre-employment verification, background checks, investigations and terminations.

5-Step Risk Assessment Step	What is required of	What this means to PPAI member
Step 1 – Cargo flow map	Map out the flow of cargo between the factory and arrival in the US	Provide information on factory, shipping companies
Step 2 –Threat assessment	Evaluate country risk	---
Step 3 –Vulnerability assessment	Evaluate factory risk Prevent unauthorized access	Require factory to fill out self-assessment questionnaire (SAQ) and/or undergo C-TPAT audit
Step 4 – Prepare action plan	Develop a plan for improving security in supply chain based on info gathered in steps one-three	Complete relevant part of the action plan. This is likely to include addressing corrective actions based on SAQ, audit findings
Step 5 –Document the 5 step risk assessment policy	Document the outcomes of the five step process	---

**Best Practices**

Ask the right questions:

- Of end clients:
  - Do you have a manual and/or checklist for your C-TPAT requirements?
  - If audits are required, will you accept an existing audit report in lieu of a new audit?
- Of factories:
  - Have you undergone a C-TPAT audit? If so, can you share:
    - ◊ All full audit reports – including initial audits and re-audits
    - ◊ Any corrective actions plans you have submitted

If your end clients have supply chain security requirements:

- Work with an expert to collate requirements, determine which requirements are the strictest
- Create your own program manual and translate that manual into local languages.
- Conduct your own C-TPAT visits or third-party audits of factories.
- Work with long-term suppliers to address security weaknesses proactively

**Online Resources:**

**U.S. Customs and Border Protection, C-TPAT program:** [www.cbp.gov/](http://www.cbp.gov/)

**C-TPAT Minimum Criteria for Foreign Manufacturers:** [www.cbp.gov/sites/default/files/documents/fm\\_security\\_criteria\\_english\\_3.pdf](http://www.cbp.gov/sites/default/files/documents/fm_security_criteria_english_3.pdf)

**C-TPAT Importer Security Criteria:** [www.cbp.gov/sites/default/files/documents/importer\\_security\\_criteria\\_3.pdf](http://www.cbp.gov/sites/default/files/documents/importer_security_criteria_3.pdf)

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