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and Customs Brokers

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Important Information for Exporters for Shipments by Seafreight to Australia !

Hamburg · Bremen · Hanover · Freiberg
Rotterdam · Antwerp · Barcelona

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Our Ref.: HB / 01 / 203687

Hamburg, 30.08.2021

Seasonal Measures for BMSB for certain categories of goods shipped by seafreight to Australia from 1.Sept. 2021 (Shipping date) to 30. April 2022 (shipping date).

Dear Ladies and Gentlemen,

The *Australian Government Department of Agriculture, Water and the Environment* has again established a **temporary treatment obligation for certain categories of goods** that are shipped by seafreight from certain risk countries to Australia. Between **1. September 2021** (date of shipment) and **30. April 2022** (date of shipment) goods of these categories must be fumigated or heat treated in order to prevent the import of the Brown Marmorated Stink Bug (BMSB) which is hazardous to the Australian ecosystem. These import regulations must be strictly adhered to. In the absence of a correct **BMSB Treatment Certificate**, the Australian authorities may order the destruction of the goods on site or re-shipment at the expense of the goods. **Binding information** on "Seasonal Measures for Brown Marmorated Stink Bug (BMSB)" is available on the website of the *Australian Government Department of Agriculture, Water and the Environment*:

<http://www.agriculture.gov.au/import/before/brown-marmorated-stink-bugs>

Key elements of these Australian import regulations are summarized below:

Germany, Belgium, Netherlands and Spain belong to the 38 "Target risk countries":

Germany	Belgium	Netherlands	Luxembourg	Austria
Switzerland	France	Spain	Italy	Czech Republic
Slovakia	Croatia	Slovenia	Hungary	Poland
plus further 23 „Target risk countries“ in the World				

Types of goods for the following customs tariff numbers (HS Codes) are among the "Target high risk" goods:

44 - Wood and articles of wood	75 - Nickel and articles thereof	84 - Machinery, boilers, parts thereof
45 - Cork and articles of cork	76 - Aluminium and articles	85 - Electrical machinery, parts
57 - Carpets, textile floor	78 - Lead and articles thereof	86 - Railway locos, parts thereof
68 - Stone, cement and similar	79 - Zinc and articles thereof	87 - Vehicles and parts thereof
69 - Ceramics products	80 - Tin and articles thereof	88 - Aircraft and parts thereof
70 - Glass and glass ware	81 - other base metals	89 - Ships, boats, floating structures
72 - Steel, iron	82 - Tools, cutlery of base metals	
73 - Articles of iron or steel	83 - articles of base metal	
74 - Copper and articles thereof		

Place of business and jurisdiction in Hamburg · Trade Register Hamburg B 59688 · VAT No.: DE 811908626 · Taxnumber: 46/746/00823

Chairman of the Supervisory Board: Kay A. Espey · Board of Management: Remo Stork (Chairman) and Dr. Volker Steinmeyer

We operate exclusively in accordance with the Allgemeine Deutsche Spediteurbedingungen 2017 – ADSp 2017 – (German Freight Forwarders' General Terms and Conditions 2017). The ADSp 2017 can be downloaded under www.navis-ag.com/en/terms-and-conditions.

Note: In clause 23 the ADSp 2017 deviates from the statutory liability limitation in section 431 German Commercial Code (HGB) by limiting the liability for multimodal transportation with the involvement of sea carriage and an unknown damage location to 2 SDR/kg and, for the rest, the customary liability limitation of 8,33 SDR/kg additionally to Euro 1,25 million per damage claim and EUR 2,5 million per damage event, but not less than 2 SDR/kg.

Our privacy policy can be viewed at <https://www.navis-ag.com/en/data-protection/>.

All "Target high risk goods" must be handled, depending on the type of shipment:

1.) FCL shipments per 20' Standard / 40' Standard and 40' HC Containers:

FCL containers can be treated either in Europe or in Australia: "Containerized cargo arriving in sealed six hard sided containers with target high risk goods can be treated **offshore**, or **onshore** at the container level."

2.) LCL-Shipment and Groupage Containers (FAK):

LCL shipments inside in the Groupage Containers should be treated in Europe before shipped to Australia: "**Offshore** treatment of LCL consignments and FAK containers with target high risk goods from target risk countries **is preferred**. Onshore treatment of LCL consignments and FAK containers with target high risk goods from target risk countries will be permitted at the container level."

3.) Shipments per Open Top Container, Flat Rack Container, by Break Bulk or of Vehicles:

These shipments **must be treated in Europe** before shipped to Australia:

"**Mandatory offshore** treatment of target high risk goods shipped as break bulk cargo will be required. Goods shipped on open top containers or on flat rack containers are also considered to be break bulk. Untreated break bulk identified on arrival will be denied discharge and directed for export on arrival, unless exceptional circumstances are applicable."

Post Treatment Window: "A post treatment window is the timeframe that applies to goods after they have been treated. Goods must either be loaded into a container and sealed or loaded onto a vessel for export from the target risk country within the defined **timeframe of 120 hours**. **The post treatment window only applies to goods treated before 1 December 2021**. Goods treated from 1 December 2021 (inclusive) have been recognized as having lower risk of re-infestation and are not subject to the post treatment window of 120 hours."

Goods types with the below customs tariff numbers (HS Codes) are "Target Risk Goods":

These types of goods may be subject to import controls in Australia: "Goods that fall within the following tariff classifications have been categorized as target risk goods and will not require mandatory treatment. Target risk goods will however will be subject to increased onshore intervention through random inspection."

27 - Mineral fuels, mineral oils	38 - Chemical products	48 - Paper, cardboard, etc.
28 - Inorganic chemicals, etc.	39 - Plastics and articles thereof	49 - Printed products
29 - Organic chemicals	40 - Tyres, rubber and articles	56 - Wadding, felt, etc.

Exceptions may apply to the BMSB-Measures:

<https://www.agriculture.gov.au/import/before/brown-marmorated-stink-bugs/prepare-import#circumstances-where-goods-may-not-be-subject-to-the-seasonal-measures>

1.) Containers packed and sealed prior to 1 September 2021:

Where target high risk goods are packed and sealed in a **six hard sided container** in a target risk country **prior to 1 September 2021**, a **sealing declaration** will be accepted by the department. The goods must be shipped on board within 21 days of sealing.

<https://www.agriculture.gov.au/sites/default/files/documents/sealing-declaration.pdf>

2) New, unused and not field tested (NUFT) goods

Under the seasonal measures, certain goods that can meet all the following criteria will not be subject to BMSB measures on arrival:

- Are your goods manufactured on or after 1 December 2021? (A good is only considered to be manufactured on or after 1 December 2021 if all its large, complex components have also been manufactured after 1 December 2021).
- Are your goods classed as new machinery, vehicles, vessels/new complex parts and equipment, and are classified under the following tariff chapters only: **82, 84, 85, 86, 87, 88 and 89**?
- Are you able to provide evidence in the form of a **BMSB manufacturers NUFT** (new, unused and not field tested) **declaration** that the goods are manufactured on or after 1 December 2021 ?

<https://www.agriculture.gov.au/sites/default/files/documents/bmsb-nuft-declaration.pdf>

The following treatments are authorized at the same time in Australia and in the EU:

- a) Heat Treatment
- b) Sulfuryl Fluoride Fumigation at a temperature of 10°C or above.

European treatment companies must be approved by the Australian authorities:

Treatment of the goods by fumigation or heat treatment may only be carried out by companies previously approved by the Australian Department of Agriculture. All treatment companies approved in the 2020/2021 BMSB season must reapply for the 2021/2022 season. "**Approved offshore treatment provider**" are published on the website:

<http://www.agriculture.gov.au/import/before/brown-marmorated-stink-bugs/offshore-bmsb-treatment-providers-scheme#germany>

However, some of the authorized "treatment providers" in Germany or Europe can not treat containers or vehicles, but only individual smaller boxes in their premises. In addition, an ambient temperature in the container of at least plus 10 degrees Celsius must be present throughout the fumigation. In the European winter months this can lead to some companies not being able to fumigate.

Important packing instructions for an approved fumigation of the goods:

<https://www.agriculture.gov.au/sites/default/files/documents/bmsb-consignment-suitability.pdf>

"Where penetration into the target of the fumigation is required, impervious wrappings must be removed, opened or slashed prior to fumigation in such a way to allow sulfuryl fluoride to come into contact with and, if needed, penetrate into the target of the fumigation."

The goods themselves and the container must therefore be able to be fumigated. Packages and pallets must not be fused, wrapped or covered with foil or similar material during fumigation. The foil would otherwise have to be removed, opened or torn before fumigation. The costs and risks for such pretreatment are at the expense of the goods. When shipping pallets in sea containers, therefore, a winding net should be better used.

For FCL containers, it must be ensured that there is sufficient space in the loaded container so that the gas or heat can spread out in the container and, in addition, concentration measuring hoses can be placed in different places in the container.

Consequences of BMSB regulations for export sea shipments to Australia:

1.) Both in Europe and in Australia, the capacities for the treatment of goods are very limited, especially as in the 2021/2022 season currently 38 countries instead of the previous 36 countries are among the "target risk countries".

We assume that there will be capacities in European seaports, at least for the handling of LCL shipments in the collection container. However, for FCL container shipments, the capacity for authorized BMSB treatment will not always be sufficient depending on the cargo load. In addition, it may be that in the winter months, the prescribed ambient temperature of plus 10 degrees Celsius in the container for heat treatment can not be guaranteed even with the help of fan heaters.

2.) The usual smooth transport process of affected goods ex works to the seaport and the loading on the seagoing ship to Australia is no longer possible due to the BMSB regulations. LCL shipments and loaded FCL containers have to be taken over earlier at the domestic loading point, so that the affected goods can be treated in good time before the delivery deadline for the respective seagoing vessel. The temporal coordination of the handling of the container and the timely reach of the cut off date at the seaport terminal for a certain vessel can not be guaranteed due to limited capacity for the BMSB treatment.

3.) In addition to the previously generally fixed transport costs ex works to FOB shipping port or to CFR Australia's port of destination, due to the BMSB regulations, costs for the treatment of the goods are added. These costs include: treatment of the LCL consignment or container, transfer of the container to the approved treatment center and then transfer to the port terminal of the ship. In addition, additional costs for container detention, container demurrage and container storage at the port terminal may arise due to the time required to handle the containers. The shipping companies and port terminals only allow a window of a few days without such additional costs. As part of the transportation planning, NAVIS will try to avoid creating or minimizing these additional costs. It is not possible to guarantee in advance that these additional costs will not be incurred.

What is to be done for exporters in Europe ?

1.) Check carefully, if your goods count as "**high risk goods**".

2.) If so, promptly inform your Australian customers about the "Seasonal Measures for BMSB" and the resulting delays in delivery, as well as the increased costs due to Mandatory Treatment for BMSB.

3.) Only arrange a sea freight shipment to Australia if you are sure that the strict Australian BMSB requirements for your shipment can be met.

4.) Stay in close contact with your **contact person at NAVIS** to clarify if and when BMSB treatment prior to shipment is possible for your "High Risk Goods" shipment.