Pacific Coast Council

**Export Report**

January 18, 2014

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*(updates from last meeting’s topics)*

**C-TPAT for Exports**: This seems to be melding into the description of Trusted Trade Partners. However, the entire C-TPAT program seems a bit as if it may be dying. However, within the connection of Trusted-Trade Partnerships, we are encountering more countries coming up with their own 24-hour rule such as Japan. The outline of the required data for Japan seems more burdensome than the other existing programs. Question for PCC - is there something the US can do to reduce the prior number of days or eliminate certain data elements? If CBP requires our imports to continue with ISF as an example, it doesn’t seem the foreign countries will respect our plea. Is there a way to standardize a 24-hour rule for all countries, much like the ISPM15 Packing Material country requirements?

**FMC Changes to OTI’s**: This is still a concern. At this point, no new updates as far as the Federal Register postings are concerned.

**Bureau of Census Regulations**: Updates that were to take place in January have been delayed until April 5, 2014.

**Export Reform Initiative**: The ERI is still pretty much on schedule. Federal Register announcements come out almost weekly with little bits and fixes as well as announcing commodity jurisdiction changes. It’s a bit soon to have much feedback on how these changes and transformations are affecting the trade community.

**ILWU contract – expires June 30, 2014**: We are hearing more about the concerns that ILWU is going to fight a tough battle for pension coverage and healthcare benefits. (Refer to situation in Portland, OR for more details.) Portland may be the sacrificial lamb in the process for ILWU to gain their demands. However, every westcoast port has had their own battles.

**FMCSA / MAP 21**: After Wesccon, not much discussion and no final ruling from FMCSA as to receiving any kind of exemption since the inception of requiring brokers and forwarders to have a property-broker’s license. Some companies went forward with obtaining the property-broker license, while many others did not and wait to see if more information perculates. Trucking capacity and chassis are still a big issue and rear their head quite often.

**Update to T-6 Situation in Port of Portland**: The Governor of Oregon, John Kitzhaber demanded a meeting between ICTSI (port operator who leases the terminal from Port of Portland), Port of Portland, ILWU, and the IBEW (International Brotherhood of Electrical Workers). What came of the meeting was that it was determined Port of Portland would change their lease contract with ICTSI to allow the two IBEW jobs to be given to the ILWU, while IBEW was given a nominal return of two apprenticeship programs. ICTSI then gave the two jobs over to the ILWU. The Governor watches weekly as to where the numbers are, both gross and net moves. The ILWU did increase productivity a tad. ICTSI stated in the local newspaper that ILWU did not improve. Hanjin is still calling the Port of Portland. However, Hanjin has not had a written statement to counter the earlier statement of their intention for leaving the port in December of 2013. Many of Hanjin’s customers are anxious to receive word to the decision Hanjin will make. Some customers who were using Hanjin’s Portland call have stopped until they have received a written commitment of Hanjin vessels staying in the Port of Portland. We wait and see.

*(new topics)*

**Electronic Airway B/L’s:** *(Words of Gary Ryan)* Another issue is electronic air waybills. The carriers and CNS want us to file them electronically.   It saves the airlines they keypunching expense and errors. My feeling is that a.) they need a central location to file the data; we do not want to have to send airline by airline; and,  b) any filing expense should be paid for by the airlines. We will pay for software programming fees; but, the transmission of data has to be standardized as uniform for all of the airlines. I believe that the data should be sent through CNS/IATA and that any expense for the actual filing should be paid for by the airlines. I have told CNS of this and also AfA, Brandon Fried.

**BIEC – Border Interagency Executive Council:** This idea seems to have been developed in the COAC group and is being discussed. The fuction of the group is to have one to address key collective strategic focus areas of the U.S. Government to assist with trade versus enforcement requirements and concerns. We will probably be hearing more about it. Vince is on COAC and I am on the Export Working Group of COAC along with Paulette Kolba. We are keeping an eye on the development, but be prepared to hear more from the government in reference to this.

**From LA - Export Exams:** *(Words of Gary Stratton):*  LACBFFA board members received complaints during 2013 about the methodologies, cost, delays, and lack of transparency with respect to export examinations.  When approached CBP expressed a willingness to listen to the association.  During the Summer of 2013 Port Director Martel, Asst. Port Director Espinoza, and Chief Larios met with us and expressed a desire to work together toward addressing the concerns of the trade even willing to consider the possibility of a pilot program to test a potential solution.

 Two further meetings followed exploring the scope of the problem.  One of these meetings, at the request of APD Espinoza, was conducted by visiting a retail NVOCC/forwarder and a neutral NVOCC to more clearly understand the process flow from the trade point of view.  (Specifically we met at Norman Krieger Inc., a forwarder and retail NVOCC, and at Vanguard Logistics, a neutral NVOCC).  Another meeting is scheduled next week to consider the findings of the last meeting and to explore potential solutions now that each side has a better perspective.

First, CBP acknowledges that they don’t really understand the export process anywhere as well as the import process.  They also admit that it appears their assumptions about applying import processes to export have led to unexpected problems for exporters, forwarders, and carriers.  What follows are my observations.  Paulette may have some additional observations to add based on her extensive experience.

 What are the problems?

**Innocent LCL cargo delayed and subject to cost**

CBP will remove the NVOCC consolidation container from the carrier yard after in-gating because they have concerns over one or more “presumed guilty” LCL consignments.  In so doing the innocent cargo is delayed and subject to examination costs.  For example, if there are 15 LCL consignments in a container and CBP is interested in 1, the other 14 innocent consignments are delayed and impacted with additional costs.  In our discussions with CBP we would like to find a way to identify the shipments of concern early enough in the process to have those examined separately thereby freeing the loaded consolidation container to move as booked after in-gating.

**Excessive cost and damage**

There are many complaints from auto forwarders and household goods/personal effects forwarders about long delays, exceptional costs, and damage to cargo resulting from examination at the CES.  The committee is exploring ways to reduce the costs, delays, and most specifically the damage resulting from unloading and loading at sites which may not be suitable for the handling of such goods.  The committee agreed that it would be easier and faster to find a resolution to the innocent LCL problem and then, following that, to find solutions for the autos and HHG problems.

 CBP requires information to target.  The logical source of information would be the AES filing.  But there are many exemptions used (legitimately or not) which conceal data from CBP.  Therefore CBP uses booking information from the carriers.  We have not viewed this booking information so we do not know how useful or complete this information is.  The ideal solution would be that AES would be required for all shipments of any value thereby creating a record to populate CBP targeting.  Targeting data provides us with better tools to remedy the exam issue early enough in the process to avoid stopping the shipment after in-gating.

 Another issue is what constitutes “intent to export.”  As CBP can only enforce when the exporter has tendered goods with an “intent to export” they must have such a clear event in order to avoid the container in-gating as the proof of intent.

 The third challenge is how to ensure that, if CBP agrees to exam LCL cargo before loading and in-gating, the exporter or forwarder will not remove the shipment to avoid enforcement.  Various ideas were discussed such as a bond or an agreement between the forwarder/NVOCC and exporter such as that between the exporter and a TSA IAC authorizing inspection of the goods.

 The great impediment to the easier solution is the lack of AES data on all shipments.  The lack of data creates a lack of CBP visibility.  It may be that a change in AES requirements could benefit the trade substantially and outweigh the cost or inconvenience to those using exemptions at this point.

 We expect that some ideas will be discussed in the next meeting.  We will share with you what information we obtain.

**Biggest Concerns and Watches:**

1. Customs and Trade Functions (CTPAT/Trusted Trade Partners), which include BIEC
2. ILWU
3. FMC regulation changes to OTI’s
4. Electronic AWB
5. Export Exams
6. Trucking