



World Trader

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From the president

CHRISTINE NELSON, MANHATTAN TOY
MGTA PRESIDENT



Hello, **MGTA members!** We are five months into the year, and there's a lot of excitement and hard work going on behind the scenes within your association. In particular, the board has been working on the three goals that were set earlier this year.

To help accomplish our **first goal** (*build and sustain the organization's infrastructure*), we have refined and updated our organization's bylaws and Cooperating Organization Policy. These have been posted to the MGTA website for member reference.

To help with our **second goal** (*increase committee development and member involvement*), the education committee continues to be strong and is building its volunteer base. The committee will soon be working on planning for fall and into 2009. The communications and membership committees have also met and begun the initial stages of working within the association.

We have also been working towards our **third goal** (*increase member value and perception thereof*). To provide members with the knowledge to see what is going on within the organization, we have added committee meeting schedules to the calendar on our website. To engage our member companies, we have added new sponsorship opportunities. (I should also mention that, later this year, we will be announcing a new annual sponsorship program that will go into effect January 2009.)

We are always looking for feedback from members concerning the association. If you have any questions, comments, or suggestions, please contact me, the MGTA office, or one of the other board members. We're all here for the membership, and we'd love to hear from you!

On behalf of the MGTA board of directors, I thank you for your participation. MGTA is successful today because of its many volunteers and members. It's a pleasure to be the sixth president of MGTA!



On Monday, May 12, 2008, **Christine Gates** (MGTA president) married **Todd Nelson** in Mexico at Aventura Spa Palace overlooking the Mexican Caribbean Ocean.

**Congratulations,
Mr. & Mrs. Nelson!**

Prior disclosures

CHRISTOS LINARDAKIS, ATTORNEY, BRAUMILLER SCHULZ LLP

The Chiquita Banana case last year made the press, including the *Wall Street Journal*, because of the result of a voluntary disclosure. The consequences that resulted were severe: potential criminal charges by Colombian authorities for both the directors and officers involved—all due to a *voluntary* disclosure!

The debate on the pros and cons of voluntary disclosures has been argued for years. During my tenure in Corporate America, for every outside firm I consulted on whether or not to make a voluntary disclosure, the split was nearly unanimous: for every firm that said yes, there was a firm that would argue the opposite. In fact, I could have spent my entire career doing just voluntary disclosures!

The issue for practitioners was always whether the situation warranted a disclosure or not. If we look at the “letter of the law,” we could make the following analogy:

How many times have you seen someone on the road speeding next to you during rush hour? The answer: daily! The speed limit is statutory, so we obviously have a clear violation of the law. But say that that “speeder” is you. Are you going to disclose this voluntarily by driving to the nearest police station and declaring, “Sir/Madam, on marker 251, I was driving 15 mph over the limit, and I am here to pay the violation”? I don’t think so! (My apologies to anyone out there who may in fact do this.)

Thus, the issue is always both a joint business and legal decision that must be weighed using numerous factors, such as the seriousness of the violation, the time of the violation, the degree of risk involved in disclosing or not disclosing, and the law(s) that may have been violated. (See 15 CFR, Suppl. No.1, Part 766 for general factors BIS takes into consideration.) The BIS, U.S. Customs, and the EAR clearly state that a voluntary self-disclosure is a mitigating factor in determining what administrative sanctions (if any) will be sought. Yet both BIS and U.S. Customs (CBP hereafter) have clearly made the point that, when a company self-discloses, *it is within the government’s discretion as to the weight it will give such disclosures!* Thus it is often difficult to discern whether or not the government will use an “objective” or “subjective” perspective in the amount of mitigating factors it will place on your disclosure.

Are you willing to take that risk? Again, it’s both a business and legal decision that could often lead

practitioners to sleepless nights. Keep in mind: it will NOT prevent transactions from being referred to the Department of Justice—in which case, you will now have both a civil and a criminal investigation!

Obviously, there are some very clear black-and-white cases that must be disclosed. These are the easy ones—at least when it comes to making the decision to disclose. An example would be exporting a controlled item (say, for anti-terrorism purposes) to a country that clearly requires an export license. The failure to disclose (if discovered) is just too great to ignore. But exporting an item and showing “No License Required” (NLR) on the Shipper’s Export Declaration (SED) when in fact a license exception (say, “CIV” for civilian end-use) was available is a different story. Do you want the attention of BIS for something that is not so serious? Again, think of driving faster than the speed limit.

Or say you discover that, instead of declaring \$500 for the value on an import shipment, the value shown was \$499. The Customs regulations are quite clear on valuation, but what is the chance that CBP will discover this “under-valuation”? Probably slim to none. The same scenario can be played out with import quantities declared on an import entry. Again, the practitioner needs to weigh the risks involved on whether or not to disclose to authorities.

Commentators have stated that it’s nearly impossible to reduce to zero the frequency of violations, both under the EAR and Customs regulations—especially for those companies that engage in very large numbers of import and export transactions subject to complex regulatory requirements. Instead, by having comprehensive import/export compliance programs and measures in place, and using good-faith efforts to comply with the law, “great weight” should be given to the violator when a self-disclosure is required.

The issue remains. Should a company the size of General Electric be given more leniency when it comes to a violation and administrative sanctions than a “mom-and-pop” operation when GE may have thousands of import/export transactions resulting in one or two violations and the “mom-and-pop” operator has only a handful of transactions? CBP and BIS have made it clear that it would be inappropriate to adopt such favoritism. Instead, *at the government’s discretion*, CBP or BIS may use self-disclosure and other factors to mitigate potential penalties and possibly place “great weight” (again, at their discretion) on both the disclosure and a company’s compliance programs.

In conclusion, every trade compliance officer and legal practitioner within a company faced with such situations must perform a “risk assessment” on the degree of the violation, the decision whether or not to disclose, and the corrective actions that should be put in place to avoid repeat violations—whether or not you file a voluntary self-disclosure. I must state that I am not condoning not disclosing violations; rather, I am suggesting that those faced with such a situation should weigh the pros and cons of self-disclosure.

Automated financial supply change management: leveraging technology and talent

PATRICIA TOBIN, THE WILLOW GROUP

With almost everything and everyone online today, it’s no surprise that financial supply chain management is rapidly being automated and moved to the Internet to facilitate the sharing and managing of information. *Financial supply chain management* is the process of exchanging payments, related documents, and information between buyers, sellers, and financial institutions (The Aberdeen Group). By automating this process and integrating the management of the physical and financial supply chain, Corporates are eliminating the information gap between logistics and finance and moving towards paperless transactions for an efficient, cost-effective process.

Corporates are creating cross-functional teams by having finance experts collaborate with procurement and logistic specialists to analyze the cost of capital and trade agreements, enhance

operating processes, and lower risks associated with supply, such as credit or foreign exchange risks (*International Insights*, Spring 2007). Putting everything online provides more visibility into the payment status, a single view of logistics, and more transparency for better control over inventory.

Why Automate?

There are several other benefits to going from a paper-based to an electronic system. Consider the following statistics associated with a processing a manual order and invoice:

- The cost of processing a simple transaction is about \$400.
- Up to 24 forms must be completed for each transaction.
- Half of all letter-of-credit transactions are rejected by banks because of incorrect information.

(*Gartner G2 Report*, June 2002)

Additionally, recent research has shown that logistics and transportation-related costs typically account for 4% to 7% of unit prices, and finance-related costs are significant and rising. Resolving invoice disputes—one of the biggest expenses—is more easily managed electronically. Strictly enforced compliance and trade laws have resulted in the need for greater transparency, requiring the supplier and buyer to keep better records of inventory and cash flow or risk significant fines or sanctions. Searching and retrieving this information online is more efficient and cost-effective. Workflow and business process management functionality is readily available and can provide a significant return on investment.

Security

Collaborate with your technology department to write a security plan before proceeding with electronic transmission of sensitive information. Set up a secure, encrypted connection and verify the identity of the party on the other side of the transaction by using digital certificates. The certificates are usually issued by a financial institution, which “vouches” for and takes on the liability of the entity, thus guaranteeing that transaction. Digital certificates are recognized in more than 120 countries.

Bottom Line

Financial supply chain automation, integration with physical supply chain management, forming cross-functional teams, and improving business processes present an opportunity for buyers and suppliers to improve their bottom line. The end result is more effective management of risk and capital, thereby reducing the cost of goods sold and improving the buyer-and-seller relationship. Minneapolis-based The Willow Group has seen this positive working capital impact at several of its clients after the process has been reviewed and improvements implemented and sustained.

For more information, please contact Patricia Tobin, TRM Practice Consultant.

Key characteristics of an automated financial supply chain:

- Non-proprietary solutions for buyers and suppliers
- Management of working capital and financial flows
- Management of information across the chain and the documents and data that support these flows, such as purchase orders, advanced shipping notices, invoices, and payment approval process.
- Convergence of management of physical and financial supply chains for optical transparency (much of this data is the same information that is used to manage the physical movement)
- EIPP (electronic invoice presentation and payment)
—dematerialization

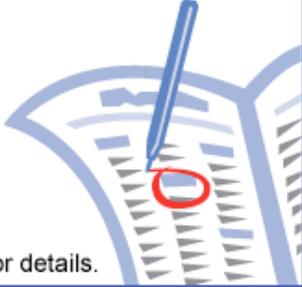
Source: *International Insights*,
Spring 2007

**Need a job?
Looking to hire?**

The MGTA Job Board can help!

Find your next import/export trade **job** or **employee** through the MGTA Job Board.

Click [here](#) for details.



About your MGTA board

When asked why they like being on the MGTA board of directors, our directors replied:

It's made up of likeable, interesting leaders from widely varied backgrounds, and I always learns something from them. – **Mark McNeil**

It gives me a perspective on the trade community that I would not usually be exposed to in my career. – **LJ Taugher**

It provides the opportunity give back to an industry that has been a great career for me! – **Christine Nelson**

I like helping grow the organization and getting to know new people.
– **Sandy Taylor**

I enjoy the opportunity to work side by side with top leaders in our business, and it's exciting to see the effort, creativity, and coinciding results of the volunteers who support this organization. There's a lot that goes on behind the scenes. – **Beth Pickering**

I enjoy helping establish MGTA as a premier international trade organization, supporting companies learning to globalize, and serving an active role in international trade as the world flattens. – **Brooks Pavilack**

It's comprised of professionals that have different backgrounds and perspectives. I enjoy learning from each other and seeing what can be accomplished when everyone comes together and works towards a common goal. – **Whitney Docken**

I can develop skills in a way that is not afforded in a standard job environment. I also enjoy the additional challenge of leading a nonprofit organization. – **Chad Laden**

The opportunity to address more freight and transportation issues.
– **Tom Haberman**

I like to inspire a new generation of export/importers! – **Mari McClafferty**

I have the opportunity to develop new business relationships.
– **Scott Raes**

I enjoy being involved in the international trade industry and bringing useful information to community. – **Colleen Erickson**

What would YOU like about being on the MGTA board of directors?

Nominations for the 2008-2009 board of directors will open in August. Start thinking about what it would mean to you to participate in the leadership of our association, and consider nominating yourself (or someone else!) in August.

Welcome, new members!

The following individuals have joined MGTA since February 26, 2008.
Welcome!

- **Todd Allen**, *Managing Partner*, A & E Worldwide Transfer
- **Barbara Arens**, *Supply Chain Manager*, Airtex Design Group
- **Jerry Austad**, *Controller*, Airtex Design Group
- **Nicole Austin**, *Import/Export Specialist*, ADC Telecommunications, Inc
- **Melissa Collins**, *Export Compliance Coordinator*, *Global Business Solutions*, Medtronic, Inc.
- **Terry Cox**, *Sr Manager*, *US Operations*, Target Corporation
- **Rachel Decker**, Metropolitan State University
- **Eamon Doran**, *Global Import Compliance Sr Spec.*, Best Buy Co., Inc.
- **Stephen Elliot**, *Trade Commissioner Assistant*, Canadian Consulate General
- **Stanley Ford**
- **Trace Garrett**, *Supervisor*, *GTS & C*, Target Corporation
- **Tim Gates**, *Branch Manager*, UTI- United States, Inc.
- **Jim Gilsenan**
- **Randy Green**, *Customs Team Lead*, *GTO*, Target Corporation
- **Tushar Gupta**, *Product Development Eng*, TSI, Inc.
- **Jonathon Heinonen**, *Sr Customs Analyst*, Cargill
- **Fatmata Jalloh**, *Controller*, Griffin International Companies, Inc.
- **Kent Jensen**, *International Business Development & Sales*, Redline Performance Products, LLC
- **Debbie Kessenich**, *Manager Global Trade Finance*, Target Customs Brokers, Inc.
- **Amanda Kirk**, *Customs Team Lead GTB*, Target Corporation
- **Tammy Knaak**, *Product Development Specialist*, PremiumWear, Inc.
- **Jason Lien**, *Attorney*, Maslon, Edelman, Borman & Brand, LLP
- **Cassie McKinnon**, *Customs Lead TSS/AMC*, Target Corporation
- **Bill Merryman**, *Operations Manager*, WorkFlowOne
- **Carlee Noska**, *Air Export Agent*, UTI, United States, Inc.
- **Bob Reinecke**, *President/General Manager*, North Star Container, LLC
- **Chuck Schaefer**, Skyline Displays, Inc.
- **Risto Sivula**, *Spare Parts Manager*, Tetra Pak Gable Top Systems
- **Guy Smith**, *Of Counsel*, Leonard, Street, and Deinard
- **Chad Stocke**, *Customs Clearance Supv*, *GTB*, Target Customs Brokers, Inc.
- **Jennifer Thompson**, *Customs Entry Supv*, *GTB*, Target Customs Brokers, Inc.
- **Chuck Van Tassel**, *Operations Manager*, UTI, United States, Inc.
- **Ben VanVoorhis**, *Operations Coordinator*, Airtex Design Group
- **Chan Wahl**, *President*, Best Direct-We Bridge India & USA
- **Allison Wires**, *Customs Supv*, *GTO*, Target Corporation
- **Lilian Yang**, KPMG
- **Thomas Young**, *Finance Lead*, *GTF*, Target Corporation

Upcoming events

Mark your calendar and plan to attend our upcoming MGTA events. For more information about MGTA programs and meetings, [click here](#).

June 5, 2008
2:45-7:30pm

MGTA Tour & Networking Event

International Resources: Minnesota's Global Connections

You won't want to miss this whirlwind tour of Saint Paul facilities with resources available for international traders—not to mention the opportunity to talk with experts who can help you locate the specific information you need!

The day will be divided into two parts. Part 1 includes two resource library tours, and part 2 includes networking and a tour of the Minnesota History Center. You may join us for the entire day, or elect to attend just the History Center tour, scavenger hunt, and networking reception.

>> [More information & registration](#)

June 24, 2008
8:30am-3:30pm

Export Compliance and Corporate Integrity Program

presented by the [U.S. COMMERCIAL SERVICE](#)

You are invited to attend an engaging public forum and free CLE focused on *How Good Companies Can Get in Trouble: Export Compliance and Corporate Integrity* at the Crowne Plaza St. Paul-Riverfront in downtown St. Paul, MN. Speakers include:

- Darryl Jackson, Assistant Secretary of Commerce for Export Enforcement, Bureau of Industry and Security
- Kevin Delli-Colli, Deputy Assistant Secretary for Export Enforcement, Bureau of Industry and Security
- Ned Weant, Director of Antiboycott Compliance for Export Enforcement, Bureau of Industry and Security
- Renee Osborne, management and program analyst, Bureau of Industry and Security
- Ron James, President and CEO, Center for Ethical Business Cultures
- Ronald Orzel, Assistant Special Agent-in-Charge (Chicago, IL Office), U.S. Department of Commerce Office of Export Enforcement
- Win Swenson, partner, Compliance Systems Legal Group
- Egil "Bud" Krogh, former Deputy Counsel to President Nixon, Deputy Assistant to the President for Domestic Affairs, and Undersecretary of the U.S. Department of Transportation
- Wendy Hauser, Special Agent-in-Charge (Chicago, IL Office), U.S. Department of Commerce Office of Export Enforcement
- Jeff Zinsli, Corporate Import/Export Compliance Manager, MTS Systems Corporation
- Hank Shea, Special Assistant U.S. Attorney, District of Minnesota

Registration opens at 7:30am. Lunch will be provided. Seating is limited. There is no seminar registration fee, but reservations are required by Tuesday, June 17. To RSVP, please send an e-mail to mail@cebglobal.org. Minnesota Continuing Legal Education credits will be applied for.

>> [More information](#)

August 18, 2008
10:30am-8:00pm

MGTA 6th Annual Golf Tournament
Rush Creek Golf Club, Maple Grove, MN

The format for the tournament will be a best ball scramble with awards given to the top three teams. There will be individual event prizes on several holes.

Registration is limited to 144 golfers. Team entries will be filled on a first-come, first-served basis. Teams may reserve a spot by completing the registration form and submitting it with payment via fax, mail or e-mail to the MGTA office by no later than August 11, 2008.

>> [More information & registration](#)

ABOUT WORLD TRADER

World Trader is a quarterly publication of the Midwest Global Trade Association. Content is gathered via our membership and volunteers through news and media sources. While we make every attempt to insure the accuracy of materials, we provide no warranty or guarantee of accuracy. Specific information relating to trade and trade regulations offered is for informational purposes only and is not intended to replace the professional advice of an attorney, Licensed Customs Broker or other trade professional.

Articles submitted by our membership do not express the views of MGTA or the Board of Directors.

If you would like to submit an article for publication in the *World Trader*, please contact the MGTA office at office@mgta.org. Articles should not be of the nature of a commercial solicitation of products or services; rather, they should be informative on topics of interest to MGTA membership at large.

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