

TOMPKINS & DAVIDSON, LLP
Counselors At Law

5 Hanover Square
15th Floor
New York, N.Y. 10004

Phone: (212) 944-6611
Fax: (212) 944-9779
e-mail: customs@tdllp.com
internet: <http://www.tdllp.com>

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TO CLIENTS AND FRIENDS:

RE: CBP Notice on Container Seal Requirements for Maritime Cargo

Customs and Border Protection has issued a Federal Register notice advising the public of the existing statutory requirement, under which seals on all maritime containers arriving in the United States on and after October 15, 2008, are required to meet the International Organization for Standardization Publicly Available Specification 17712 (“ISO/PAS 17712”) standard for sealing containers. This Standard for seal integrity and strength had previously been applicable for participants in the C-TPAT program.

ISO/PAS 17712 requires that container freight seals meet or exceed certain standards for strength and durability so as to prevent accidental breakage, early deterioration (due to weather conditions, chemical action, etc.) or undetectable tampering under normal usage. ISO/PAS 17712 also requires that each seal be clearly and legibly marked with a unique identification number.

The pending self-implementation of this standard for container seal security resulted from 2007 legislation that provided for automatic implementation of the ISO/PAS 17712 standard if no action was taken by DHS to establish its own rule on container seal security before April 1, 2008. Pursuant to statute, all maritime containers in transit to the U.S. must be sealed with a seal meeting the ISO/PAS 17712 standard for sealing containers no later than October 15, 2008. CBP will apply the standard to all loaded containers, including foreign cargo remaining on board, arriving by vessel at a port of entry in the United States on or after October 15, 2008. However, certain types of containers that cannot be readily secured by use of a container freight seal will not be subject to the ISO/PAS 17712 standard; these include tanks, non-standard containers (such as open top containers), or containers that simply cannot accommodate a seal meeting the ISO/PAS 17712 standard (such as custom built containers).

CBP may assess civil penalties under 19 U.S.C. 1595a(b) for the attempted introduction of merchandise into the United States contrary to law, if a loaded container that is subject to the sealing requirements arrives by vessel at a port of entry in the United States on or after October 15, 2008, either (i) with no seal or (ii) with a seal that does not meet the ISO/PAS 17712 standard.

Should you require information on the specifics of ISO/PAS 17712, please contact Louis Shoichet (lshoichet@tdllp.com), Robert Stack (rstack@tdllp.com), or Barbara Wierbicki (bywierbicki@tdllp.com).

Note: The above comments are intended for general information only, and not as legal advice. Legal advice can only be offered after a review of a client’s specific facts and circumstances, which may affect the applicability of any general comments contained herein.