

**Departmental Advisory Committee on Commercial Operations of the Bureau of
Customs and Border Protection**

Friday - Nov 16, 2007, Meeting Notes:

Opening Remarks:

Commissioner Basham suggested next year that Commercial Operations Advisory Committee (COAC) host a panel during the Trade Symposium.

Barry O'Brien said we could summarize the main issues we have been working on with Customs and Border Protection (CBP) during 2008.

Motion to Approve Minutes from August 16, 2007 Meeting: Approved

Post Incident Response:

Jeremy Luczkowski, Chief Incident Management Branch, Office of Intelligence & Operations Coordination (OIOC):

- Developed joint protocols with Canada that has been signed off by both CBP and Canada. Will start training.
- Developed a plan for response by the Coast Guard and CBP that is awaiting review and approval.
- Developed a joint protocol they are working on with Mexico.
 - The plan is conduct exercises for all the above protocols during 2008, to include table top exercises within the Government and the Trade.
- With regards to communication and information, OIOC used CBP's messaging system during the California wildfires.
- Working on getting feedback from the Office of Information Technology (OIT) and in the future from the Trade, via Automate Commercial Environment (ACE).
 - The trade will be able to receive messages depending on the various environments within different modes, air, ocean, etc.

Beth Ann Rooney – said we have not been able to participate in high-level discussions or tactical plans; it is probable that we could have some important input.

Tony Barone – since COAC submitted our report, there have not been further involvement from COAC. We think it behooves the Government to include the Trade. If we had been engaged, we may have provided some useful suggestion. Tony complimented the Messaging System and the fact that it is not limited to the maritime environment.

Earl Agron- Said American President Lines (APL) sponsored a field exercise which included several federal agencies including the Coast Guard and CBP. The Coast Guard Auxiliary was especially invaluable. Tested ship and terminal evacuations.

There were Lessons learned: But many of the government's lessons cannot be shared with the Trade.

Commissioner pointed out that CBP won't necessarily be able to hand COAC a playbook that would provide certainty as to how a particular incident would be handled. So much of this is incident driven. Further, CBP's approach is an all hazards approach and is communication coordination among the various agencies and with trade.

Curtis asked if COAC could see the Trade Incident Response Report. Jeremy said we could see the report. *CBP will send the report to Bruce Leeds who will disseminate to the rest of us.* But Lauren Zucker clarified that the Report cannot be seen and no input can be given until signed by the Commissioner.

Secure Freight Initiative/GTX/Advance Trade Data

Richard DiNucci, Director Secure Freight Initiative(SFI), Office of Field Operations(OFO):

He will discuss three issues: 100% screening, 10 + 2, and Global Trade Exchange (GTX)

SFI-100% Scanning:

- Operational in Pakistan, United Kingdom, and Honduras
 - The SAFE PORT ACT required CBP to conduct a 100% scanning in 3 pilot ports.
- Will be established in 4 more ports in 2008
 - Singapore, Hong Kong, Korea and Oman
 - Volumes in the new ports will be higher than the previous 3 ports.
- CBP has 2 reports to prepare and deliver to Congress in 2008.
 - The April report is the key report that will include the lessons learned.
 - Trying to develop some metrics that will be included in the report.
 - CBP will reach out to the Trade on this.

Advance Trade Data (10+2):

- Notice of Proposed Rule-making(NPRM):
 - Office of Management and Budget (OMB) has the report and has some questions for CBP which CBP has addressed.
 - Publication of the NPRM should be likely by the end of this year.
- Advance Trade Data Initiative (ATDI): CBP has between 40 to 45 participants
 - CBP has noticed the data is available but it is a timing issue that CBP is working through.

GTX:

- Notional Stage at this time.
- Request For Quotation (RFQ) has been mentioned and there are legalities that limit the information that can be discussed.
 - An RFQ will be issued with requirements and then the vendors respond with their suggestion as to how they'd meet those requirements.
 - Once selected, the Vendor would go out and select voluntary, private partners for testing.
 - At this point, information will be available to COAC and we can assist in providing input.
 - This will be small scale pilot project.
 - The RFQ will be issued fairly soon, couple of weeks.
- Is designed to be a data clearing house. The data is provided by the Trade and the clearing house would organize the data and would provide the information to any Customs authority that needs it.
- Is designed to aid in targeting primarily. This would be data that would not have been historically utilized such as Purchase Order (PO) data.
- Could this data be used in a seamless import/export transaction in the future? Yes.

Is there potential to include product safety analysis here? Rich says yes because this is an experimental pilot.

Commissioner: What role would COAC play, if any, and when in providing feedback? The Annmarie Highsmith, CBP counsel, said there was some flexibility here and she'd let us know later when she has explored this.

Rich clarified – that 10+2 is the priority and the trade will see it first, whereas the GTX is a more long term project that will aid in security and hopefully trade facilitation.

Tony Barone raised a concern regarding confidentiality within GTX – he pointed out even the banks have failed at keeping the information secure and with GTX; CBP is saying that the information in GTX will be shared with other foreign countries whose systems may not be as secure. But Commissioner pointed out that this will be voluntary so if a company does not want to join due to concerns over the loss of confidential information, they can choose not to participate.

Assistant Commissioner (AC) Thomas Winkowski: pointed out when Automated Broker Interface (ABI) was being discussed there were similar fears and concerns. But he said we should look at the opportunities that GTX may provide to the Trade.

C-TPAT/Container Security Initiative (CSI) Programs:

Brad Skinner- Director C-TPAT:

- Status of the Customs and Trade Partnership Against Terrorism (C-TPAT) Program and Criteria
 - 7,774 members
 - Over 2000 validations this year
 - 2002-2006 – 5248 validated or 90%
 - 600 additional validations by year's end, achieving the year's goal of 3000 validations total.
 - Removed 416 members, half of those are highway carriers
 - 230 Tier III (T3) Members
 - 3000 validations planned in 08
- Security Criteria
 - Rolled out for Mexican Long-haul Carriers (August of 07)
 - Air Carrier Criteria just announced yesterday (11-15-07) on the C-TPAT Portal
 - CBP coordinated and worked with Transportation Security Administration (TSA) on these criteria and did a mutual validation to better understand each other's programs.
 - CBP will continue to coordinate with TSA in this endeavor and to reduce any direct conflict.
 - If a Company meets stringent TSA requirements for identification, then that Company should have no issue meeting the CTPAT requirements.
 - 3rd Party Logistics (3PL)
 - CBP needs to gather quite a bit more information before this is rolled out.
 - Wants to include those partners who most frequently touch the cargo.
 - Should have a draft proposal available early December and will have a formal proposal to bring to COAC by year's end
- Third Party Pilot Program
 - There are 11 validators that were approved to conduct validations.
 - Of the 300 companies that were invited to be validated only 12 companies agreed to do so.
- Validations in China
 - There are meetings being planned to discuss China allowing CBP validators in to conduct the meetings.
- New C-TPAT Houston Offices – will have management teams in place by year's end.
- Annual C-TPAT Training is Feb 26th – 29th 2008 in New Orleans.

Brad Skinner promised Bruce Leeds that we can have a copy of the latest current status report on C-TPAT. (Complete)

Bruce Leeds suggested expanding C-TPAT to exporters. It's appropriate to do this to extend mutual recognition for Authorize Economic Operator (AEO). He argues that the jurisdictional issue should be overcome and that if there were concerns regarding resources, that COAC has some suggestions regarding these.

Countries that refuse C-TPAT Validations – Short of China, Brad Skinner is only aware on one other situation –It is a small country; he will get back to us, once he confirms this.

CBP/Trade Supply Chain Assessment:

Brad Skinner: Met with COAC members – subcommittee for supply chain security, discussed security and business partner vetting requirements. Additional individual discussions have been held since then.

Sam Banks: Foreign Supplier Vetting was discussed and a huge hole is import safety. Also discussed data flows as opposed to paper flows. Also discussed benefits. Will continue to provide these resources and will offer these as we phase in 10+2, import safety and GTX. Custody transfer was explored as well.

ACE Program Status/ITDS:

Lou Samenfink, Executive Director, Cargo systems Program Office, Office of Information Technology

Tim Skud, Deputy Assistant Secretary, Tax, Trade and Tariff Policy, Department of Treasury:

- Report to Congress on International Trade Data System (ITDS) was provided to COAC
 - Outlines the program and the benefits as well as the progress.
 - It also describes individual agency participation.
 - Can review what each agency's vision is and their progress.
 - Key recommendation: Import Safety Agencies involved should step up their efforts.
 - Additionally, agencies are recommended to look at their structures so as to better streamline the process.
- Goal is to get more data from ACE into ITDS
 - There is still more data that CBP collects that is not in ACE and needs to be in the data warehouse.
 - Recommendation is to have standardized data formats among agencies so no translation or less translation is required.
 - The United States (US) has been a prime mover of developing standardized formats to ensure cross-functionality across federal agencies.

- Also considering the ramifications of ramping up the use of World Customs Organization (WCO) standards formats.
 - CBP has a mandate to make sure our data set is in keeping with the WCO Model.
 - WCO's standards are edifact-based and are simply a format for delivering the data.
 - Also exploring what kinds of edits and validations should be built into the system.
 - The rest of recommendations are centered on internal governance and communication as well as budgeting issues.
 - There are 40 Federal Agencies that are participating in ITDS

Barry O'Brien: COAC's concerned about funding and what budget is required to bring ACE and ITDS together. Lou clarified that ITDS is baked into ACE and he said that there has been adequate funding of about 17 million. Question is whether this funding will continue to be adequate. Lou wants to turn ACS off so we can just use ACE. ITDS represents extra services and data that ACE will offer.

Lou said that information regarding ACE and ITDS should be transparent to the trade – the trade will be required to provide information it does not currently provide electronically but perhaps does provide via paper.

Office of International Trade Update:

Dan Baldwin, Assistant Commissioner, Office of International Trade (OT):

- Three successes accomplished during this Office's first year of operation:
 - Listening to the Trade on policy and operational issues – heard us and has responded.
 - Tremendous impact internally so that policy is translated more seamlessly to the Trade
 - More engaged on the modernization role as it relates to ACE – that what we are building today is in keeping with CBP's vision.
- The future focus of this Office:
 - New National Trade Strategy that is rolled out – compliance and enforcement will take a better foot-hold.
 - Needs to better communicate how well the trade is doing by using metrics.
 - More Trust afforded to Importer Self Assessment (ISA) Members
 - Example – the new Textile Enforcement Policy

Brad Shorser: COAC agrees that we have accomplished a great deal. Brad presented a letter regarding the issues that have been discussed and the current initiatives we are currently working on with OT. One area of concern has to do with communication or the lack thereof – such as the textile detention policy that was implemented without any input from COAC. He asserts that the policy should be amended because it is not risk-based.

- Gratified to see the language and content of COAC input within the Action Plan. This process highlights the benefits we all seek in engaging COAC in the creation of content as opposed to soliciting comment to a signed, completed document.
- Adrienne: Questioned the ISA placement in this scenario given the limited number of members in ISA currently (150 members presently).
- Assistant Commissioner Dan Baldwin: said that including a safety program in ISA could perhaps drive greater ISA participation
 - Regarding toughened penalty stance (no mitigation, zero tolerance); will change to eliminate the approach that penalties can be treated as the cost of doing business.

Intellectual Property Rights Enforcement subcommittee

Therese Randazzo, CBP Acting Executive Director, Commercial Targeting and Enforcement (CTE), Office of International Trade

- Intellectual Property Rights (IPR) Enforcement
 - 197 million dollars worth of seized goods in the last year
 - Significant growth of border seizures activity
 - US is working with the WCO to develop a set of standards, as well as with the G-8 for information sharing to identify trends and specific violations before the goods arrive
 - Joint US/European Community (EC) exercise to be conducted by year's end.
 - CTE – offers program on IPR practices
 - Partnership growing beyond that
 - Asking how to better collect information to better model legitimate trade?
 - Barry: Recordation needs process improvement; timing currently exceeds the product-to-market window by such a significant measure as to be ineffective
 - Tony: make note of relative situation (compliance vs. fraud) “we may screw up our legal import process, but we are importing a legal product.”
 - Asst. Comm. Mike Mullen read International Intellectual Property Alliance (IIPA) document into COAC record

World Customs Organization & Mutual Recognition Status:

- PRIVATE SECTOR CONSULTATIVE GROUP (PSCG) ACTIVITY (WCO)
 - **PSCG Roadmap**
 - The PSCG is completing work on a Roadmap outlining future work of the PSCG.

- Bruce Leeds: COAC representation on WCO has moved from a temporary to a permanent standing membership
- Some PSCG members will travel to Kazakhstan for meeting with the WCO Policy commissions next month.
- The next full meeting of the PSCG is likely to be in April 2008.

FUTURE COAC PRE-MEETINGS and MEETINGS:

Miami - February 19th and **February 20th**

Washington D.C. – May 7th and **May 8th**

Seattle – August 13th and **August 14th**

Washington, D.C. – **November – 2008, TBD**

Commissioner Basham suggested Tucson in lieu of either the Miami or May D.C. meeting. Wants us to see how a workable technology can be used with the Secure Border Initiative.

Tentative date is Feb. 14, 2008