



Customs Reauthorization 2009
Recommendations Outline

PART ONE: REPRIORITIZE TRADE FACILITATION

- Definition of the role of the Deputy Commissioner for Trade Facilitation
- Creation and appointment of an Ombudsman for industry who reports directly to the commissioner (see attached document on history of the Ombudsman)
- Require congressional approval and a pilot before expanding the ISF to other modes (e.g. the land border and air)
- CBP should be directed to take a central leadership or facilitative role with other agencies that impact trade
 - Craft a common vision among relevant agencies on 100% electronic or paperless submission, to provide advance electronic release of shipments like CBP does, harmonize data requirements
 - Make available to other agencies a standardized interface for ITDS by 2011
 - Create a single electronic entry with a unified government release by 2012
- Incorporate export filings in ACE
- Restore independent status to the COAC to act as a trusted advisory committee which provides oversight over CBP—currently CBP controls the agenda and the reports from COAC. It is not independent. It does not function like other industry advisory committees. (See attached document on the history of COAC)
- In its advisory role, COAC should provide an annual report not only on CBPs activities but also including any information that may be relevant to the Congress's oversight of CBP.
- Require COAC to report to a higher level position within DHS that actually has oversight over CBP. Currently COAC reports to a relatively low level position within CBP.
- Reaffirm the requirement that COAC also reports to Treasury and require Treasury to take a more active role.
- Expand the membership of COAC to be more representative of industry.
 - There are currently only 20 COAC positions. There should not be a pre-set limit on COAC members.
 - Each application for COAC should be judged on whether the candidate has the knowledge and expertise to be a useful advisor. Political affiliation should not be a criteria for COAC membership (political affiliation is currently on the COAC application).
 - The COAC should operate more like the ITACs.

- Require CBP to consult with COAC, as well as Ways and Means and Finance, before introducing new policy changes (such as first sale rule or rule of origin change).
- Encourage consistency between DHS and the WCO (i.e., base the relationship on how USTR and the WTO work together on policy initiatives)
 - Increase transparency on WCO matters
 - Require CBP to publish proposals 30-60 days prior to going to the WCO for an advisory opinion on a policy change (e.g. first sale)
 - Require CBP to consult with industry before a WCO meeting through holding an open meeting or posting on the website the issues on the agenda
 - Make documents more available to industry
 - To extent possible, publish WCO documents from international meetings on the CBP website within a week of the meeting
- Require CBP to reflect on how its policy affect and/or works with multilateral institutions and global positions
- Require a Customs and/or GAO study (12-18 months) on other agencies with border responsibilities (e.g., USDA and FDA) and those instances where they duplicate C-TPAT requirements, and how those requirements could be eliminated by some sort of C-TPAT recognition program or process
- Expansion of the account management program-- CBP initiated an account management program in the 1990s and created a group of National Account Managers who would serve as the primary point of contact between national importers and CBP. Importers have found this program to be very beneficial in minimizing many issues. Subsequently, CBP initiated other programs, such as CTPAT and Importer Self Assessment that are also account-based. However, in recent years these programs have stagnated and account management was not included in CBP's published trade strategy. The trade argues that account management results in greater efficiency and uniformity and the potential to grant benefits for investments in import compliance.

The subject of account management needs to be reinvigorated. Specific recommendations include:

- Expansion of the number of National Account Managers
 - Combination of account management, CTPAT, ISA, ACE Portal and other programs – with attendant benefits for participating companies
 - Consideration of the concept of all entries of a national account being processed by a single CBP team, regardless of the port of entry. Modern technology should make this possible.
- Creation of a "junior account management" program for small/medium side importers

PART TWO: INCREASED FUNDING FOR CBP

- We believe funding should be allocated for **specific** programs and activities to remove inefficiencies and duplicative requirements
- We believe the increased funding should be earmarked for specific activities to improve trade facilitation
 - Creation of material trade benefits within the CTPAT program with reasonable eligibility rules (promised when CTPAT was created but not yet implemented)
 - Creation of a true “fast lane, or green lane” for all modes of importers in CTPAT, in conjunction with other appropriate agencies.
 - CBP should be directed to re-engineer its commercial business practices and ACE to encourage:
 - 100% electronic filing of all entry types, CF 28s, invoices and all government documentary requirements
 - permit and promote centralized filing (allowing a company to deal exclusively with one of a few select ports and IS/entry teams to improve consistent, uniform and predictable treatment)
 - direct CBP to pilot the concept of “Centers of expertise” (COE) with a set of volunteer importers/filers
 - Direct CBP to develop “account-based risk management” which would mean if a company has a created an account with a high compliance record, then CBP would not issue liquidated damages, penalties for isolated or technical errors or violations
 - Redefine ACE as the collection database for customs activities for all modes and parties involved in international trade
 - Improve BATCH processing to allow importers to key-in through ACE to make changes
 - Infrastructure on the northern border to facilitate movement of legitimate trade
 - Promote trade facilitation through blanket declarations and periodic data filing
 - Require the ISF to be integrated into ACE to include (but not be limited to) allowing visibility to importers and their designated 3rd parties of ISF number, ISF data submitted and when CBP shows that the ISF container is loaded by October 31, 2009.
 - ITDS
 - Establish a deadline (see above)
 - Provide funding to other agencies and enforce the deadline for bring all agencies and office under ITDS (this can be done based on if the information is required for admissibility if so then Senate Finance and W&Ms and CBP can require compliance and earmark money)

PART THREE: TECHNICAL FIXES

- Drawback
SEC. __. UNUSED MERCHANDISE DRAWBACK.
(a) IN GENERAL.—Section 313(j)(2) of the Tariff Act of 1930 (19 U.S.C. 1313(j)(2)) is amended by adding at the end the following: “For purposes of subparagraph (A) of this paragraph, articles shall be deemed to be commercially interchangeable if they are referred to under the same eight-digit classification of the Harmonized Tariff Schedule of the United States.”
(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to claims filed for drawback under section 313(j)(2) of the Tariff Act of 1930 on or after the date of the enactment of this Act.
- Ease compliance burden on post-entry obligations to update or correct (via reconciliation, post summary corrections or other means) dutiable values, especially for duty free merchandise.
- 9801
 - modify provisions relating to returned property
 - create duty free treatment for certain U.S. gov’t property returned to the U.S.
- Allow industry to comment on 10+2 six months after the final rule is implemented. This is critically important in assessing the impact of the rule. Penalties will not be assessed until at least January 2010. Only after penalties are implemented will industry know the true impact on its supply chains.
- Create a review/report of 10+2 six months to a year after final implementation to assess the impact on the U.S. economy and national security.
- Lacey Act amendment technical fixes
 - Make sure declarations are treated as business confidential and only the government has access to the declarations
 - Make sure imports subject to the declaration are not treated as “high risk” imports.
 - Create alternate means to file declarations such as blanket declarations
- Fix the technical problems associated with ACE truck e-manifest implementation on the land border prior to expanding the system other transportation modes.
- Congressional review of the uniform rules of origin NPRM before CBP can move forward
- Provide advanced notice of proposed changes to the HTS to industry
- IPR and Counterfeiting