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GAO Update on TSA Progress on Air Cargo Security, Etc. – by Broker Power Inc.

In recent testimony before the Senate Committee on Commerce, Science, and Transportation, the Government Accountability Office states, among other things, that the Transportation Security Administration has taken steps to enhance domestic and inbound air cargo security, but more work remains to strengthen this area.

(See ITT's Online Archives or 04/24/08 news, (Ref: [08042430](#)), for BP summary of similar GAO testimony before a House committee.)

In its testimony, GAO provides an update on TSA's response to air cargo security issues previously identified by GAO as needing improvement.

Partnering with CBP on Inbound Air Cargo Strategy - In TSA's planned 2008 revision of its 2007 Air Cargo Strategic Plan, it intends to incorporate a strategy for addressing inbound air cargo security, including how TSA will partner with U.S. Customs and Border Protection (CBP).

Advance 100% Screening System for Passenger Aircraft Cargo - In the same planned update of its Air Cargo Strategic Plan, TSA will also incorporate the requirement that it develop a system to screen 100% of air cargo prior to its transport on passenger aircraft as required by the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53). (See ITT's Online Archives or 08/10/07 news, (Ref: [07081010](#)), for BP summary.)

Revision of Certain Air Cargo Screening Exemptions - TSA plans to revise or eliminate certain screening exemptions for particular cargo types transported on passenger aircraft departing from both domestic and foreign locations as indicated in TSA's February 2008 assessment of its random screening exemptions.¹

TSA's Steps Taken to Date - TSA states that it has already:

- increased the number of inspectors dedicated to conducting domestic air cargo compliance inspections;

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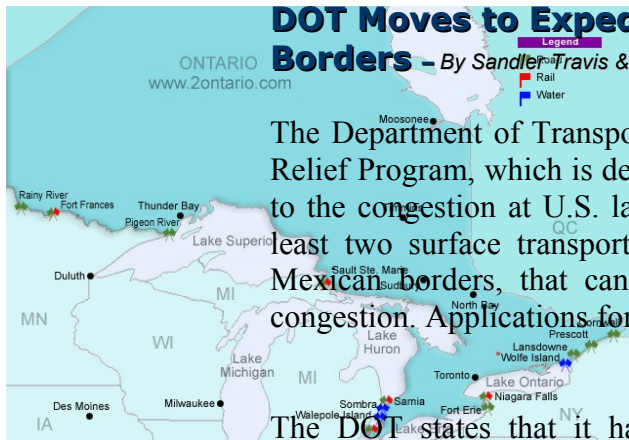
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- begun to analyze the results of domestic air cargo compliance inspections to prioritize its inspections on those entities that have the highest rates of noncompliance, as well as newly approved entities that have yet to be inspected;
- formed an International Cargo Working Group to develop inspection prompts to guide inspectors in their examinations of foreign and U.S. air cargo operators departing from foreign locations to the U.S.

¹GAO is required to review the methodology used in this assessment and report to Congress by June 24, 2008.

Hearing Information with links to GAO testimony available at http://commerce.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=fcb0e400-cbf5-4cdf-8da8-aa3a7b4c6bcb



DOT Moves to Expedite Projects to Relieve Congestion at U.S. Borders – By Sandler, Travis & Rosenberg PA

The Department of Transportation has announced a new Transportation Border Congestion Relief Program, which is designed to help states identify and implement innovative solutions to the congestion at U.S. land borders. As part of this program the DOT plans to select at least two surface transportation projects, a minimum of one each on the Canadian and Mexican borders, that can serve as models for alleviating current or forecasted border congestion. Applications for such projects are due by June 30.

The DOT states that it has created the TBCRP because of the significance of border transportation to the U.S. economy. More than 17 million truckloads of freight crossed U.S. borders with Canada and Mexico in 2005, carrying over half of the \$711 billion in products the U.S. traded with those two countries. The value of freight shipments among the three NAFTA partners has risen by 170 percent since 1990 and is growing by an average of eight percent annually. “These huge numbers are putting a serious strain on the transportation network at and near our international land border crossings,” the DOT states, “frustrating individuals, families, and commerce with negative impacts on quality of life, efficiency, and prudent use of resources.” The TBCRP is designed to address these problems by demonstrating how non-traditional transportation project finance, delivery and operation mechanisms can be used to improve land border travel times and facilitate trade and travel without compromising the security of U.S. borders.

Applications. The DOT is soliciting applications for projects under the TBCRP from states with international land borders, bridge and tunnel operators and private sector entities. These projects can be for new capacity development or for upgrades or extensions of existing capacity and must be located within 100 miles of an international land border with Canada or Mexico. The list of information that must be included in these applications is extensive and reflects commercial, technological, environmental and other concerns.

- Project description – purpose, location, preliminary design features, rough estimate of capital cost, proposed delivery schedule, likely financing mechanism(s), current level of service, and the status of agreement among any affected stakeholders to advance the proposed project
- Congestion/travel time reduction – where and how the proposed project would reduce current congestion levels or address future expected congestion based on projected trends at the land border crossing
- Technology – how transportation technologies (e.g., intelligent transportation systems, traffic conditions monitoring, computerized traffic control systems, traveler information systems, electronic toll collection and open road tolling) would be used to enhance the mobility and efficiency of the land border crossing
- Economic/trade benefits – how the proposed project would support U.S. economic growth, including how it would improve the predictability of freight movements or travel by individuals through the land border crossing
- Value to users – the benefits of the proposed project to its users, such as faster and more convenient access to terminals for commercial vehicles, truck-only lanes, reduced border travel times, increased safety, environmental benefits and increased travel speeds
- Project delivery and finance – any proposed innovative project delivery and financing features, such as eligibility for credit assistance under the Transportation Infrastructure Finance Innovation Act and private activity bonds
- Environmental stewardship – any proposed innovative methods for effectively completing the environmental review process and/or any exceptional proposed measures for avoiding or mitigating air, noise or water impacts or impacts to environmental or cultural resources
- Financing – potential sources of financing and the private sector’s likely role, including the efficiencies likely to result from private sector participation
- Planning and coordination – the status of coordination among interested federal agencies and local stakeholders, relevant consideration and/or coordination with the governments of Canada and Mexico, whether the project is included in state and metropolitan planning organization plans and programs, whether the project is consistent with plans developed for compliance with the Clean Air Act, and whether the project is supported by U.S. Customs and Border Protection
- Timeline – proposed project timeline with estimated start and completion dates for major elements

DOT to Help Expedite Projects. For those projects selected for participation in the TBCRP, the DOT will work with the project sponsor to expedite the delivery of the project. Potential DOT resources and commitments include (a) working with relevant federal agencies to establish a senior-level team to advance the planning and implementation of the project (e.g., expediting reviews for permits or other approvals), (b) accelerated review and conditional approval of experimental features under Special Experimental Project 15 (e.g., innovative finance, tolling and contracting requirements), (c) an expedited commitment process for TIFIA credit assistance, and (d) priority access to DOT experts in the areas of

planning, the environment, public-private partnerships, finance, construction, safety, operations and asset management.

The TBCRP is part of the National Strategy to Reduce Congestion on America's Transportation Network announced by the DOT in May 2006. This initiative is designed to both reduce transportation congestion in the short term and build the foundation for successful longer-term congestion reduction efforts. (See the May 17, 2006, issue of [WTI](#) for more details.).



Retail Container Traffic Growing But Still Below Last Year – by Seaports Publications Group

Monday, May 12, 2008

(WASHINGTON, DC) - Traffic at the nation's major retail container ports will grow steadily this summer but will nonetheless remain at or below last year's levels throughout the period because of the nation's economic slowdown, according to the monthly Port Tracker report released today by the National Retail Federation and Global Insight.

"Import container traffic is forecast to continue to be quite weak through September due to the underlying weakness in consumer demand in the U.S. economy," NRF Vice President for Supply Chain and Customs Policy Jonathan Gold said. "Retailers are watching consumers' shopping patterns very carefully this year, and the volume of imports reflects what merchants expect they can sell in their stores. These numbers show a cautious approach to inventory management for this fall."

"Record high fuel prices are causing increasing pain for port truckers, but with traffic demand soft, port operations are expected to continue to remain steady," Global Insight Economist Paul Bingham said. "The covered ports are operating without congestion from harbor to gate with adequate capacity even as volumes are increasing."

U.S. ports surveyed handled 1.16 million Twenty-Foot-Equivalent Units (TEU) of container traffic in March, the most recent month for which actual numbers are available. That's down 4.8 percent from February - traditionally the slowest month of the year - and represented the lowest monthly volume since the 1.11 million TEU imported in February 2006. The number was down 8.5 percent from March 2007.

April was estimated at 1.28 million TEU, down 3.2 percent from a year ago, and May is forecast at 1.31 million TEU, down 4.8 percent. June is forecast at 1.35 million TEU, down 7 percent, and July at 1.41

million TEU, down 2 percent. August is forecast at 1.46 million TEU, flat with last year's August numbers. September is forecast at 1.48 million TEU, a 3 percent increase over last year. One TEU is one 20-foot container or its equivalent.

All U.S. ports covered by Port Tracker - Los Angeles/Long Beach, Oakland, Seattle and Tacoma on the West Coast; New York/New Jersey, Hampton Roads, Charleston and Savannah on the East Coast, and Houston on the Gulf Coast - are rated "low" for congestion, the same as last month.

Port Tracker, which is produced by the economic research, forecasting and analysis firm Global Insight for NRF, looks at inbound container volume, the availability of trucks and railroad cars to move cargo out of the ports, labor conditions and other factors that affect cargo movement and congestion. The report is free to NRF retail members. Subscription information is available at www.nrf.com/PortTracker or by calling (202) 783-7971. Non-NRF members can contact Global Insight Director of Business Development Diana Wyman at (202) 481-9265.

The National Retail Federation is the world's largest retail trade association, with membership that comprises all retail formats and channels of distribution including department, specialty, discount, catalog, Internet, independent stores, chain restaurants, drug stores and grocery stores as well as the industry's key trading partners of retail goods and services. NRF represents an industry with more than 1.6 million U.S. retail establishments, more than 24 million employees - about one in five American workers - and 2006 sales of \$4.7 trillion. As the industry umbrella group, NRF also represents more than 100 state, national and international retail associations. www.nrf.com

Global Insight Inc. is a privately held company that brought together the two most respected economic information companies in the world, DRI and WEFA. Global Insight provides the most comprehensive economic and financial information available on countries, regions and industries, using a unique combination of expertise, models, data and software within a common analytical framework to support planning and decision-making. Through the world's first same-day analysis and risk assessment service, Global Insight provides immediate insightful analysis of market conditions and key events around the world, covering economic, political, and operational factors. The company has over 3,800 clients in industry, finance, and government with revenues in excess of \$105 million, more than 690 employees and 25 offices in 14 countries covering North and South America, Europe, Africa, the Middle East, and Asia. www.globalinsight.com



FMC's Third Closed Meeting on LA/LB Ports/MTO Agreement for Clean Trucks Program, Etc. – By Broker Power Inc.

The Federal Maritime Commission will hold a third closed meeting on the Los Angeles/Long Beach Port/Terminal Operator Administration and Implementation Agreement¹ on Wednesday, June 4, 2008.

The FMC first met on this Agreement on April 30, 2008, and then met again on May 7, 2008.

Agreement Would Allow Coordination of Clean Trucks Program, Etc. - According to the Agreement, the ports wish to explore the possibility that terminal operators assist or cooperate in the administration of certain Clean Air Action Plan (CAAP) programs or initiatives (such as the Clean Trucks Program).

The Agreement would authorize the parties to collect and exchange information, engage in discussions, and reach agreement on the administration and operation of port programs related to the CAAP, among other things.

(On April 3, 2008, the FMC formally requested that the parties² to the Agreement provide additional information³ before the Agreement takes effect. This request prevented the Agreement from becoming effective as originally scheduled on March 30, 2008. Instead, the Agreement's effective date is expected to be 45 days after receipt of the parties' complete response to the FMC's request for additional information.)

¹FMC Agreement No. 201178

²The parties that filed the Agreement are the West Coast Marine Terminal Operator (MTO) Agreement; the City of Los Angeles, acting by and through its Board of Harbor Commissioners; and the City of Long Beach, acting by and through its Board of Harbor Commissioners.

³46 USC 40304 specifies the FMC actions that may be taken with respect to filed agreements, including requiring the submission of additional information.

(See ITT's Online Archives or 04/25/08 and 05/06/08 news, (Ref: [08042515](#)) and (Ref: [08050604](#)), for BP summaries of the first two FMC closed meetings on the Agreement.

On November 28, 2007, the FMC held a closed meeting to consider the Port of Los Angeles and Port of Long Beach Clean Trucks Program. *See ITT's Online Archives or 11/28/07 news, (Ref: [07112805](#)), for BP summary. See ITT's Online Archives or 03/24/08 news, (Ref: [08032405](#)), for BP summary of most recent Clean Trucks action, with links to earlier notices.)*

FMC meeting notice available at http://www.fmc.gov/home/June_4_2008Meeting.asp.

Agreement 201178 available at http://www2.fmc.gov/agreement_lib/201178-000-P.pdf

FMC information on Commission's role in monitoring agreements (FR Pub 12/22/06) available at <http://edocket.access.gpo.gov/2006/pdf/E6-21985.pdf>

BP Note - During this closed meeting, the FMC will also consider **Export Cargo** issues and a Show Cause Order regarding an OTI (Ocean Transportation Intermediary) licensing matter.



WTO Review Highlights Continued Challenges for Businesses in China – By Sandler Travis & Rosenberg PA

WORLD TRADE
ORGANIZATION



The World Trade Organization recently completed a trade policy review of China. The review found that while China's efforts to liberalize trade and investment are moving forward, the country continues to face a number of challenges that will affect those doing business there. Highlights of the report's findings include the following.

Economic Environment. China is continuing to benefit from its trade and investment reforms. Per capita gross domestic product rose from \$1,490 in 2004 to \$2,017 in 2006 and the number of people living on less than \$1 a day has decreased to about 10 percent of the population. In 2006, China's total trade in goods alone accounted for about 65 percent of its GDP and 13 percent of global trade. These figures "demonstrate clearly the value of integrating more liberal trade and foreign investment policies into broader macroeconomic and structural reforms in order to promote economic development."

On the negative side, the review notes (1) the continuing imbalance in the sources of economic growth, which has been driven much more by exports and investment than by consumption; (2) the inefficient allocation of most investment due to factors such as incentives and other forms of assistance accorded to manufacturing; and (3) the exacerbation of environmental problems and income inequality. The government has taken a number of policy initiatives to address these problems, including trade policy measures such as taxes and reduced value-added tax rebates on exports, but their effectiveness is questionable.

Trade and Investment Policy. The overall aim of China's trade policy continues to be accelerating the opening of its economy to the outside world in order to introduce foreign technology and know-how, develop foreign trade and promote "sound economic development." China aims to further strengthen the multilateral trading system but has also been intensifying its pursuit of bilateral and regional free trade agreements.

In addition, although some aspects of its trade policy remain opaque, China has continued to adopt measures to increase the transparency of its trade and trade-related policies, practices and measures. It has also introduced or amended various rules and regulations to further liberalize foreign direct investment and establish a more rules-based and predictable business environment for foreign investors.

Trade Policies and Practices. The review outlines a wide range of Chinese trade policies and practices that affect those doing business there, including the following.

- Tariffs remain one of China's main trade policy instruments. The overall average applied most-favored-nation tariff was 9.7 percent in 2007 (unchanged from 2005), including 15.3 percent for agricultural products and 8.8 percent for non-farm goods.
- Some non-tariff barriers have been reduced; e.g., the number of lines subject to automatic import licensing has declined and measures have been adopted to increase the alignment of national standards with international norms.

- Other barriers remain: the sanitary and phytosanitary regime remains complex, government procurement from foreign companies is substantially limited, and an already complicated export regime has become considerably more restrictive and covers a large and growing number of products.
- China has continued to use policy tools to channel resources into certain activities in order to promote investment in high technology, encourage innovation and protect the environment (e.g., by reducing energy consumption). These tools include tax incentives, non-tax subsidies, price controls and various forms of “guidance,” including sector-specific industrial policies.
- State-owned enterprises continue to play a dominant role in the economy, accounting for some 35 percent of GDP, and enjoy monopoly positions in certain sectors. A main challenge to SOEs is raising their productivity through further reforms; private firms operating in China, especially foreign-invested enterprises, are generally more productive than SOEs.
- Having concentrated much of its past reform efforts on manufacturing, which tends to be capital-intensive, the government’s attention is now turning to services, which tend to be more labor-intensive. If they are sufficiently competitive, services have the potential in the long run to generate new jobs for surplus labor currently located in rural areas.
- China’s energy sector continues to be characterized by a high level of state ownership, regulation and limited competition. The government regards energy as a strategic commodity and has therefore adopted a gradual approach to reforming the sector. As a result, consumers remain insulated from global markets, while trade restrictions and regulatory barriers protect domestic producers from international competition. The result has been artificially low prices and higher energy use domestically, which is helping drive up demand and prices globally and contributing to environmental problems.
- While the government’s intention is to open the services sector further to private and foreign participation as a means of boosting growth and providing alternative employment to agriculture, the pace of liberalization has been slower than that for manufacturing, and as a result most services sectors are still subject to a high degree of state control and lack of competition.

Outlook. With its vast human resources, high rate of investment in physical and human capital, strong growth in labor productivity and increasingly market-oriented economy open to international trade and foreign investment, China has the potential to sustain its rapid growth in the foreseeable future, albeit at a somewhat slower rate as its economy matures and its labor force starts to shrink. In order to realize this potential, however, China needs to continue to address a number of important social and economic challenges. These include widening income disparities among regions and between urban and rural areas, facilitating the movement of surplus labor from agriculture into other activities, increasing research and development expenditures and improving the protection of intellectual property, increasing government spending on social services (thus raising consumption and reducing reliance on exports for growth), dismantling impediments to the efficient allocation of land, energy, water and other natural resources, and further reforming the tax system.

China Identifies Problems, Goals. In the report it submitted as part of the WTO review, China identified a number of problems confronting the further development of its foreign trade.

- a high percentage of its exports continue to be of an energy-intensive, high-emission and resource-intensive nature

- exports are still concentrated on a few markets and further efforts to diversify are needed
- trade protectionism is rising among some WTO members
- China has been subject to the largest number of antidumping actions in the world for 13 consecutive years
- technical standards and sanitary and phytosanitary measures have become major obstacles to China's exports, causing \$75.8 billion in direct losses and \$143.7 billion in lost trade opportunities in 2006

The government also outlined its economic and trade priorities for the next few years, which include the following.

- changing the underlying mechanism for economic growth by (a) moving toward an approach that coordinates consumption, foreign investment and exports; (b) shifting away from a reliance on manufacturing and toward a combination of agriculture, manufacturing and services; and (c) reducing the consumption of material resources and focusing instead on scientific and technological progress, labor quality improvement and innovation in management
- further enhancing the quality and safety of foods, drugs and other consumer goods
- reforming the resource tax system to improve the system of compensation for the use of resources and the compensation mechanism for damage to the environment
- expanding pilot programs on VAT reform and possibly expanding those programs nationwide

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