

tradeweek

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Advocacy News: TSN Plenary

Carol Osmond, I.E.Canada's vice president, policy, recently attended the Trade Support Network (TSN) Plenary in Tyson's Corner, Virginia. The TSN was established in 1994 by U.S. Customs & Border Protection (CBP) to provide a forum for discussion with the trade community about modernization efforts, with the current focus being the Automated Commercial Environment (ACE).

With approximately 300 members, the TSN represents the entire breadth of the trade community, including trade associations, importers, exporters, brokers, carriers and others. With the development of ACE, TSN committees were also formed to provide CBP with information relating to specific business processes. The current committees are: Account Management; Entry; Export; International Trade Data System (ITDS); Legal and Policy; Multi-Modal Manifest; Revenue; Supply Chain Security; and Transition.

TSN plenary conferences are held two times per year to provide information to and solicit input from the



Carol Osmond, vice president, policy, I.E.Canada.

overall TSN membership.

The four day plenary session held from September 8-11, 2008 included training and trade information sharing sessions relating to the ACE Portal; committee and subcommittee meetings; Participating Government Agency (the U.S. equivalent of Other Government Departments) break out sessions; as well as a full day plenary session.

Mr. Ralph Basham, commissioner of CBP, who delivered the keynote

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Port Experts Discuss Issues

Global trade has placed tremendous pressure on Canada's ports and infrastructure. Changing trade patterns are presenting opportunities to Canadian ports ready to take advantage of the challenges they are facing.

I.E.Canada's 77th Annual Conference, Tradeshow and Gala will feature a panel discussion of the issues facing Canadian ports and terminals, and how our ports are

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Customs Duty & International Trade Course

Looking to brush up on your customs duty and trade skills? Be sure to join I.E.Canada's Customs Duty and International Trade Course on September 22 -24, 2008 in Calgary. If you can't make it to Calgary, look for a course in Toronto in late November.

The course is designed to provide a basic understanding of the rules that govern the international trade of goods and services. Attendees will learn how to best assess the risks and exploit the opportunities in international trade, including NAFTA, WTO and FTAA. Participants will also learn how these agreements should feed into an organization's strategic decision making process.

The course will also address the critical issues of security and compliance. The emphasis on supply chain security and accountability in today's international trade environment spells new responsibilities for importers and exporters. As rigorous new Canadian and U.S. government procedures for importers, exporters, carriers, customs brokers and freight forwarders are being implemented, updated and

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address on the eve of the seventh anniversary of 9/11, stressed the importance of not becoming complacent about the terrorist threat posed to the United States, particularly during what is considered to be an especially vulnerable time as the country approaches a change in administration. He emphasized the critical role that the trade community through the TSN process has played in securing the country's borders and keeping it safe.

Following are other highlights of the TSN Plenary.

Status of ACE: Lou Samenfink, executive director, Cargo Systems Program Office and other CBP officials provided an update on the status of ACE. ACE is experiencing some challenges and delays due to a shortage of resources, software problems and new legislative and regulatory changes (eg. 10 + 2 Security Filing). The Vessel and Rail Manifest (M1) is being postponed until April - June 2009 and the Air Manifest (M2.1) until February - April 2010. Overall, however, ACE is working well, and while no deadlines were established CBP officials indicated that they are anxious to shut down ACS (Automated Commercial System), which is costly and cumbersome, and complete the transition to ACE. CBP presentations relating to the status of ACE are available at <http://www.iecanada.com/docs/ACEUPDATE-LOU-S-FINAL.pdf>; <http://www.iecanada.com/docs/CCR-M1M2-091008-FINAL.ppt>; <http://www.iecanada.com/docs/ESAR-VNEUHART-FINAL-V2.pdf>

10 + 2 Security Filing: While the final rulemaking has not yet been published, Tom Winkowski, Assistant Commissioner, Office of Field Operations reported that CBP officials have worked through many of the issues relating to the 10 + 2 Security Filing and expressed confidence that when CBP implements the new filing, it will be done right.

In response to a question from a trade participant, he indicated that CBP did not see the need for a pilot but reassured the audience that there would be a phase-in period.

Import Product Safety: Import product safety, a priority trade issue for CBP and the Department of Homeland Security (DHS), was a recurring theme during the plenary session. CBP views itself as having primary responsibility to ensure consumer safety and sees the importer as having a pivotal role as well. CBP is looking to build a product safety component into its Importer Self-Assessment (ISA) Program. ISA is a voluntary program that allows trade compliant companies to assume responsibility for managing their own compliance, in exchange for less CBP oversight. COAC, the private sector advisory committee on matters involving the commercial operations of CBP and related functions within DHS and Treasury, is also examining how to incorporate an Importers Self-Assessment program into the product safety process.

Lacey Act: The Food, Conservation and Energy Act of 2008, known as the Farm Bill, enacted by the U.S. Congress in May 2008 amended the century old Lacey Act, extending protection to plants and trees illegally harvested outside of the U.S. (Sidley Austin LLP, Farm Bill Trade Provisions Affect All Importers, International Trade Update, May 27, 2008 available at <http://www.sidley.com/files/News/c809ea9e-1757-40f2-b56050e65d820f57/Presentation/NewsAttachment/ae5978c3-9047-4a4f-8615-51281887400f/InternationalTradeUpdate052708.pdf>).

Among other things the amendments will require importers to submit data elements on entry for any imported goods that are plants or plant products, including the genus and species of the plant and the

country of origin. According to a CBP official, these amendments affect 80 of the 97 chapters of the U.S. Tariff, including goods such as lumber, furniture, clothing, books, pharmaceuticals, linen, and a host of other items. While acknowledging that CBP had been caught off guard by the legislation, Dan Baldwin, assistant commissioner, Office of International Trade, stated that CBP is working to find a reasonable solution and is looking for input from the trade.

HTS Online: Officials from the International Trade Commission (ITC), which is the agency responsible for maintaining the tariff schedules of the United States, provided an overview and demonstration of the ITC's new HTS Online Reference Tool, which is intended to provide user-friendly access to the U.S. Harmonized Tariff Schedules. The HTS Online Reference Tool will be directly accessible from ACE and will provide complete legal text and notes and the most current U.S. tariff rates. It will include direct links to the most current classification rulings in the Customs Ruling Online Search System (CROSS); allow for quick searches by word, word combinations or HTS number; and contain a thesaurus capability allowing users to use synonyms and preferred terms when conducting searches. The HTS Online Reference Tool is expected to be functional and online by the beginning of 2009.

CBSA Update: CBSA officials also attended the TSN Plenary and provided an update on Advance Commercial Information (ACI)/eManifest during a meeting of the ITDS/MMM Cross Border Harmonization Subcommittee. It was reported that the data elements, including the Importer Admissibility Data Set, have gone through the internal vetting process within CBSA. The participants' reporting requirements will be published and the prototype for

Shipping and Trade Horizons



Leo Ryan

Shipping and Trade Horizons, a Tradeweek column, is produced by Leo Ryan. The column addresses Canadian industry issues and trade developments of interest to our members.

It's Infrastructure, Stupid!

Some years ago, the phrase "It's the economy, stupid!" was coined in the United States and became part of the political vocabulary. Today, a similar expression might apply to the strong emphasis paid in both emerging and industrialized states to infrastructure development.

In Canada, one has only to look at all the investments and projects aimed at strengthening our Pacific Gateway for mounting North American trade with Asia.

The most recent initiative came earlier this month when funding worth up to \$40 million was announced for five west coast shortsea shipping and for two road projects in British Columbia's Lower Mainland.

The federal government, through the Transportation Infrastructure Fund under the Asia Pacific Gateway and Corridor program, will pitch in just over \$20 million, with the rest of the financing due to come from

various private sector service providers and municipalities in the region.

Among other features is the construction of barge docks and ramps at the Vanterm and Deltaport container terminals. Using the barge docks, the terminals will be able to shuttle containers by barge to and from the Fraser River.

Applauding this initiative, Gordon Houston, chief executive of Port Metro Vancouver, said it will provide "a more sustainable environment by more fully utilizing existing waterways, and reducing impacts on the road infrastructure. For example, one barge carries as much cargo as 65 trucks, or 15 rail cars. So the potential advantages are quite clear."

Last year, David Emerson, Minister of International Trade and Minister for the Pacific Gateway, announced more than \$490 million in federal funding for 10 specific projects for the Asia-Pacific Gateway and Corridor Initiative. All told, Ottawa has committed over \$1 billion to the Pacific Gateway, with \$800 million for projects in British Columbia, and the remainder earmarked for projects in Alberta, Saskatchewan and Alberta.

According to the B.C. government, about \$14 billion in public and private sector investments have been made or planned to improve the province's road, rail, port and airport networks.

The major infrastructure investments have included the new container terminal at Prince Rupert; a third container berth at Deltaport; more than \$4.6 billion for roads and bridges in British Columbia; a \$160 million investment to increase CP Rail capacity along southern lines from Vancouver to Manitoba; more than \$50 million by CN in Prince Rupert and an intermodal facility in

Prince George; twinning the Simon Fraser Bridge in Prince George to facilitate transport of forestry products to Asian markets; and a nearly \$2 billion expansion of Vancouver International Airport to boost terminal capacity by 5 million passengers to more than 22 million passengers by 2009.

Important to recall, Canada's two transcontinental railways are intimately involved in strengthening the Pacific Gateway. While remaining competitors, they have cooperated in certain areas for mutual benefit while pursuing ambitious investment plans in intermodal facilities.

Such infrastructure investments stretch well beyond coastal locations. CN's 2008 capital spending budget of \$430 million in the western region is targeted at the replacement of rail, ties and other track materials as well as bridge improvements. A planned Canadian Pacific \$93 million intermodal terminal in Regina could bring national distribution centres of unprecedented size to the Queen City. The latter, once completed, will amount to an inland port, allowing retailers to move product by air, road and rail.

Meanwhile, with the aid of consultants, Transport Canada is working on a study called North American Heartland Infrastructure Requirements. This document will notably look at why shippers and carriers choose particular ports in North America and what influences them to take their business elsewhere. It will attempt to make a 20-year forecast of export/import movements through Canadian gateways and determine whether there is adequate infrastructure to meet demand.

A document that will be of considerable interest...

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Crossborder Document Requirements to Change

The U.S. Department of Homeland Security's Customs and Border Protection (CBP) is engaged in a campaign to educate the public about new travel document requirements that will go into effect on June 1, 2009 under the Western Hemisphere Travel Initiative (WHTI).

"Since the time WHTI was first announced, we have taken seriously our obligation to inform travelers of the change in procedures," CBP assistant commissioner Thomas S. Winkowski said. "We will continue our efforts to remind travelers who don't already have a document that they still have time to obtain one in advance of the June 2009 compliance date. The agency is committed to implementing WHTI in a common sense, flexible way that facilitates the flow of legitimate travelers and improves the security of our borders."

WHTI is the joint Department of State and Department of Homeland Security plan that implements a 9/11 Commission recommendation to establish document requirements for travelers entering the United States who were previously exempt. This includes citizens of the U.S., Canada and Bermuda.

Effective June 1, 2009, travelers will need to present a valid, acceptable document that denotes both identity and citizenship when entering the U.S. by land or sea. Most travelers will be able to select from one of six different documentation options, based upon their individual travel needs. Many U.S. and Canadian travelers already have a passport or another WHTI-compliant document. WHTI was implemented for air travelers in January 2007.

In addition to a passport, there are several other documents that CBP will accept at land and sea ports of entry from U.S. and Canadian citizens coming from Canada, Mexico, Bermuda or the Caribbean. These

include the new U.S. Passport Card, new state/province-issued enhanced driver's licenses, and the three CBP trusted traveler program cards (NEXUS SENTRI, and FAST). All these documents utilize radio-frequency identification (RFID) technology. Among the U.S. Passport or the five RFID-enabled cards, travelers can select the documentation option that best fits their needs. Details on each of these options are available at www.GetYouHome.gov.

By incorporating RFID technology into WHTI-compliant documents, the border-crossing process will be more efficient and effective. RFID is a secure technology that captures a unique identifier - a randomly assigned number - from the document as the traveler approaches the border inspection station. No personal data is contained or transmitted by the RFID cards; the numerical identifier serves only as a pointer to gather information from CBP's secure network for the officer.

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improving Canada's competitiveness in the global market-place. Every port and terminal on the planet is chasing cargo. Canadian ports and terminals bring unique benefits to global shippers for cargo moving to and from North America and its heartland - productivity, quick turnarounds and labour and cost efficiency. Panelists will discuss their strategies to market these benefits on the international transportation stage.

The session will be moderated by Joyce Hammock, editor-in-chief, Canadian Sailings, who will be joined by panel members Kevin Doherty, president & CEO, Montreal Gateway Terminal, Scott Galloway, director, trade development, Port Metro Vancouver, and Captain Alwyn Soppitt, president & CEO, Saint John Port Authority, New Brunswick.

The panel is only one of several informative sessions being held during I.E.Canada's conference from October 27-29, 2008 at the Delta Meadowvale Conference Centre located at 6750 Mississauga Road near the Toronto Airport. To receive a copy of the brochure and the latest information on the annual conference, including the agenda, speaker and sponsor listings, trade show opportunities, registration options, and I.E.Canada contacts, please visit <http://www.iecanada.com/2008-77th-Annual-Conference.html>. One-day, two-day and three-day packages are available.

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the portal will be available this fall. System availability for the carrier data elements in the highway mode is expected in the summer/fall 2009, becoming mandatory in the summer/fall of 2010.

Further information on the TSN, including how to become a TSN member and highlights of past plenaries, is available on the CBP website at http://www.cbp.gov/xp/cgov/trade/automated/modernization/trade_support_network/. Presentations from the September 2008 session will be posted to the website soon.

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changed, knowing and complying with all the requirements will be critical to ensuring the speedy arrival of goods.

Top trade and customs professionals, including Candace Sider, CCS, manager, regulatory affairs - Canada, Livingston International Inc., Jaime Seidner CCS, senior consultant, Fraser Milner Casgrain LLP and John W. Boscaroli, partner,

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I.E.Canada Chair, President Represented on Board



Both Isabel Alexander, president, Phancorp Inc. and chair of I.E.Canada, and Mary Anderson, president, I.E.Canada have been ably representing the SME community to the Department of Foreign Affairs and International Trade (DFAIT).

Mary and Isabel are both part of the SME Advisory Board, which is a stakeholder consultation program, supported by DFAIT with the aim to improving the department's understanding of the business needs of small to medium sized enterprises. The ultimate goal is to improve global competitive advantages for Canadian SME companies. Isabel is a member of the SME Advisory Board, while Mary sits as an observer on the Board.

The Advisory Board provides both advice and feedback directly to the Minister of Trade on existing and potential DFAIT commerce initiatives. The Board also responds to other government department (OGD) programs that impact the competitiveness of SME businesses and brings to the attention of the government specific issues of concern to SMEs.

Comprising 18 senior managers and owners of SMEs, the Advisory

Board represents businesses from across all sectors and regions of Canada. Meetings are held semi-annually, and many of the issues raised in the consultations are immediately included within policy programs. The Advisory Board works hard to ensure that it is addressing the critical issues facing SMEs, allowing them to compete on a level playing field in the global marketplace.

New Product Safety Legislation Impacts Import Operations

In the wake of a series of high profile cases last year involving products as diverse as tainted pet food and counterfeit toothpaste, Canada and its NAFTA partners have committed to ensuring the safety of food and consumer products imported into North America. In December 2007 Prime Minister Harper announced the Food and Consumer Safety Action Plan, which outlines a series of initiatives designed to modernize and strengthen Canada's safety system for food, health and consumer products.

New legislation to implement the

Action Plan was introduced into the House of Commons this spring. The proposed bills would impose new and more onerous obligations on importers, manufacturers and retailers; give broad new powers to the government, including the power to order mandatory recalls; and would strengthen the enforcement powers of inspectors. It would also establish tough new criminal penalties and an Administrative Monetary Penalty System (AMPS) for civil violations.

The Consumer Product Safety Commission (CPSC) in the United States recently announced that it will begin conducting joint inspections with U.S. Customs and Border Protection. While Canada has not made such an announcement, importers should be prepared.

Join Daniel L. Kiselbach, partner, Miller Thomson LLP & co-chair, I.E.Canada's Vancouver Chapter and Angelos Xilinas, senior manager, trade & customs practice, KPMG LLP & co-chair, I.E.Canada's Vancouver Chapter to learn about how the new legislation could impact your import operations.

The Vancouver Chapter Breakfast Seminar will be held on September 30, 2008, Richmond Inn, 7551 Westminster Highway, Richmond. For more information, please contact pniedermier@iecanada.com

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McCarthy Tétrault LLP, Canada, will be leading this hands-on course. Participants will have the unique opportunity to hear and question these experts on the latest programs and to share experiences with other trade professionals.

Register today at www.iecanadaregistration.com to take advantage of this tremendous learning opportunity.



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For the latest information available on this conference, including the agenda, on-line and trade show registration, and sponsorship opportunities, please visit <http://www.iecanada.com/2008-77th-Annual-Conference.html>.

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