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CBP MOVING TOWARDS GREATER EMPHASIS ON TRADE FACILITATION

— By Sandler Travis, & Rosenberg P.A.

U.S. Customs and Border Protection officials indicated at a recent meeting with the trade community that the agency is moving to bring its mission to facilitate legitimate trade more into balance with its mandate to protect national security. Although CBP has repeatedly stated in the post-9/11 environment that these are its “twin goals,” its focus in recent years has clearly been improving the security of the supply chain. It now appears that Customs is preparing to put more resources into trade facilitation, a move that is being welcomed by importers, exporters and others involved in global commerce.



INSIDE THIS ISSUE

PAGE

- 1 CBP Moving Toward Greater Emphasis on Trade Facilitation
- 4 Committee for the Implementation of Textile Agreements
- 6 CBP Updates Its Bond Team's "Policies and Procedures" Document
- 7 CBP Posts April 2008 Statistics on Bond Rejections

The May 9 meeting of the Departmental Advisory Committee on Commercial Operations of CBP and Related Homeland Security Functions (COAC) addressed this and many other customs and trade-related issues.

Trade Facilitation. Commissioner Ralph Basham said that after nearly seven years of emphasizing supply chain security “we know we’re going to have to focus more of our energies at trade enforcement and facilitation.” He indicated that CBP will be relying on COAC for assistance in this effort, which will begin with the development of a new Trade Strategy. Brenda Brockman Smith, CBP’s executive director for trade policy and programs, explained that this strategy will center on four goals: facilitating legitimate trade and promoting compliance, enforcing trade laws, advancing national and economic security, and intensifying automation and further integrating it into CBP’s business processes. CBP will look to use many of its existing methods in pursuit of these goals, Smith said, including multi-layered risk management, pre- and post-arrival activities away from physical borders and the use of advance information. CBP is now in the process of consulting with the trade community, the departments of Homeland Security and Treasury, and the Office of Management and Budget to further develop the Trade Strategy, including determining the roles and responsibilities of the public and private sectors. Smith noted that one of the major challenges for CBP will be strengthening the trade expertise of its employees and that one of the ways it will seek to do this is through the active use of partnerships with the trade community.

Resumption of Trade. CBP officials said they have been working with other agencies as well as other countries to develop plans for the resumption of trade following incidents such as terrorist attacks, natural disasters, labor strikes, etc.

An interagency agreement with the Coast Guard that focuses on the maritime transportation system will be tested during an exercise to be held in August in the ports of Savannah, Jacksonville and Charleston. CBP and the Canada Border Services Agency have developed general planning protocols as well as a more detailed business resumption communication and coordination plan, and the two sides recently conducted training on this plan at a number of northern border ports. Similar protocols are still under negotiation with Mexico.

At a recent congressional hearing on the resiliency of the U.S. supply chain, lawmakers and staff members said trade resumption is a primary concern for Congress and that the plans developed so far are not detailed enough. CBP executive director for cargo and conveyance security Todd Owen responded that “it is impossible to predict every significant event scenario or the details that will present themselves in an actual event” and that “our response to an actual event will depend on the facts we encounter and each response will be tailored to reflect these circumstances.”

Import Safety. According to officials, CBP has three key responsibilities with respect to import safety.

- cooperating with other government agencies such as the Consumer Product Safety Commission and the Food and Drug Administration to harmonize procedures and processes at the border
- fostering increased interoperability through the use of the International Trade Data System, refining shipment targeting policy and tracking goods via unique identifiers
- creating a new interactive network to gather additional information on product safety issues

Carol Cave, director of the CPSC’s new Import Surveillance Division, said her agency is considering the adoption of an approach similar to CBP’s Importer Self-Assessment program for product safety issues. However, she indicated that it is still early in this process and that the CPSC plans to hold further discussions with the trade before making any decision to proceed. COAC expressed concern with the idea and said it could pose substantial challenges for importers.

100 Percent Scanning. Rich DiNucci, director of the Secure Freight Initiative, said CBP is still testing 100 percent scanning of U.S.-bound cargo containers at three overseas ports and making progress toward the expansion of the test to three other high-volume ports. CBP sent its first report on the test to Congress in February and the second report is expected shortly.

Lawmakers said recently they will be interested to hear the report’s findings, particularly in light of Deputy Commissioner Jay Ahern’s recent statement that 100 percent scanning should be limited to high-risk trade lanes. A law enacted last year requires that by 2012 all oceanborne cargo containers must be scanned before being shipped to the U.S., but according to press reports at least some members of Congress are reconsidering that mandate. One factor could be the cost of scanning, which has been estimated at \$20 per container by one House staffer but \$500 per container by a recent European Commission study.



C-TPAT. Bradd Skinner, CBP’s director of industry partnerships, provided an update on the Customs-Trade Partnership Against Terrorism. Skinner said that as of April 17 there were 8,322 certified participants, 7,269 of which had been validated and 252 of which were receiving Tier 3 benefits. CBP has suspended 531 companies from the program, about half of them truck carriers, for failed validations or security incidents. Three joint validations have been conducted with China Customs since March and a pilot test of third-party validations in China is due to expire in June. CBP expects to issue a document on the benefits of C-TPAT participation sometime this year.

Skinner also addressed the status of mutual recognition efforts concerning other countries’ supply chain security programs. Mutual recognition has already been extended to New Zealand and agreements are expected to be signed with Canada and Jordan in June. Australia, Japan and Singapore are possibilities as well.

In-Bond. Director of cargo control Greg Olsavsky told meeting attendees that CBP is pursuing a number of efforts to improve its oversight and enforcement of the in-bond system, which were criticized in a report issued by the Government Accountability Office last year. For example, an improvement to the QP in-bond filing procedure is planned for ACE in late August. CBP is also considering regulatory changes, such as allowing 100 percent electronic filing, shortening allowable delivery times and imposing a single time period for all modes of transport, adding data to in-bond requests to better enable screening of restricted shipments, and requiring notice of diversions. Technological solutions are being explored as well. CBP is currently pilot testing the use of radio frequency identification on in-bond shipments between Los Angeles/Long Beach and Laredo. But Olsavsky said RFID is only an interim solution and that ultimately CBP will use container security devices to better control in-bonds.

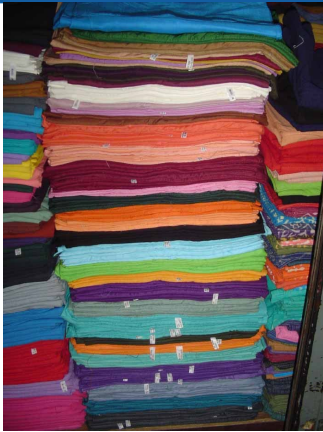
ACE. Executive director for cargo systems Lou Samenfink said CBP is continuing to refine the electronic truck manifest module of the Automated Commercial Environment. Nearly four million truck e-manifests have been submitted already this year, he said, and truck processing times are down to 105 seconds. Ensuring the reliability and performance of this module is a priority for CBP.

Samenfink also announced that CBP will program 24 “hard edits” into ACE. CBP had identified 63 edits (which automatically make corrections to import entries) for possible elimination in the transition from the Automated Commercial System to ACE but has agreed to a trade community request to retain 24 of them.

WCO Framework. Assistant Commissioner for International Affairs Mike Mullen told the meeting that CBP has submitted to the World Customs Organization a proposed amendment to the WCO’s Framework of Standards to Secure and Facilitate Global Trade that would reflect CBP’s “10+2” security filing proposal. This amendment, which could be approved as early as next month, would only require the addition of five new data elements to the SAFE Framework.

In addition, Mullen said, CBP has recommended three criteria for approving any future changes to the framework: they must be in response to a national or legal mandate, there must be consultations with the trade community and the data elements to be added must be part of the WCO data model.





COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS – By OTEXA - [http://otexa.ita.doc.gov/fr2006/nafta2\(05-08\).htm](http://otexa.ita.doc.gov/fr2006/nafta2(05-08).htm)

Request for Public Comment on Short Supply Petition under the North American Free Trade Agreement (NAFTA)

May 9, 2008.

AGENCY: The Committee for the Implementation of Textile Agreements (CITA).

ACTION: Request for Public Comments concerning a request for modification of the NAFTA rules of origin for certain woven jacquard acetate rayon fabric for use in certain men's apparel.

SUMMARY: On May 2, 2008, the Chairman of CITA received a request from Oxford Industries, Inc., alleging that certain woven jacquard acetate rayon fabrics, of the specifications listed below, classified under subheading 5408.23.2930 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting that CITA consider whether the NAFTA rule of origin for certain men's apparel, classified under certain HTSUS Chapter 62 subheadings (6203.11, 6203.12, 6203.19, 6203.22, 6203.23, 6203.29, 6203.31, 6203.32, 6203.33, and 6203.39), should be modified to allow the use of non-North American woven jacquard acetate rayon fabric. The President may proclaim a modification to the NAFTA rules of origin only after reaching an agreement with the other NAFTA countries on the modification. CITA hereby solicits public comments on this request, in particular with regard to whether certain woven jacquard acetate rayon fabrics, of the specifications listed below, classified under subheading 5408.23.2930, can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by June 13, 2008 to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, United States Department of Commerce, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Martin Walsh or Maria Dybczak, International Trade Specialists, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 USC 1854); Section 202(q) of the North American Free Trade Agreement Implementation Act (19 USC 3332(q)); Executive Order 11651 of March 3, 1972, as amended.

BACKGROUND: Under the NAFTA, NAFTA countries are required to eliminate customs duties on textile and apparel goods that qualify as originating goods under the NAFTA rules of origin, which are set out in Annex 401 to the NAFTA. The NAFTA provides that the rules of origin for textile and apparel products may be amended through a subsequent agreement by the NAFTA countries. See Section 202(q) of the NAFTA Implementation Act. In consultations regarding such a change, the NAFTA countries are to consider issues of availability of supply of fibers, yarns, or fabrics in the free trade area and whether domestic producers are capable of supplying commercial quantities of the good in a timely manner. The Statement of Administrative Action (SAA) that accompanied the NAFTA Implementation Act stated that any interested person may submit to CITA a request for a modification to a particular rule of origin based on a change in the availability in North America of a particular fiber, yarn or fabric and that the

requesting party would bear the burden of demonstrating that a change is warranted. NAFTA Implementation Act, SAA, H. Doc. 103-159, Vol. 1, at 491 (1993). The SAA provides that CITA may make a recommendation to the President regarding a change to a rule of origin for a textile or apparel good. SAA at 491. The NAFTA Implementation Act provides the President with the authority to proclaim modifications to the NAFTA rules of origin as are necessary to implement an agreement with one or more NAFTA country on such a modification. See section 202(q) of the NAFTA Implementation Act.

On May 2, 2008, the Chairman of CITA received a request from Oxford Industries, Inc., alleging that certain woven jacquard acetate rayon fabrics, of the specifications listed below, classified under subheading 5408.23.2930 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting that CITA consider whether the NAFTA rule of origin for certain men's apparel, classified under certain HTSUS Chapter 62 subheadings, should be modified to allow the use of non-North American woven jacquard acetate rayon fabric.

CITA is soliciting public comments regarding this request, particularly with respect to whether the woven jacquard acetate rayon fabrics described above can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be received no later than June 13, 2008. Interested persons are invited to submit six copies of such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC 20230.

If a comment alleges that these woven jacquard acetate rayon fabrics can be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer stating that it produces fabric that is the subject of the request, including the quantities that can be supplied and the time necessary to fill an order, as well as any relevant information regarding past production.

CITA will protect any business confidential information that is marked business confidential from disclosure to the full extent permitted by law. CITA will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in room 3001 in the Herbert Hoover Building, 14th and Constitution Avenue, N.W., Washington, DC 20230. Persons submitting comments on a request are encouraged to include a non-confidential version and a non-confidential summary. Specifications:

HTS Classification:	5408.23.2930
Overall fiber content:	55% Acetate (warp), 45% Rayon (filling)
Yarn size:	
Warp:	75 denier;
Filling:	120 denier
Yarn number:	
Warp:	146 single threads/inch (57.5 single threads/cm)
Filling:	80 single threads/inch (31.5 single threads/cm)
Weight:	2.59 ounces/square yard (88 grams/square meter)

Width:	55 inches (including selvedge)
Weave type:	Jacquard of 2 or more color yarns
Finish:	Yarn dyed and not coated

R. Matthew Priest,
Chairman, Committee for the Implementation of Textile Agreements.



CBP Updates Its Bond Team's "Policies and Procedures" Document –

By: Broker Power Inc.

U.S. Customs and Border Protection's Revenue Division Bond Team has posted an updated version of its "Policies and Procedures" document¹.

The following are highlights of the substantive changes made in the updated version (in comparison to the July 2007 version):

Bond Riders and Termination Requests for All Continuous Bonds are Processed by Revenue Division - CBP's updated document has been revised to reflect that riders or terminations of continuous bonds are now processed by the Revenue Division, Office of Finance. Any rider or termination of any continuous bond can be filed directly with the Revenue Division at the National Finance Center.

(CBP sources note that any such riders or terminations submitted to the port will be forwarded to the Revenue Division for processing. See *ITT's Online Archives* or *08/22/07 news*, (Ref: [07082210](#)), for earlier BP summary.)

The "Policies and Procedures" has also been revised to delete the paragraph stating that port personnel could continue to process bond rider requests when the underlying Activity Code 1 continuous bond was on file at that port, etc.

Reject Team No Longer Sends Final "Bond Withdrawal Notice" - The updated document indicates that the Reject Team no longer sends a final "bond withdrawal notice" to the filer and/or principal of a bond.

The Reject Team will issue a rejection notice at least two times (via fax or email). If a fully corrected bond is not submitted following the issuance of at least two rejections, the filer and/or principal must submit a new bond application.

Updated Reject Team Contact Info - The contact information for the Reject Team has been updated to state that the Reject Team may be reached by leaving a voicemail at (317) 614-4881. Emails directed to the Reject Team should be sent to cbp.bondquestions@dhs.gov and have the subject line begin with the word "REJECT." (There is no longer a fax number in the contact information.)

After beginning with the first word(s) as noted above, the email subject line should then list the principal's importer number and name (1-3 words of the name).

¹CBP sources have stated that this document, along with the "Current Issues" document, replaced its previously issued guidance entitled, "Latest News and Developments." The "Current Issues" document provides the latest news, while the "Policies and Procedures" offers information about polices and procedures that have been in place, but are still relevant.

(See ITT's Online Archives or 08/13/07 news, (Ref: [07081340](#)) #3, for BP summary of the July 27, 2007 version of the "Policies and Procedures.")

"Policies and Procedures" (updated 05/12/08) available at

http://www.cbp.gov/linkhandler/cgov/trade/priority_trade/revenue/bonds/pilot_program/news_develop/bond_pol_proc.ctt/bond_pol_proc.doc



CBP Posts April 2008 Statistics on Bond Rejections

U.S. Customs and Border Protection has posted an Excel spreadsheet listing the reject reasons for April 2008 for CBP Form 5106 Importer ID input records, CBP Form 301 Customs bonds, bond applications, bond riders, bond terminations, etc.

Top Five Rejection Reasons - The top five rejection reasons, along with the number of rejections, for April 2008 were:

No. of Rejects	Reject Reason
170	CBP Form 5106 Importer ID Input Record IR05 - Incorrect
159	CBP Form 301 Customs Bond B10 – Effective Date
88	Bond Rider R04 - Incorrect
75	CBP Form 5106 Importer ID Input Record IR02 – Missing CBP 5106
65	CBP Form 301 Customs Bond B06 – Principal Address

Reasons for Bond Rejections - The types of problems detailed in the document include (*partial list*):

- effective date
- title of signer
- surety agent
- point of contact information missing
- bond package not legible
- 3 digit broker code
- legal description
- invalid users
- principal address
- incomplete
- importer number(s)
- bond amount
- execution date
- alterations/erasures
- invalid co-principals
- missing CBP Form 5106

(See today's ITT, (Ref: [08052205](#)), for BP summary of the bond-related issues discussed at the May 2008 COAC meeting, including CBP's development of a database of bond errors.)

Rejects for the Month of April 2008, posted 05/19/08, available at

http://www.cbp.gov/linkhandler/cgov/trade/priority_trade/revenue/bonds/pilot_program/bond_reject_stats.ctt/bond_reject_stats.xls



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