

COAC Advance Cargo Information Subcommittee

OVERVIEW

Trade Act of 2002:

Under Section 343 of the Trade Act of 2002 as modified by Section 108(b) of the Maritime Transportation Security Act of 2002, the Bureau of Customs and Border Protection (CBP) within the Department of Homeland Security is authorized to promulgate regulations providing for the transmission to CBP, through an electronic interchange system, of information pertaining to cargo to be brought into or to be sent from the U.S., prior to the arrival or departure of the cargo. The cargo information required by these regulations shall be such information as determined to be reasonably necessary to ensure cargo safety and security pursuant to those laws enforced and administered by CBP. Under the statute, CBP must endeavor to promulgate an initial set of regulations not later than October 1, 2003.

The regulations must be developed under the following parameters:

- The government must solicit comments from and consult with a broad range of parties, including importers, exporters, carriers, customs brokers, and freight forwarders, among others affected by these regulations.
- The requirements will be imposed upon the party most likely to have direct knowledge of that information.
- The government will take into account the existence of competitive relationships among the parties on which the requirements are imposed.
- Where regulations impose requirements on carriers, they should take into account differences in different modes of transportation.
- The regulations should take into account the extent to which the technology necessary for parties to transmit and Customs to receive and analyze data in a timely fashion is available. The regulations should provide interim requirements appropriate for the technology that is available at the time of promulgation of the regulations.
- The information collected should be used exclusively for ensuring cargo safety and security and preventing smuggling and shall not be used for determining merchandise entry or for any other commercial enforcement purposes.
- The regulations should protect the privacy of business proprietary and any other confidential cargo information provided to Customs.
- In determining the timing for transmittal of any information, the government should balance likely impact on flow of commerce with impact on cargo safety and security. With respect to requirements that may be imposed on carriers, the timing for transmittal of information shall take into account differences among different modes of transportation.
- The regulations should avoid imposing requirements that are redundant with one another or that are redundant with requirements in other provisions of law.
- It should be determined whether it is appropriate to provide transition periods between promulgation of the regulations and the effective date of the regulations.

- The government should determine whether it is appropriate to impose the same or similar requirements on shipments by the U.S. Postal Service.
- Not later than 15 days prior to publication of a final rule, Customs shall send to the Committees on Finance and Commerce, Science and Transportation of the Senate and the Committees on Ways and Means and Transportation and Infrastructure of the House of Representatives a report setting forth the following:
 - The proposed regulations.
 - An explanation of how particular requirements in the proposed regulations meet the needs of cargo safety and security.
 - An explanation of how Customs expects the proposed regulations to affect the commercial practices of affected parties.
 - An explanation of how the proposed regulations address particular comments received from interested parties.
 - If Customs determines to amend the proposed regulations after they have been transmitted to the Committees, CBP should transmit the amended regulations no later than 5 days prior to the publication of the final rule.

Process with Strawman Proposals:

In January 2003, Customs held mode-specific public meetings. Customs provided strawman proposals for each mode of transportation outlining what those requirements would be with respect to timing and information. The trade was also invited to provide written comments by February 18, 2003.

COAC's Role:

Given the controversial nature of the strawman proposals and the outcome of the public meetings, Customs and the trade community agreed to work through COAC to develop a workable solution that satisfies the Trade Act of 2002 and reflects the current economic and operational business environment. It was decided to continue the COAC Advance Cargo Information Subcommittee established last year to provide recommendations on the ocean advance manifest regulation. The subcommittee was tasked with addressing mode-specific concerns and developing recommendations by March 14, 2003.¹ The subcommittee recommendations will be reviewed by COAC at COAC's next public meeting on April 4, 2003.

Within the subcommittee, four specific workgroups were created – one for each mode and chaired by COAC members. The workgroups/chairs are:

- Air – chaired by Art Litman, Federal Express Customs Broker, and Norm Schenk, United Parcel Service;
- Ocean – chaired by Carol Fuchs, KMZ Rosenman;
- Rail – chaired by Karen Phillips, Canadian National Railway Company; and
- Truck – chaired by Sandra Scott, Roadway Express, Inc.

Each workgroup included non-COAC members as technical advisors. These advisors included interested parties from all sectors of trade.

¹ This date was established by Commissioner Bonner to meet the October 1, 2003 statutory date for initial implementing regulations under the Trade Act of 2002.

A listing of participants follows.

COAC Advance Cargo Information Subcommittee

COAC Members

Name	Company
Sandra Fallgatter	JC Penney Purchasing Corporation
James Finnegan	Kulicke & Soffa
Carol Fuchs	Katten Muchin Zavis Rosenman
Angela Gittens	Miami International Airport
Dennis Heck	Yamaha Corporation of America
Scott Johnson	Gap, Inc.
Michael Laden	Target Customs Brokers, Inc.
Marian Ladner	Strasburger & Price
Arthur Litman	FedEx
Mary Jo Muoio	Barthco International, Inc.
John Peterson	C.H. Powell Company
Karen Phillips	Canadian National Railway Company
Norman Schenk	United Parcel Service
Robert Schueler, Jr.	Delphi Corporation
Sandra Scott	Roadway Express
Kevin Smith	General Motors Corporation
Renee Stein	Microsoft Corporation
Katherine Terricciano	Philips Electronics North America
Thomas Travis	Sandler, Travis & Rosenberg
Tim Van Oost	BP

Workgroup Technical Advisors

Name	Company	Air	Ocean	Rail	Truck
Enrique Alvarez	TFM, S.A. de C.V.			X	
Sue Andres	Union Pacific Railroad			X	
Mark Andrews	Strasburger & Price				X
Alan Baer	Ocean World		X		
David Bajkiewicz	Kimberly-Clark			X	
Juerg Bandle	Kuehne & Nagel		X		
Frank Bowen	Private Motor Truck Council				X
Chip Bown	Northern Border Brokers Association				X
Leslie Carlson	Contract Freighters, Inc.				X
Joni Casey	Intermodal Assn. of North America			X	
David Cassidy	Kimberly-Clark			X	
Tony Chacon	Union Pacific Railroad			X	

Name	Company	Air	Ocean	Rail	Truck
Eddie Chesser	CSX Transportation			X	
Anne Chettle	CSX Transportation			X	
Daniel Collin	Stora Enso North America			X	
Elaine Collins	Stora Enso North America			X	
Jerry Cook	Sara Lee Branded Apparel		X		X
Ken Crissinger	Emery	X			
Mike Davenport	Washington International Insurance		X		
Tim Debus	International Banana Association		X		
John Detlefsen	LandStar				X
Nicholas DiMichael	National Industrial Transportation League			X	
Gil Duhn	General Motors Corporation			X	X
Bill Everson	IBC	X			
John Ficker	Weyerhaeuser			X	
Kelly Fowler	Alliance Shippers			X	
Brian Gill	Federal Express				X
Jonathan Gold	International Mass Retail Association		X		X
William Gottlieb	FIATA	X			
Ed Greenberg	Galland Kharasch Greenberg (NCBFAA)		X		
Malcolm Gregory	Maersk Logistics Inc.		X		
Matt Haffner	DHL	X			
Joan Hanley	Maersk Logistics	X			
Kathy Hansen	CNF Transportation	X			
Paul Hargadon	Ford Motor Company			X	
Keith Hartwell	American Short Line & Regional Railroad Association			X	
Joe Heck	Daimler-Chrysler	X			
Jake Holzscheiter	A.N. Deringer, Inc.			X	
Pekka Jalonen	Stora Enso North America			X	
Russ Jones					X
Bill Kalbhenn	Mackinnon Transport				X
Bob Keane	Canadian National Railway Company			X	
Ronae Keiser	CSX Transportation			X	
Lars Kjaer	World Shipping Council		X		
Jill Klusa	Canadian Pacific Railway			X	
Jerry Krauskoph	Al's Cartage				X
Francois Laliberte	Bowater Canadian Forest Products			X	
Tony LaRosa	Norfolk Southern Corporation			X	
Ron Lennox	Canadian Trucking Alliance				X
Scott Lindsey	Kimberly-Clark			X	
Kathy Luhn	National Industrial Transportation			X	

Name	Company	Air	Ocean	Rail	Truck
	League				
Larry Mackinsoc	Irving Paper			X	
Richard Macomber	IBM	X			X
Joe Mangiaracino	Union Pacific Railroad			X	
Bruce Markwardt	Ford Motor Company			X	
Florentino Matadamas	Ferrocarril Mexicano, S.A. de C.V.			X	
Jim McNamara	Maquillogistics				X
Jos Meijer	KLM	X			
Annie Mesagna	Expeditors	X			
Kenneth Miller	Burlington Northern Santa Fe Railway			X	
Jeff Moller	Association of American Railroads			X	
Mike Morey	Air Canada	X			
Randy Mullett	CNF Inc.				X
Peter Nygren	Kansas City Southern Railway Company			X	
Glenys Oldham	UAL	X			
Tim Perry	American President Lines		X		
Marcel Pouliot	Trimac				X
Peter Powell	C.H. Powell		X		
Sue Presti	ACCA	X			
Rob Quartel	FreightDesk Technologies		X	X	X
Francisco Javier Ramos	Texas Mexican Railway Company			X	
Orrin Ramstad	Northwest Airlines	X			
Matt Reilly	American Short Line & Regional Railroad Association			X	
Bob Richardson	IATA	X			
Mike Richardson	United Parcel Service				X
Mike Roberts	CSX Transportation			X	
Martin Rojas	American Trucking Associations				X
Peggy Rutledge	Hapag-Lloyd Container		X		
Steve Schellenberg	San Antonio Transportation Association				X
Donna Schense	Schneider National				X
Tom Schick	American Chemistry Council			X	
Doug Schneider	World Shipping Council		X		
Dan Sherman	Sony Electronics				X
Kenneth Siegel	Strasburger & Price				X
Dave Spence	FedEx	X			
Steve Steiner	Ford Motor Company			X	
Michael Tamilia	Canadian National Railway Company			X	

Name	Company	Air	Ocean	Rail	Truck
Bob Voltmann	Transportation Intermediaries Association			X	
Alex Wallace	Tolko Industries			X	
Lang Ware	UPS Autogistics			X	
Jeff White	Sears			X	
Mike White	Air Transport Association	X			
Darrell Wilson	Norfolk Southern Corporation			X	
Dave Wirsing	AFFA	X			

Recommendations:

What follows are the workgroup reports and recommendations that will assist in developing implementing regulations under the Trade Act of 2002.

Common Approaches:

The workgroups used a similar approach in developing recommendations for both inbound and outbound:

- CBP and the trade community should utilize existing systems to the extent possible. The system should then be migrated into ACE.
- There should be a single window to the government for the trade to provide data to multiple government agencies.
- The recommended timeframes for pre-arrival and/or pre-departure provision of information vary considerably from the strawman proposals.
- For the most part, we recommend the timing of information provided should be “pre-arrival,” not “pre-lading”. In other words, information should be required before arrival in the U.S. and before departure from the U.S.
- Export processes and requirements should remain consistent with current practices via AES and existing exemptions.
 - Value under \$2,500.00.
 - Exports to Canada.
 - Option 4 process for post-departure filing, with a re-qualification of participants, if necessary.

Enclosures:

- Air Workgroup Recommendations/Attachments
- Ocean Workgroup Recommendations/Attachments
- Rail Workgroup Recommendations/Attachments
- Truck Workgroup Recommendations/Attachments