March 18, 2008

Border Security Regulations Branch
Office of Trade
U.S Customs and Border Protection
1300 Pennsylvania Avenue, NW. (Mint Annex)
Washington, DC 20229

Via www.regulations.gov

Re: DHS No. USCBP-2007-0077

On behalf of the League of American Orchestras, we submit these comments in response to the rule published in 73 Fed. Reg. 90-113 (January 2, 2008) regarding importer security filing and additional carrier requirements.

Founded in 1942, and chartered by Congress in 1962, the League of American Orchestras leads, encourages, and supports America’s orchestras while communicating to the public the value and cultural importance of orchestras and the music they perform. The League’s membership encompasses nearly 1,000 member symphony, chamber, youth, and collegiate orchestras of all sizes, and links a national network of thousands of instrumentalists, conductors, managers, board members, volunteers, staff members, and business partners.

New CBP Requirements will Impact Orchestras that Tour Internationally

Orchestras from all regions of the country and of various budget sizes present international musicians to U.S. audiences and travel abroad to present their music to the world. By inviting foreign musicians to perform, orchestras provide American audiences the opportunity to experience a diversity of musical talent. When traveling abroad, America’s adult and youth orchestra musicians are ambassadors for American culture, sharing an artistically rich musical experience and reaching across borders to build lasting international partnerships.

Customs and Border Protection (CBP) requirements impact orchestras that tour internationally, as musical instruments and equipment are subject to CBP rules and regulations. Currently, U.S. orchestras touring abroad provide information about the items being shipped when seeking the issuance of a carnet that will cover the transportation of the items during an international tour. The proposal under consideration by CBP would classify orchestras returning from a tour with their instruments and equipment as “importers,” and would require orchestras to submit 10 points of additional information about the items that are shipped internationally.
Cargo related to international tours by orchestras is primarily transported by air. While the proposed rulemaking applies to seaports, we submit these comments given the likelihood that similar requirements may be imposed on cargo transported by air or surface. The notice of proposed rulemaking says, “This proposal is focused on ocean cargo primarily pursuant to the requirements under the SAFE Port Act. As such, this proposal is an incremental step toward meeting the goal of securing shipments to the United States…CBP will continue to evaluate the effectiveness of this rule and will consider additional steps, including expanding the advance data requirements for other transportation modes.”

We concur with the comments of the United States Council for International Business, which requests that carnets be exempt from the new Import Security Filing (ISF) requirements. Carnets stimulate advantageous international activity by simplifying the process by which entities may depart and re-enter the United States with items essential to the nature of international engagements, while ensuring full documentation of the items that are transported internationally. The proposed rules do not appear to be designed with carnets – and the existing ATA Carnet Convention for the Temporary Admission of Goods – as the intended focus. As a result, we fear that applying the proposed rule to carnets will result in unintended consequences.

**Proposed New ISF Requirements are Inconsistent with Existing Carnet Procedures**

Applying the proposed ISF requirements to carnets prompts concerns about how to interpret the data points requested. For instance, in the case of an orchestra touring with musical instruments, it could be extremely difficult to identify the address of the manufacturer of historically significant objects. The timing of implementing ISF requirements could also prove problematic, should implementation begin when orchestras are mid-tour. Because carnets are prepared before an orchestra departs for a tour, sufficient time will be needed to understand the new requirements and apply them before an orchestra departs the United States.

International tours are undertaken by orchestras of all sizes. Orchestras are nonprofit organizations, and must manage their resources very efficiently. We appeal to CBP to minimize the potential burden that these new requirements might pose by clarifying the process by which ISF requirements will apply to existing carnet procedures. Should an exemption from the ISF not materialize, we urge CBP to postpone applying the new requirements until sufficient time has been provided to adapt the new requirements to carnet users.
Global cultural exchange is important now more than ever.

We support the Department of Homeland Security’s goal of enhancing security at U.S. seaports and other ports of entry. We urge U.S. Customs and Border Protection to support policies that encourage international cultural exchange while improving the safety and security of cargo shipped to the United States.

Sincerely,

Jesse Rosen
Executive Vice President & Managing Director
League of American Orchestras