



U.S. Customs and Border Protection

CBP Trade Newsletter

www.cbp.gov FY 2013 First Quarter January 16, 2013



Expanding Partnership: From Sea to Shining CEE

- 2
Trade, CBP Caught Up in Webinars
- 3
The Government Will Now Call its Witnesses
- 4
Manifest Destiny: CBP and the Trade Partner for ACE Transition
- 5
Building the Single Window, a Pane at a Time
- 6
ISA: Partnering to Boost Compliance
- 7
Partnership Flourishes in the Desert
- 8
Free Trade Agreements: Partnering to Promote Trade

Everywhere you looked in 2012 you saw the lesson: working together really works better. So fundamental to success in all walks of life, the value of teamwork is especially evident in international trade. This year the CBP—trade partnership has really paid off—and we have the new Centers of Excellence and Expertise (CEEs), trade agreements, and the massive M1 move from ACS to ACE to prove it.

From “co-creating” initial concepts and designs to ongoing Webinars that explain the latest changes, together we’ve learned that partnership is not a strategy to give up what you need but to ensure that you’ll get more of it.

Whether it overtly involves multiple agencies, the trade community, other governments, or all of the above, partnership is the game changer—the driver for real progress in trade efficiency and safety. And that benefits everyone.

Of course, we know it’s not easy. Understanding and incorporating real partnership into disparate organizational cultures has its intellectual startup costs. But is there any other way to get so many



David V. Aguilar, Deputy Commissioner
U.S. Customs and Border Protection

entities on the same page? And that’s what global trade most needs to prosper. So congratulations to all the innovators and the coordinators. I’m very proud of what our teams have jointly accomplished.

It’s been a good year for trade. And because of the way we continue to work together, I am confident we will enjoy a safe and prosperous 2013.

...We steadfastly enforce the laws of the United States while fostering our Nation’s economic security through lawful international trade and travel.-

From the CBP Mission Statement

January 2013 C-TPAT Conference



More than 1,200 members of the trade community gathered in

National Harbor, Md., this week for the Customs-Trade Partnership Against Terrorism, C-TPAT, conference on January

8-10. The event, “Unified Global Security: The Challenge Ahead,” hosted by U.S. Customs and Border Protection, drew participants representing all aspects of the supply chain including manufacturers, importers, transportation carriers, retailers, brokers and freight forwarders.

Getting ready for our close-ups

Trade, CBP Caught Up in Webinars

Technology is moving so fast these days that our language can't quite keep up. For example, we've learned how to capitalize on Webinars—or is it *webinars*?—before we know whether to capitalize the word.

In any case, upper or lower, these free on-line trade seminars have become an invaluable tool both for the trade and for CBP employees. Now, there's a very convenient way you can catch up and stay current with the dynamic initiatives that are transforming CBP trade processes.

Instead of flying to another city for a quarterly COAC meeting, or waiting for the annual CBP Trade Symposium, let your fingers do the stalking. You can easily link to an expert discussion of the CEEs, the new role of the broker, the "M1" migration from ACS to ACE, or another update on a fast - moving trade initiative.

These 60-90 minute programs are usually interactive, so participants can submit questions on line. Often, the answers to questions not addressed in the Webinars will be posted to a cbp.gov Web site.

Office of International Trade (OT) Assistant Commissioner Al Gina, a frequent Webinar presenter, explains their rapid growth. "With a few cameras and some software from the Department of Homeland Security, we can now bring trade policy leaders to a computer screen near everyone. This gives the trade and our own people unprecedented access to vital technical information. It also provides invaluable feedback to help us all stay on the same page as we move ahead."

Bruce Coulliette, the OT Webmaster responsible for making these programs work, says the learning curves and production issues of the first Webinars were sometimes a bit reminiscent of your old home movies. "But people are much more comfortable now with cameras and microphones," he says. "And more people know how to find these on our website -



Bruce Coulliette, OT Webmaster, is the face behind the growing OT Webinar Program

Photo: Breanna Gray

http://cbp.gov/xp/cgov/trade/trade_outreach/outreach_webinar.xml

On December 19, the Office of International Trade conducted the first Webinar to feature one of its OJT programs. Despite the modest name, the OT OJT program is an extensive schedule of in-depth classes on key programs like entry, IPR, and Free Trade Agreements.

"The good thing is that these classes will be archived now, so OT employees can watch them later," says Gary Brabant, the International Trade Specialist who runs the program. This is yet another step forward in letting the Web match trade subject matter experts with audiences that have a real need to know.

In all, OT presented more than 100 Webinars in 2012. With the ever-increasing rate of change in the trade environment, and the shrinking of travel and conference budgets, these popular OT Webinars should remain must-see viewing for trade professionals for years to come.



U.S. Customs and
Border Protection

CIT Disputes

The Government Will Now Call its Witnesses

On September 12, 2012, Jim Forkan, the National Import Specialist (NIS) for toys, and Maribeth Dunajski, the NIS for uncoated knit and woven fabrics, testified before the Court of International Trade, case # 10-00067. They were duty bound to tell the truth, the whole truth, as they saw it.

While no one was going to be locked up for life at the conclusion of this civil trial, the stakes for the companies involved were high. The issue was whether 17.2% or no duty at all would be applied to past and future imports of a popular product. So there was substantial money and tension in the air.

When the trade community disagrees with a duty decision by the government, the matter can end up with the United States Court of International Trade (CIT) in New York City. The CIT has nationwide jurisdiction over civil actions arising out of the customs and international trade laws of the United States.

Decisions rendered by the CIT can have tremendous repercussions for the trade community, and significantly impact a company’s bottom line. The government is also motivated to explain and defend its actions clearly before the CIT, independently of the revenue that might be on the line.

When it comes to classification disputes, who better to testify on behalf of the government than CBP’s National Import Specialists, who are well known for their in-depth knowledge of commodities, and their prolific output of binding rulings?

Because of their experience, Forkan and Dunajski were chosen to serve as expert government witnesses. “We collaborated closely with our attorneys in Regulations and Rulings and the Assistant Chief Counsel in CBP,” Forkan explains. “Then we coordinated with the Department of Justice, the agency that ultimately argues the government’s case before the court.”

In most cases, the NIS will be deposed by the plaintiff’s attorney during pre-trial discovery. This process—designed to undercut the government’s position—can get a bit testy. In fact, it is not unprecedented for some questioning of an NIS to be “reclassified” by the judge as “badgering.” Indeed, the answers the NIS gives during discovery lays the groundwork for questioning that may occur at trial. Given the stakes, the NIS must have an excellent



The Court of International Trade in New York has nationwide jurisdiction over civil actions arising out of the customs and international trade laws of the United States.

grasp not only of pertinent classification details but also of prior court precedents that impact how CBP interprets a specific classification issue.

Once the trial begins, the NIS will be called on to give expert opinions on the commodity classification(s) being contested by the plaintiff. But the NIS must also be prepared to rebut additional allegations and arguments that may arise.

“In explaining your reasoning in court, “ Dunajski says, “your word choices matter—just like they do when writing a legally binding ruling. So you have to make sure you are being clear but precise.” On September 12 the particular issue before the CIT was whether the government should have classified certain imports as a toy or as a fabric. Both NISs testified why CBP did not classify them as toys, citing applicable case laws and classification principles.

While the classification decision in this case is pending, the judge did put on the record his appreciation for the importance of the NIS in the CIT process. He noted that import specialists have a difficult job in reviewing and making determinations on a wide variety of merchandise, and stated that he was impressed by how focused they are on providing unbiased classification decisions, regardless of duty implications.

No matter the ultimate ruling, that’s high praise indeed for the NISs, and a judgment they will always try to uphold.



Manifest Destiny: CBP and the Trade Partner for ACE Transition



It was smooth sailing for the ACE e-Manifest: Rail and Sea (M1) transition.

Photo: CBP Archives

One of the real success stories for CBP in 2012 was the smooth deployment of the Automated Commercial Environment (ACE) e-Manifest: Rail and Sea (M1). And like most of what the agency accomplishes these days, it would not have been possible without close collaboration with its partner stakeholders in the trade community.

Throughout the six-month transition to M1 from the legacy system, CBP relied on trade partners like Orient Overseas Container Line (OOCL), who were among the first to adopt the new technology. Early adopters like OOCL helped CBP ensure that all the right requirements were gathered and implemented correctly.

Was it worth the extra time and effort to be an ACE M1 early adopter? Mike Young, VP of Process and System at OOCL, says, “Unequivocally yes. Working with CBP in the nascent stages of M1 development was invaluable in ensuring our joint needs were met, from both a system and regulatory perspective. As a result, OOCL was ready to, and indeed did, as the first pilot participant, begin filing e-manifests as soon as the new ACE M1 platform was ready.”

CBP also got new benefits from the shift to ACE e-Manifest: Rail and Sea. These includes a consolidated view of rail and sea shipment manifest and entry data at the bill of lading or container level. This facilitates identification of shipments that may pose a risk and expedites the pre-arrival processing of legitimate cargo. Besides improving cargo security and processing, ACE e-Manifest: Rail and Sea also promotes trade facilitation through faster and easier access to data and improved communication, resulting in greater flexibility and time savings.

OOCL was just one of over 3,300 carriers who transitioned to ACE rail and sea manifests. Making this happen without major disruption required an amazing amount of collaboration among the trade community stakeholders and CBP’s Office of International Trade, Office of Information and Technology, and Office of Field Operations. Their sustained efforts included gathering technical requirements, training more than 10,000 CBP users, and coordinating outreach—including many webinars-- to ensure that all parties were fully aware of the M1 requirements.

According to Jim Swanson, CBP’s Office of Field Operations ACE Liaison, “The extensive collaboration with the trade community really paid off. By working together, we were able to transfer 100 percent of impacted trade partners, including ocean carriers, rail carriers, and Automated Broker Interface software developers, to ACE M1 by September 28, 2012 – within six months of the official notice of the required change.”

CBP believes that the phased deployment of ACE e-Manifest: Rail and Sea capabilities, along with the decommissioning of the legacy system to allow parties to operate in one system, is a successful model for future ACE roll-outs. The approach and lessons learned from ACE e-Manifest: Rail and Sea will facilitate future deployments as the agency moves closer to multi-modal manifest processing, in which all modes of transportation (sea, rail, air, and truck) will use the ACE environment.



*ACE Single Window Advances***Building the Single Window, a Pane at a Time**

CBP is collaborating intensively with its Federal partners to achieve the agency's 21st Century trade transformation goals. Key to achieving these goals is enabling Automated Commercial Environment (ACE) as the "single window" through which the international trade community will electronically provide all information needed by Federal agencies for the import and export of cargo. This vision was laid out in the SAFE Port Act of 2006 with an interagency initiative known as the International Trade Data System (ITDS).

The Partner Government Agency (PGA) Interoperability Web Services (IWS) is one of the primary ITDS capabilities that is significantly enhancing inter-agency collaboration during the cargo importation, review and release process. It enables CBP and PGA systems to interface with each other using industry standard protocols such as Web services technology. IWS will allow CBP to electronically share import transaction data, trade documents, and events of interest with PGAs. The delivery of the IWS capability is a major step in fulfilling the ITDS vision.

"This is the first of the ITDS initiatives that has had a concrete benefit for the agencies and it is a promise of things to come," said Susan Dyszel, Branch Chief, ITDS, Office of International Trade, CBP. "PGAs are now able to take electronic information and push it through risk modeling engines for targeting and correlation with other PGA data streams, something they couldn't do previously with ACE," she explained. IWS also delivers data in real-time. "PGAs can have the data to make cargo admissibility decisions before CBP releases the cargo."

The Consumer Product Safety Commission (CPSC) has found that product safety-related targeting has improved where IWS is in use at U.S. ports. "IWS is a fundamental building block for our risk assessment

methodology (RAM)," said John Blachere, International Trade Specialist, Office of Import Surveillance and Investigations, CPSC.

According to Blachere a 2011 ITDS/RAM pilot using IWS at seven ports of entry demonstrated a 15 percent increase in identification of product models that required testing for compliance. Other IWS benefits include the ability to implement decisive action at the ports, an increased capability for CPSC to enforce health and safety laws at entry, and improved coordination with CBP on cargo holds and exams.

The success of IWS among the PGAs is growing. The U.S. Coast Guard is using IWS to enhance targeting capabilities within their Watchkeeper system. CBP and the Environmental Protection Agency (EPA) are developing IWS interactions for cargo release and the exchange of event notifications. Interoperability with EPA will allow CBP to provide Entry and Entry Summary data for Ozone Depleting Substances. IWS will also support statistical analysis of conveyance and cargo data conducted in the Department of Transportation's International Freight Data System.

In developing IWS capabilities, CBP has adopted a development methodology with a focus on incremental releases to produce smaller pieces of functionality more frequently. This methodology, similar to the Agile software approach in stressing continuous stakeholder involvement, facilitates close collaboration between CBP and PGAs in the planning and design of IWS capabilities. Based on this initial success, CBP is laying the foundation for a full move toward Agile methodology to increase the flexibility and speed of future ACE development projects.



Importer Self-Assessment: Partnering to Boost Compliance

To better facilitate trade and strengthen the agency's efforts to protect Americans and the U.S. economy, CBP relies on collaborative relationships with the trade community, other government agencies, foreign governments, and the public. Without these partnerships, CBP would have difficulty in accomplishing its mission and goals. One of the most important initiatives that CBP has with the trade community is the Importer Self-Assessment (ISA) program.

Launched in 2002, the ISA program recognizes importers who are committed to ensuring a high level of compliance. To be accepted in the program, companies must demonstrate its readiness to assume responsibility for managing and monitoring their compliance through self-assessment. In turn, ISA members receive certain incentives and experience more business certainty and autonomy over their customs related activities. This allows CBP to focus its resources on high-risk or unknown importers as well as conduct enforcement actions that will better protect the U.S. economy.

To participate in the ISA program, an importer must be a certified member of CBP's Customs-Trade Partnership Against Terrorism (C-TPAT), a voluntary trusted trader program that focuses on supply chain security. The company must also be a U.S. or Canadian resident importer with at least two years of importing history with CBP.

Aside from fast-track privileges at the nation's border crossings and ports, importers that are ISA members receive a number of other tangible benefits. These include reduced cargo exams, entry processing through the Centers of Excellence and Expertise, and removal from CBP's regulatory audit pool. Additionally, the ISA program allows companies that have completed a CBP focused assessment to join without further review as long as they are willing to fulfill the requirements of the ISA membership.

On October 5, 2012, CBP released a Federal Register Notice creating a path for companies that were deemed an acceptable risk to CBP as a result of their focused assessment. These companies are now allowed to transition into ISA without further review. This path to ISA membership has been well-received. More than 40 percent of eligible importers have indicated a high interest in taking this route to join ISA. An additional incentive for transitioning in this manner is expedited C-TPAT certification, which has been

widely acknowledged by eligible importers as beneficial to their business procedures.

CBP's ISA team anticipates that it will become increasingly more cost-efficient for the agency as the number of companies transitioning to ISA after a focused assessment grows. CBP will save hundreds of man-hours and thousands of dollars because companies will be removed from the audit pool or will no longer be required to undergo an application review meeting, a stringent process that typically takes companies months to prepare for and involves extensive review hours for CBP to visit companies and report findings.

During the East Coast Trade Symposium held in National Harbor, Md., November 27-28, Florence Constant, CBP's partnership programs branch chief, participated in a panel discussion on trade partnerships. As part of that discussion, a new Trusted Trader initiative was announced. The new program, which is being co-created by CBP and members of the trade community, will fully integrate CBP's C-TPAT and ISA programs. Currently, CBP is exploring ways to connect these programs with partner agencies in the U.S. government to achieve harmonization, enhance trade facilitation, and more effectively secure international supply chains.

For more information about the ISA program, visit:

http://www.cbp.gov/xp/cgov/trade/trade_programs/importer_self_assessment/



International Trade Specialist Tom Sheppard and Breanna Gray greet visitors to CBP's ISA booth at the November Trade Symposium

Photo: Breanna Gray

**For questions or comments regarding this CBP Trade Newsletter, please contact:
HQ.quota@dhs.gov**



U.S. Customs and
Border Protection

*Abu Dhabi Customs***Partnership Flourishes in the Desert**

By Maribeth Dunajski



Abu Dhabi Class Photo: Cheryl Harbison, CBP auditor, and Maribeth Dunajski, NIS (*front row, third and second from the right*), at their Abu Dhabi Customs training in Abu Dhabi.

Partnerships begin with a relationship. And when you think of our traditional trade partnerships, the Emirate of Abu Dhabi—some 7,000 miles from the Statue of Liberty—does not necessarily come to mind. In fact, however, the National Commodity Specialist Division (NSCD) in New York is beginning to forge close ties with Abu Dhabi Customs.

It began in December 2011. I was asked to travel with CBP auditor Cheryl Harbison to Abu Dhabi, United Arab Emirates, to conduct training on behalf of the Abu Dhabi Customs Training Academy. I would teach a variety of subjects, including classification, value and training on how to conduct post-importation verifications of import transactions. I also demonstrated how to do research using the CBP website and the Customs Rulings Online Search System, CROSS.

Abu Dhabi is a country of architectural wonders, wide sandy deserts, and beautiful beaches. I was treated to platters of dates and tiny cups of strong coffee. But best of all, I was introduced to its fascinating customs and warm people.

In May 2012, that training trip was followed up with a visit by a thirteen-member delegation of customs officials from the Emirate of Abu Dhabi to the NSCD Division in New York City. They received a presentation on the Binding Rulings Program and an overview of how Customs and Border Protection handles commercial transac-

tions, from submission of a manifest, determining classification and value, and on to possible audit, penalties and liquidation. The highlight of the day was a three-hour roundtable discussion with the NISs on how they approach the finer points of classification, value, origin, admissibility and overall administration of the HTSUS. Both parties gained a fond appreciation for the similar Customs issues we each encounter on a daily basis.

The ties are expected to be further strengthened in the spring of 2013, with the anticipated return of a group of Abu Dhabi Customs officers to New York City. These officers will shadow National Import Specialists to gain more in-depth knowledge and to experience the daily life of an NIS.

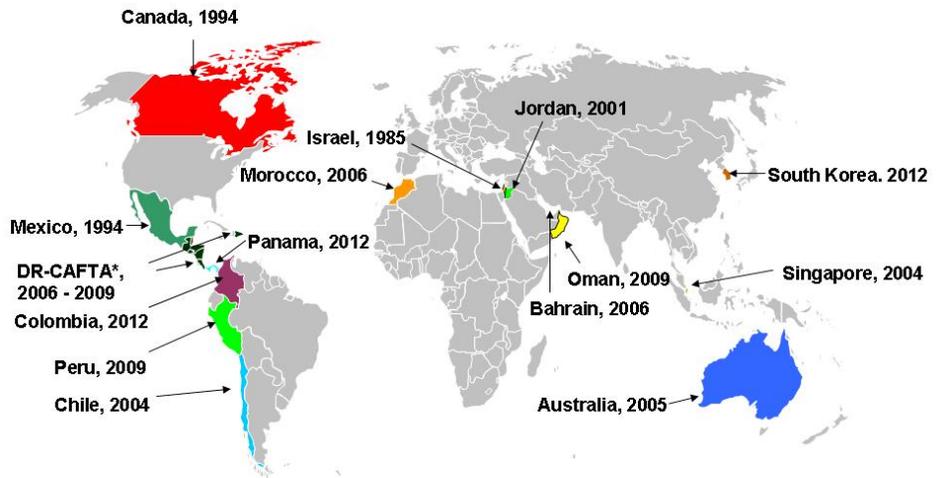
Was it just a coincidence that the May 2012 visit by the Abu Dhabi delegation coincided with an event promoting the opening of the Abu Dhabi Tourism and Culture Authority's U.S. office in Manhattan? A giant majlis-style tent was erected in Times Square to introduce the crowds thronging the Square to the fascinating culture of Abu Dhabi. Inside, guests were treated to henna tattoos, dabs of essential oils like frankincense and sandalwood, and a chance to have a photo taken with a traditional falconer. Perhaps the event was really there to herald the growing relationship and nascent partnership between U.S. Customs and Border Protection and another member of our Worldwide Customs Family – Abu Dhabi!



U.S. Customs and Border Protection

Free Trade Agreements: Partnering to Promote Trade

CBP plays an integral role in the implementation and enforcement of Free Trade Agreements (FTAs) and preferential trade programs, which provide duty-free or reduced duty access to the U.S. market for qualifying merchandise. Currently, fourteen FTAs with 20 countries and four major preferential trade programs have been implemented. CBP is responsible for assessing and collecting duties, taxes, and fees and ensuring compliance with all import laws.



* DR- CAFTA – Dominican Republic, Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua, 2006-2009

Each FTA has unique rules of origin specifically negotiated between the trading partners.

As a result, facilitating and enforcing new FTAs and their respective regulations requires substantial administrative and operational activities. These activities, performed by CBP officers, entry specialists, import specialists, international trade specialists, attorneys, and auditors, include:

- issuing interim regulations, implementation instructions and other administrative messages to CBP Field Offices and the trade community;
- performing entry summary reviews and verifications;
- developing policies and directives;
- conducting international training (coordinated by CBP’s Office of International Affairs and the Office of International Trade);
- developing technical guides;
- conducting trade preference program training; and

updating FTA information on the CBP.gov web site. In fiscal year 2011, over 25 percent of all imports entering the U.S. had an associated trade preference claim. The growing number and complexity of preference programs, together with political and industry interest in CBP’s enforcement led to the designation of Trade Agreements as a Priority Trade Issue (PTI).

Additionally, CBP has developed an eight-day training course on FTAs for field personnel. This course includes instruction on targeting areas of high risk, conducting verifications, and penalty actions.

CBP’s goal is to increase compliance by ensuring that the benefits afforded by our preference programs accrue only to eligible importations. Overall, these programs increase trade with our foreign partners, open markets for U.S. firms, and advance the creation of additional jobs for American workers.

International Bridge Ceremony

CBP Deputy Commissioner David V. Aguilar will take part in the annual International Bridge Ceremony in Laredo, Texas on February 23, 2013. Founded in 1898, this the largest celebration of its kind in the United States with over half a million attendees

annually. U.S. dignitaries and their Mexican counterparts —joined by the “Abrazo Children” from both countries—meet in the center of Laredo’s Juarez-Lincoln International Bridge and exchange abrazos.