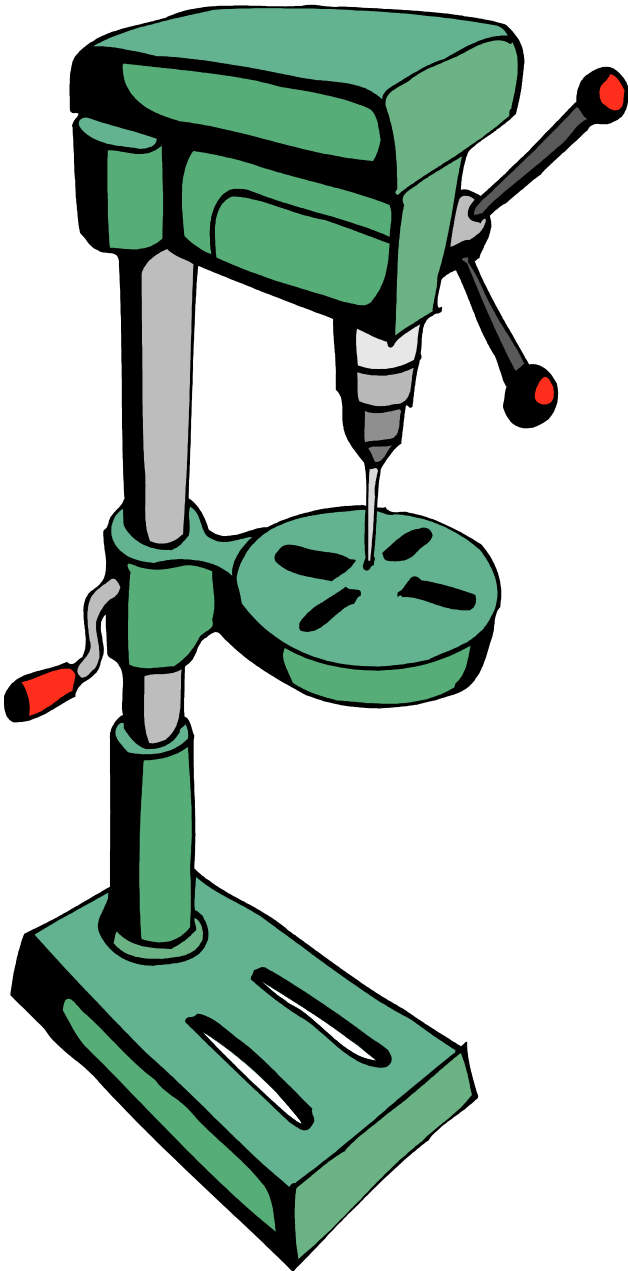


ASSISTS



(How hidden dutiable value may result in Customs duties and penalties)

An Assist is an item of value provided to the foreign seller:

- Directly or indirectly
- By the U.S. buyer or importer
- Without cost, or at a reduced value

Assists are a dutiable addition to the value of the imported articles

Assists are defined as any of the following:

- Materials, components that are incorporated into the imported articles.
- Tools, molds, machinery used to produce the imported articles.
- Material and articles consumed during production of the imported article.
- Engineering, development, artwork, design work, plans and sketches that are undertaken outside of the United States except if performed by a person domiciled within the USA, performed while that person is acting as an employee or agent of the buyer and incidental to other engineering, development, artwork, design work, plans and sketches undertaken within the USA

ASSISTS

PRACTICAL PROBLEM

Always Imports Inc., believes they have found an excellent lawn care product. The foreign manufacturer - not having access to a competent tool and die shop, asks Always Imports to make the die for the product and ship it to them. The die cost \$5,000. Always Imports does this.

ASSISTS

PRACTICAL PROBLEM

The manufacturer's invoice:
Lawn Care product

Total purchase	20000 units
Unit cost	\$0.30
Sub-total	\$ 6,000.00
Ocean freight	750.00
Total invoice	\$ 6,750.00

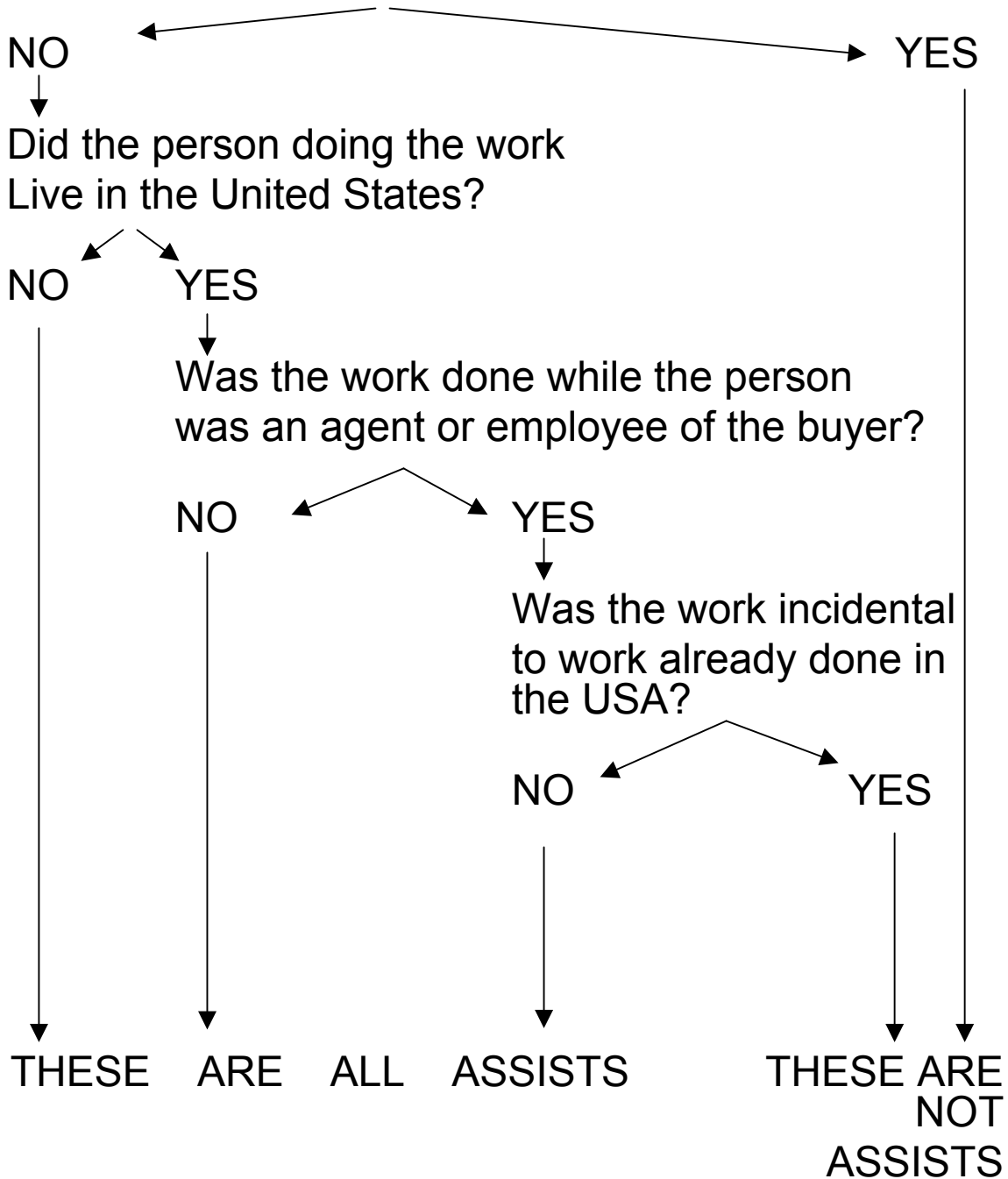
Dutiable value could be \$11,750.00

Duty expense (assume 5% duty)

\$300 -- \$576.50 !!

ENGINEERING, DEVELOPMENT, ART & DESIGN WORK, PLANS AND SKETCHES

Was work done in the United States?



ASSIST SOLUTIONS

- TRACK ALL EXPORTS TO VENDORS --AN ASSIST?
- TRACK ALL 3RD PARTY PAYMENTS FOR VENDOR SUPPLIES – AN ASSIST?
- CONSIDER DECLARING ENTIRE ASSIST ON FIRST SHIPMENT
- BETTER YET, BILL VENDOR FOR ALL PRODUCT SHIPPED TO THEM

NON-DUTIABLE CHARGES

U.S. Customs Instructions

“It has long been Customs position that the amount to be deducted from the price actually paid or payable for freight, insurance and other costs incident to the international shipment of merchandise, including foreign inland freight costs, are the actual, as opposed to estimated, costs.”

U.S. TREASURY DECISION 00-20

NON-DUTIABLE CHARGES



**DEDUCTIBLE
FROM INVOICE
ONLY IF
INCLUDED
IN THE PRICE
PAID OR
PAYABLE !**

- Ocean and Air freight
- Marine Insurance
- Foreign Inland Freight
- Duty and fees
- Domestic freight

NON-DUTIABLE CHARGES OCEAN & AIR FREIGHT

Customs requires that the actual amount paid to the carrier, agent, or forwarder be declared on the entry summary.

- **Requirement met if you or your Broker paid direct.**
- **Only this amount may be deducted from invoice value**
- **And only if terms of sale include Int'l freight**

NON-DUTIABLE CHARGES OCEAN & AIR FREIGHT

- If you are paying your vendor/shipper as part of the invoice price or by a separate invoice from the shipper, then you must verify the amount.
- Verification must at least be a International Bill of Lading (Waybill, Ocean bill of lading, Cargo receipt, AWB, HAWB) showing the actual freight billed.

NON-DUTIABLE CHARGES OCEAN & AIR FREIGHT

- **IF AIRFREIGHT IS PREPAID,
VERIFICATION OF ACTUAL
FREIGHT PAID IS A
SIGNIFICANT CHALLENGE**

NON-DUTIABLE CHARGES MARINE INSURANCE

- Prepaid Marine insurance should be discouraged.
 - Actual Premium cost are difficult to ascertain
 - Uncertain coverage
 - Foreign venue for claims

NON-DUTIABLE CHARGES

Foreign inland freight

- Generally deductible only if included within a Through bill of lading

NON-DUTIABLE CHARGES PPD DUTIES AND FEES

- Only actual duty and fees may be deducted irregardless of amount indicated on the shipper's invoice
- Determined through a simple Algebraic formula

NON-DUTIABLE CHARGES

Domestic freight

- Must be separately identified on invoice.
- Exception to 'actual' costs....
Any reasonable amount may – be deducted
- This should be discouraged (except for through bills of lading) simply because of risk of service failure.

NON-DUTIABLE CHARGES PRACTICAL PROBLEM

The manufacturer's invoice:

Lawn Care product

Sub-total	\$ 6,000.00
Air freight	750.00
Total invoice	\$ 6,750.00

Dutiable value could be \$6,000 but only if air freight is substantiated. At 5% duty, consider the cost of an additional \$37.50.

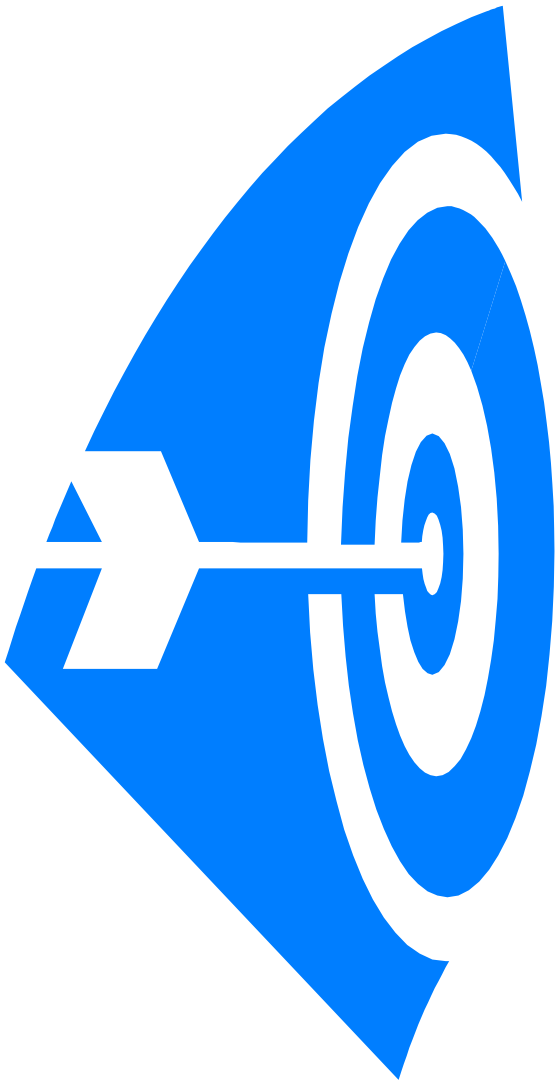
FOCUSED ASSESSMENT



- UNITED STATES CUSTOMS INITIATIVE

- A RISK BASED APPROACH TO AUDIT

CUSTOMS GOAL



- CONTINUING CUSTOMS COMPLIANCE
- MANAGEMENT OF RISK
- MAXIMIZING SCARCE RESOURCES

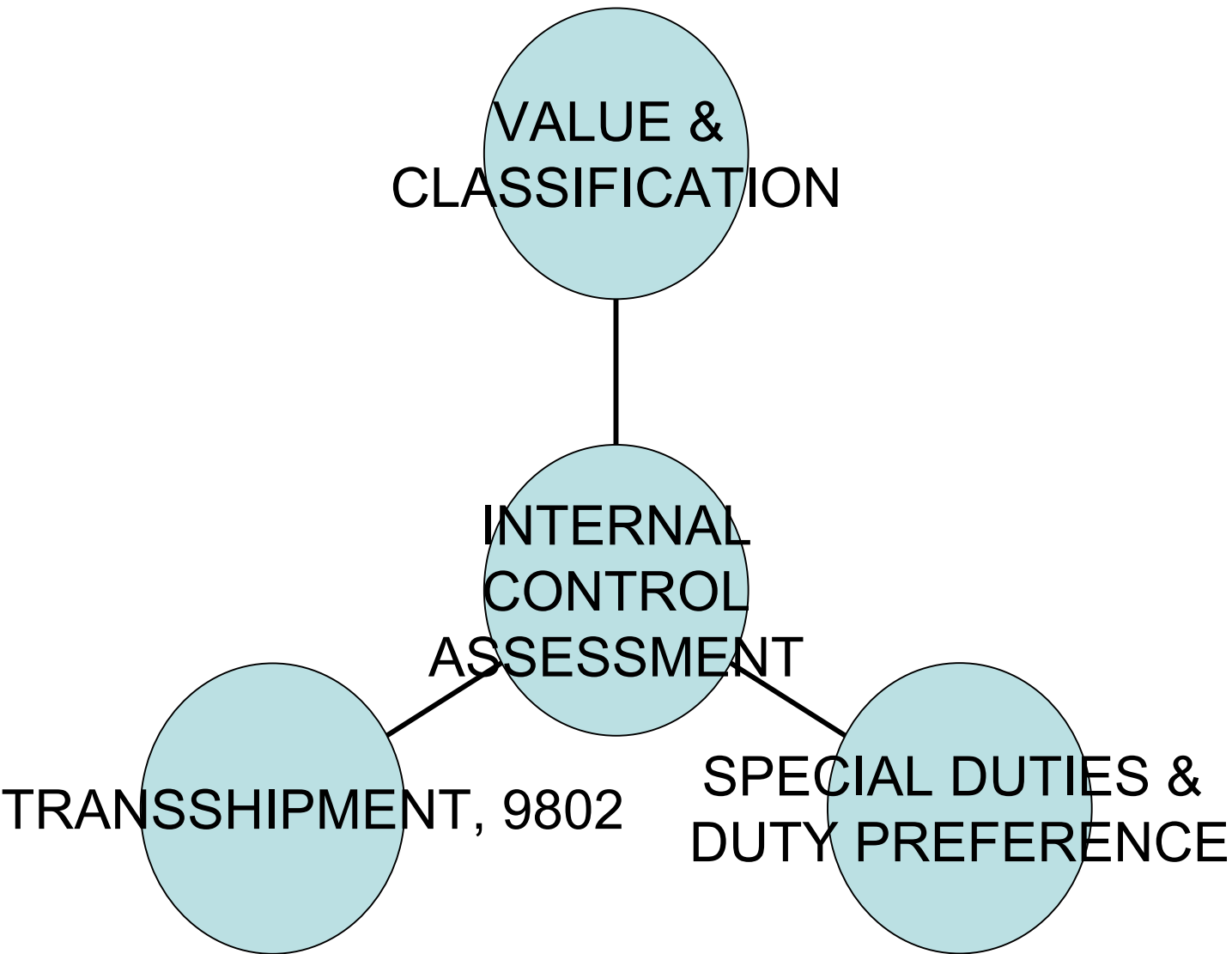
FOCUSED ASSESSMENT (FA)

- STARTS WITH INTERNAL CONTROL REVIEW – NOT WITH TRANSACTION TESTING
- TESTS ONLY AREAS AT RISK
- CAN RESULT IN ENFORCEMENT ACTION
- USES A TEAM APPROACH

FOCUSED ASSESSMENT

- 2 PART PROCESS
 - 1 PRE-ASSESSMENT SURVEY (PAS) OF RISK IDENTIFICATION
 - 2 TRANSACTION TESTING ON AREAS OF RISK

FOCUSED ASSESSMENT OF POTENTIAL RISKS



FOCUSED ASSESSMENT

- PROVIDES TOOLS TO IMPORTER FOR INFORMED COMPLIANCE
- IDENTIFY SYSTEM STRENGTHS AND WEAKNESSES
- USES STATISTICAL SAMPLING BASED ON \$ VALUE
- CONCENTRATES ON MATERIAL ISSUES
- COLLECT LOSS OF REVENUE + INTEREST!
 - **EG: LACK OF NON-DUTIABLE SUBSTANTIATION**
 - **ASSISTS**

CUSTOMS AND 9/11

C-TPAT



CUSTOMS –TRADE PARTNERSHIP AGAINST TERRORISM

- CIA HAS DETERMINED THAT THE SHIPPING CONTAINER REPRESENTS THE LARGEST KNOWN TERRORIST RISK TO THE UNITED STATES.

CUSTOMS –TRADE PARTNERSHIP AGAINST TERRORISM

- “IF BUSINESS TAKES STEPS TO SECURE IT’S CARGO AGAINST TERRORISM, WE WILL GIVE IT THE FAST LANE THROUGH THE BORDER (by applying for C-TPAT)”

- COMMISSION BONNER

RESPONSE TO TERRORISM

- MORE THAN 17,000 CONTAINERS ENTERED THE USA EACH DAY
- CONGRESS WANTS PHYSICAL EXAMINATIONS FOR EACH ONE – 100% EXAMS !

TERRORISM – THE CHALLENGE

“THOUSANDS OF TRUCKS CROSS THE SOUTHERN AND NORTHERN LAND BORDERS EACH DAY. IF CUSTOMS ATTEMPTED TO OPEN EVERY CONTAINER – TRUCKS WOULD BE BACKED UP TO MEXICO CITY”

MS. AUDREY ADAMS, DIRECTOR OF FIELD OPS FOR CUSTOMS CMC IN CA

TERRORISM – THE CONSEQUENCES

- (SUCCESSFUL USE OF A CONTAINER FOR AN ACT OF TERRORISM) “... I DON’T HAVE TO TELL YOU THAT EVEN A TWO-WEEK SHUTDOWN OF GLOBAL SEA CONTAINER TRAFFIC WOULD BE DEVASTATING. BUT A SHUTDOWN WOULD IN ALL LIKELIHOOD BE MUCH LONGER”

– COMMISSIONER BONNER

– CAN ANYONE CHIDE
CONGRESS ??

-FIGHT TERRORISM- RECOMMENDATIONS FOR IMPORTERS

- PROCEDURAL SECURITY
- PHYSICAL SECURITY
- ACCESS CONTROLS
- PERSONAL SECURITY
- AWARENESS TRAINING
- MANIFEST PROCEDURES
- CONVEYANCE SECURITY

PROCEDURAL SECURITY

- PREVENT UN-MANIFESTED CARGO FROM ENTERING THE SUPPLY CHAIN
- PROPER VERIFICATION OF PACKING LIST DATA AGAINST CARGO
- PROCESS IN PLACE TO MONITOR VARIANCES, SEALS ON CONTAINERS
- HAVE IN PLACE SYSTEM FOR NOTIFICATION TO CUSTOMS, FBI AND LOCAL LAW ENFORCEMENT

PHYSICAL AND CONVEYANCE SECURITY

- ALL BUILDINGS AND YARDS MUST BE SECURED FROM UNLAWFUL ENTRY
- ADEQUATE LIGHTING OF WHSE AND YARD SPACE
- SEGREGATION OF INTERNATIONAL AND HAZMAT MATERIAL WITHIN WHSE. IN SAFE, CAGED OR FENCED IN AREA.
- PHYSICAL SEARCH OF ALL ACCESSIBLE AREAS – SECURING OF ALL COMPARTMENTS AND PANELS
- PROCEDURES IN PLACE FOR REPORTING SIGNS OF TAMPERING

ACCESS CONTROLS

- POSITIVE IDENTIFICATION SYSTEMS
- RECORDING AND TRACKING OF ALL EMPLOYEES, VISITORS AND VENDORS

PERSONAL SECURITY AND AWARENESS TRAINING

- EMPLOYMENT SCREENING
- PERIODIC BACKGROUND CHECKS
- APPLICATION VERIFICATIONS
- SPOT INTERNAL CONSPIRACIES
- MAINTAIN CARGO INTEGRITY
- ADDRESSING UNAUTHORIZED ACCESS

MANIFEST (EXPORT) PROCEDURES

- ENSURE THAT MANIFEST ARE:
 - COMPLETE
 - LEGIBLE
 - ACCURATE
 - AND SUBMITTED IN A TIMELY MANNER TO CUSTOMS

C-TPAT

- APPLICATION IS CURRENTLY OPEN TO ALL IMPORTERS
- WILL EXTEND TO BROKERS, FORWARDERS, LOGISTICS PARTNERS, EXPORTS AT A LATER DATE

C-TPAT

CONSEQUENCES FOR 'UNKNOWN' IMPORTERS

- MORE EXAMS
- GREATER SCRUTINY OF DOCUMENTS
- SLOWER TRANSIT – PORT OF UNLADING SCRUTINY
- GREATER RISK OF OUTBOUND EXAMS

WHAT IMPORTERS CAN DO NOW

- VERIFY VENDOR RELATIONS
- AUDIT DOCUMENTATION WITH PHYSICAL CARGO
- TEST YOUR BUSINESS ETHICS
- APPLY FOR C-TPAT

WHAT EXPORTERS CAN DO NOW

- CUSTOMER CANNOT TELL YOU WHAT THE END-USE IS
- CUSTOMER HAS LITTLE OR NO BUSINESS BACKGROUND
- CUSTOMER DECLINES NORMAL INSTALLATION, MAINTENANCE.
- SHIPPING ROUTE IS ABNORMAL FOR DESTINATION
- FORWARDER IS LISTED AS FINAL DESTINATION

CUSTOMS NEWS

- ASSISTS
- NDC'S
- FOCUSED ASSESSMENTS
- C-TPAT

