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New Year's Resolution: Protect Your Confidential Shipping Data at U.S. Ports of Entry

By Michael M. Ratoza

Information that your business believes is confidential, including foreign product sources and distribution, is not necessarily treated confidentially at U.S. ports of entry. This article explains how, with a bit of planning, the confidentiality of shipping data can be enhanced.

Among its various tasks, the U.S. Bureau of Customs and Border Protection (CBP) is charged with collecting information about shipments passing through U.S. ports of entry. Data viewed by many businesses as confidential, including identification of the shipper, the consignee, the type of shipped goods, the amount of goods in a shipment, plus trademarks and product numbers associated with goods, among other information, is contained on the vessel manifests that accompany each shipment into and out of the U.S. The CBP routinely collects the data from these vessel manifests.

Many businesses that rely on foreign shipping to distribute their products overseas or to obtain foreign generated raw materials or finished goods might be surprised to learn how easy it is to obtain shipping information from the CBP. While a business may take significant steps to protect its product sourcing and distribution information from disclosure, including to competitors, the CBP conveniently provides this sensitive shipping information to the media.

The Code of Federal Regulations (at 19 CFR 103.31) explains that the CBP permits accredited representatives of the press to inspect and copy shipping vessel manifests. Information concerning the name and address of the shipper, character of the cargo, number of packages and gross weight of the shipment, the name and address of the consignee, and trademarks and part numbers of the cargo is available for inspection by reporters. All of this information is potentially available for copying on inbound manifests. On outbound manifests, the CFR prohibits copying of the consignee's name, cargo marks and numbers, although examination of this information is permitted.

Shipping information may be obtained from the CBP either from individual vessel manifests or on magnetic tape updated daily, containing compiled shipping information from all U.S. ports.

One media acquirer — and publisher — of foreign shipping data is the PIERS unit of The Journal of Commerce (www.piers.com). PIERS claims to collect more than 15 million bill of lading records annually. PIERS explains that it obtains import waterborne data from the CBP, outbound waterborne data from its reporters located at all 88 U.S. ports of entry, and additional shipping data from customs services of certain foreign countries. Other publishers include Zepol Corporation (www.zepol.com) and Panjiva, Inc. (<http://panjiva.com>). While PIERS, Zepol and Panjiva are fee-based subscription services, they each provide tantalizing shipping information free of charge. In preparing this article, I used the Panjiva service to look up a certain well-known commercial aircraft manufacturer and obtained a list of its overseas component parts suppliers. I searched under the name of a famous cola and obtained a list of overseas suppliers and distributors. I also conducted a search under my law firm's name and learned of a recent shipment of European wooden furniture to my firm's San Francisco office.

For shippers who cower at the prospect of sensitive shipping data published to their competitors, all hope is not lost. An importer or consignee can petition the CBP for confidential treatment on inward manifests of the names and addresses of the importer, consignee and shipper, plus identifying marks and numbers. On outward manifests, confidential treatment can be requested of a shipper's name and address.

The particular form of the request for confidential treatment is not difficult to prepare and submit to the CBP. Specific information to be included in the request, and the procedure for submitting the request, are available in 19 CFR 103.31(d). While a request for confidential treatment will not prevent the inspection of vessel manifests by reporters, the approved request will prevent the publication by the press of the confidential information for two years. The request may be renewed for additional two-year intervals.

Resolve now to confirm the foreign sourcing and foreign distribution of your business' goods. If this information should be treated confidentially, then consider requesting confidential treatment of this information by the CBP.

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