



**Chicago Customs Brokers  
& Forwarders Association**

SUMMER? 2015

We are dedicated to insuring that The Chicago Customs Brokers and Forwarders Association maintains a high level of professionalism, provides educational seminars for our members to the best of our ability and furthers the relationships we have developed with Customs and Border Protection, and the outside agencies locally and on a national level.

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## FROM THE PRESIDENT'S DESK

Jane Sorensen

### Good Day, All!

Spring has finally arrived! At least the rain is warm and the lawns are looking beautiful! I hope you all are enjoying outdoor activities again with friends and family!

We had 8 Board members attend the NCBFAA Conference in April this year in Orlando, home of Disney World! The week was action-packed with a full program of meetings and presentations. NEI (NCBFAA's Education Institute Committee), APN (Area President's Network), Customs Committee, Transportation Committee, Board meetings, Exhibitor Booths, and a lot of camaraderie filled the week. The scenery outside was beautiful as we looked out the window from the hotel's long hallways and inside, the salons were abuzz about forwarding and brokerage!

It was a great honor for me to meet with the Area President's Network on behalf of CCBFA. This is a meeting of all the presidents from the local associations around the country. We shared ideas about membership, websites, fund-raising and support from the NCBFAA. I was able to gain some good ideas for use on our board and further development of our website this year.

ACE was a big focus at the Conference and remains so! We want to make sure that all brokers understand the difference between "filing entries in ACE" (Entry Summary) and ACE Cargo release. The latest statistics from CBP in April tell us that 55% of entry summaries are being filed in ACE, yet only 3.8% of the cargo releases are being filed as ACE Cargo Release. At this link, you will find the March edition of ACEopedia, one of my favorite ways of explaining "everything ACE" on a high level. I hope it is a good reference for everyone! <http://www.cbp.gov/document/report/aceopedia>.

The first draft of the long awaited ACE Cargo Release Business document is finally available and this document warrants everyone's immediate reading and review. <http://www.cbp.gov/document/guidance/ace-cargo-release-business-transformation-process-document>

On a traffic note, CCBFA and IACAC (International Air Cargo Association) have partnered to push airlines, ground handlers and the City of Chicago to improve air import/export traffic flow for truckers and forwarders. We are all accustomed to long waiting times to pick up cargo during Peak Season but the waiting times have not decreased as significantly as desired during Slack



## FROM THE PRESIDENT'S DESK

Season as they have in past years. We do not expect this trend to reduce, due to increased volumes of cargo flowing into the Midwest following the ILWU and West Coast issues, as well as due to road construction around the airport. We've heard from many of you on the business challenges surrounding these waiting times. This website has also attracted a lot of comments if you want to catch up on the topic: <http://iacac.com/truck-congestion-at-ohare-we-want-your-comments/>

Through our partnership, Jim Wilbrandt, President of IACAC, Scott Case, President, Position : Global, and I attended another association meeting earlier in May with the Chicago Air Cargo Management Association (CACMA). This is a group of airline, ground handlers, and government agency representatives that meet quarterly. With their cooperation, we are supporting a forum on Air Cargo Congestion, to be held on Thursday, May 28th. Please register for this event as soon as possible as seating is limited to 100 participants! The purpose of the forum will be a constructive dialogue on what steps forwarders, airlines, ground handlers and the city can take to improve the traffic flow in the next few months to reduce waiting times, improve the supply chain and have our peak season be as smooth as possible! Register here: <http://iacac.com/events/air-cargo-congestion-forum/>

Lastly, CCBFA's Website Committee has solicited bids through a Request for Proposal process and will entertain bidders at each of our next four monthly meetings. Our focus is on updating our site, both in content and in functionality, to synchronize the main site with the Memberlodge portal. These changes will make it easier to manage and more user- friendly for all of us to access accurate information. Equally important, we will also set the stage for our leaders of tomorrow with a more modern platform. This will be done in addition to all of our regular committee and event activities, so we anticipate a busy year with this committee.

As always, please consider volunteering on our board this year and do not hesitate to contact me with your ideas!

**Sincerely,**

Jane E. Sorensen  
President



## SCHOLARSHIP COMMITTEE

The Scholarship committee is pleased to announce our 2015 awardees.

Mr. Frank Fiorante will attend DePaul University to pursue a degree in computer game development.

Ms. Francesca Fragale will attend Oakton Community College to pursue a degree in Engineering.

Ms. Leanne Gadow is currently attending New York University pursuing a degree in Musical Theatre and Educational Theatre.

Ms. Hanna Seo will attend University of Illinois at Chicago to pursue a degree in Pharmacy.

It is a challenge to determine the awardees each year. We base our decision on academics, the content of their essay and their involvement in volunteer activities. Our future is in good hands.

### **The C.C.B.F.A. Scholarship Committee**

*Robert Macher, John Morgan, Dave Pasco, Mary Peglow, Jane Sorensen, Lisa Waller*



# CUSTOMS COMMITTEE

## Annual NCBFAA Conference

### **The Border Interagency Executive Council (BIEC) and International Trade Data System (ITDS):**

Maria Louisa Boyce – CBP, Senior Advisor to the Commissioner for Private and Trade Sector Engagement

Christa Brzozowski – DHS, Counselor to the Deputy Secretary

Dale Kelly- U.S. Census Bureau, Chief, Intl. Trade Management Division

This panel provided insight on how the BIEC is working to complete the ITDS (also known as the single window) as mandated by Executive Order issued February 19, 2014 (see link below). It was pointed out that the Executive Order took up to one year to draft and that one of its primary goals is to facilitate trade, it was drafted as a business oriented document. The BIEC consists of CBP and at least one representative from all of the other 47 government agencies. Additionally COAC is providing insight and recommendations into construction of the ITDS.

<https://www.whitehouse.gov/the-press-office/2014/02/19/executive-order-streamlining-exportimport-process-america-s-businesses>

### **A Roundtable with CBP's Newest Assistant Commissioners Session:**

Brenda Smith – CBP, Office of International Trade

Todd Owen - CBP, Office of Trade Operations

Alan Klestadt - NCBFAA Customs Counsel

Mary Jo Muoio - Moderator, Chairman of the NCBFAA Customs Committee

This panel included 2 of the newest Assistant Commissioners, appointed by Commissioner Kerlikowske, Ms. Brenda Smith and Mr. Todd Owen. It was reported that the new 5106 document should be coming out shortly. The panel also touched on the work of the CEE's and noted that the CEE's have not only facilitated legitimate trade but have also produced positive enforcement results against major trade violations. It was pointed out that many of the NII (non-intrusive inspection) machinery is reaching the end of its life expectancy and that CBP is approaching Congress to provide funding for new equipment. Finally expect there to be a push to move ACAS from a voluntary to a mandatory program in the near future.



# CUSTOMS COMMITTEE

## **CBP Commissioner Kerlikowske Keynote Speech**

CBP Commissioner Kerlikowske started off the Conference Tuesday sessions with a key note speech. The Commissioner's attendance, and comments during the speech, show CBP's acknowledgement of the importance that the NCBFAA, its many working groups, and local associations, play in formulating CBP's trade enforcement and facilitation policies. The entire speech can be accessed at the following link.

<http://www.cbp.gov/newsroom/speeches-and-statements/2015-04-22-000000/ncbfaa-keynote-address-cbp-headquarters-update>

## **CBP's Review of the Role of the Broker and Broker Management:**

Troy Riley - CBP

Mary Jo Muio – NCBFAA Customs Committee Chair

Alan Klestadt – NCBFAA Customs Counsel

Ken Barteil – NCBFAA NEI Committee Chair

Karen Damon – Moderator

Mr. Riley of CBP was kind enough (some may say courageous enough) to join this panel and provide insights into a topic that is of interest to all parties within the Customs Brokerage community. Up front Mr. Riley noted that the comments he could provide would be limited due to the fact that the 111 rewrite draft was now in the hands of CBP attorneys and economists for review. Sections of 111 that will most likely see revisions from the current regulations include Customs Business, record keeping, employee reporting, confidentiality, relations with unlicensed parties, and permitting. Continuing Education requirements for licensed Customs Brokers has not advanced to the current stage of the 111 re-write, much to the disappointment of many in the NCBFAA that have pushed hard for inclusion in the new regulations.

## **Broker Known Importer Program (BKIP):**

Kevin McCann - CBP

Mary Jo Muio – NCBFAA Customs Committee Chair

Alan Klestadt – NCBFAA Customs Counsel

Darrel Sekin – Moderator, NCBFAA Chairman

Mr. Kevin McCann of CBP joined this panel to update conference attendees on the Broker Known Importer Program (BKIP). The "BKIP Indicator" field has been released in ACE functionality and will be the means by which a broker will advise CBP that the importer is "known" to the broker. Mr. McCann



# CUSTOMS COMMITTEE

advised that the program will not be mandatory and that a positive BKIP indicator filed in an ACE entry will be viewed by CBP as an indication that the importer is known to the broker and understands their compliance obligations. This subsequently could positively affect CBP's targeting profile (cargo risk segmentation) of that importer. The NCBFAA position (concern) is that the broker is not "certifying" compliance of the importer thru BKIP, it is merely that the importer completed the BKIP questionnaire. Additionally there was concern on the part of membership that lack of a BKIP indicator would be viewed in a negative light by CBP. The chair of the NCBFAA Customs Committee proposed that a BKIP indicator is positive, lack of a BKIP indicator is neutral, to which there was no contrary response from Mr. McCann. The CSMS announcing this program and related details has now been issued, CSMS# 15-00275.

[http://apps.cbp.gov/csms/csms.asp?srch\\_argv=15-000275&srctype=all&opt=1](http://apps.cbp.gov/csms/csms.asp?srch_argv=15-000275&srctype=all&opt=1)

## **Customs and PGA Clearance in ACE and ITDS Session:**

Steve Hilsen – CBP, Lead Executive, Single Window Program Office

Deborah Augustine – CBP, Acting Executive Director, ACE Business Office (ABO)

Sandy Coty – NCBFAA

Amy Magnus – Moderator

One of the primary concerns with the approach of the November 1, 2015 implementation deadline is filing of PGA (Participating Government Agency) data thru ACE/ITDS, especially considering the number of PGA's with import admissibility regulations and the amount of software programming required to meet this goal. It was pointed out by the CBP panelists that on November 1, 2015 only PGA's that have cargo release admissibility decisions will require filing thru ACE/ITDS on November 1, 2015. That is approximately 15 agencies (versus 47 total) which include AMS, FSIS, APHIS, NMFS, E&C, DCMA, CDC, FDA, FWS, ATF, DEA, DDTTC, NHTSA, TTB, and EPA. The balance of agencies that have post entry requirements will come on board at a later date.

The CBP panelists advised that release of the ACE Cargo Release business process document is a priority. This document has now been released, refer to CSMS 15-000283

[http://apps.cbp.gov/csms/csms.asp?srch\\_argv=15-000283&srctype=all&opt=1](http://apps.cbp.gov/csms/csms.asp?srch_argv=15-000283&srctype=all&opt=1)

Additionally, release of the PGA Message Set, another key issue and concern of NCBFAA members to be ready for November 1, was discussed and has now been released, refer to CSMS 15-000273

[http://apps.cbp.gov/csms/csms.asp?srch\\_argv=15-000273&srctype=all&opt=1](http://apps.cbp.gov/csms/csms.asp?srch_argv=15-000273&srctype=all&opt=1)



# KEY ACE DATES & PGAS

## Key Dates for ACE Transition

\* Extract from a CBP ACE Presentation on April 20th at the NCBFAA Conference

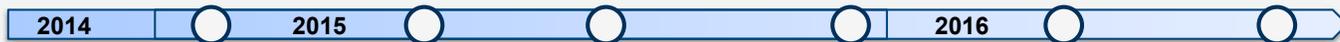


### Deployment of Key ACE Capabilities

**January 2015**  
Electronic import manifest for air and export manifest for air/ocean/rail

**June 2015**  
All entry types delivered

**July 2016**  
All remaining core trade processing capabilities delivered



### ACE Mandatory Dates

**May 3, 2015**  
ACE mandatory for all electronic manifest filings  
*~1 week away*

**November 1, 2015**  
ACE mandatory for all electronic cargo release and related entry summary filing  
*7 months away*

**October 1, 2016**  
ACE mandatory for all remaining electronic portions of the CBP cargo process  
*18 months away*



# KEY ACE DATES & PGAS

## Functionality Available in ACE for 2015 Mandatory Dates

Process	Available in ACE Now	Coming Soon
Pre-Arrival (Manifest)	<ul style="list-style-type: none"> <li>Filing of truck, ocean &amp; rail manifests</li> </ul>	<ul style="list-style-type: none"> <li>Air import manifest processing will be transitioned to ACE May 3rd</li> </ul>
Arrival (Entry)	<ul style="list-style-type: none"> <li>File 01,03, and 11 entries for any mode File and ACE entry at any port</li> </ul>	<ul style="list-style-type: none"> <li>Coming in June 2015:               <ul style="list-style-type: none"> <li>All Remaining entry types</li> <li>Pipeline entries</li> <li>Non-ABI Entry</li> </ul> </li> </ul>
Post Release (Summary)	<ul style="list-style-type: none"> <li>File 01, 03, 11 entry summaries</li> <li>Pay duties/fees on a monthly basis</li> <li>Ability to file and electronic correction via Post Summary Corrections</li> </ul>	<ul style="list-style-type: none"> <li>Coming in June 2015               <ul style="list-style-type: none"> <li>All Remaining entry summary types</li> <li>Remote Location Filing</li> <li>Non-ABI Entry Summary</li> </ul> </li> </ul>
Exports	<ul style="list-style-type: none"> <li>File Commodity Data</li> </ul>	<ul style="list-style-type: none"> <li>Software has been developed to allow for electronic export manifest filing in air, ocean and rail modes</li> <li>These capabilities will be piloted upon publication of FRNs</li> </ul>
PGA Integration	<ul style="list-style-type: none"> <li>5 PGA Pilots underway</li> <li>EPA, FSIS and NMFS pilots underway now</li> </ul>	<ul style="list-style-type: none"> <li>Capabilities for 15 agencies needed for November 1 to be delivered June 2015, except for APHIS non-Lacey</li> <li>Additional PGA pilots planned, scheduled available on <a href="http://www.cbp.gov">www.cbp.gov</a></li> </ul>

\*All capabilities needed to meet the May 3rd mandatory date have been deployed

\*All capabilities needed to meet the November 1st mandatory date have been or will be deployed by June 27, 2015



# KEY ACE DATES & PGAS

## PGA Readiness for November 1



Department	Agency
Department of Agriculture	<ul style="list-style-type: none"> <li>• Agricultural Marketing Service (AMS)</li> <li>• Food Safety and Inspection Services (FSIS)</li> <li>• Animal and Plant Health Inspection Service (APHIS)</li> </ul>
Department of Commerce	<ul style="list-style-type: none"> <li>• National Marine Fisheries Service (NMFS)</li> <li>• Enforcement and Compliance (E&amp;C)</li> </ul>
Department of Defense	<ul style="list-style-type: none"> <li>• Defense Contracts Management Agency (DCMA)</li> </ul>
Department of Health & Human Services	<ul style="list-style-type: none"> <li>• Centers for Disease Control and Prevention (CDC)</li> <li>• Food and Drug Administration (FDA)</li> </ul>
Department of Homeland Security	<ul style="list-style-type: none"> <li>• U.S. Customs and Border Protection (CBP)</li> </ul>
Department of the Interior	<ul style="list-style-type: none"> <li>• Fish and Wildlife Service (FWS)</li> </ul>
Department of Justice	<ul style="list-style-type: none"> <li>• Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)</li> <li>• Drug Enforcement Administration (DEA)</li> </ul>
Department of State	<ul style="list-style-type: none"> <li>• Directorate of Defense Trade Controls (DDTC)</li> </ul>
Department of Transportation	<ul style="list-style-type: none"> <li>• National Highway Traffic Safety Administration (NHTSA)</li> </ul>
Department of Treasury	<ul style="list-style-type: none"> <li>• Alcohol and Tobacco Tax and Trade (TTB)</li> </ul>
Department of Agencies	<ul style="list-style-type: none"> <li>• Environment Protection Agency (EPA)</li> </ul>



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### **CBP Clarifies Its Position on Implementation of Electronic Registration for Firearms Export**

U.S. Customs and Border Protection (CBP) has just updated its website to provide clarification on its current position concerning electronic registration for traveling with firearms abroad. On April 29, 2015, CPB added a page to its website explaining that it is “temporarily suspending implementation of the regulation” concerning electronic registration as the agency works to modify the Automated Export System (AES). The CBP webpage can be accessed directly from this [link](#). The full text of the new CBP notice appears at the bottom of this alert.

As this suspension is only temporary, interested parties should continue to monitor their electronic communications from SCI for further developments on the firearms registration requirements. SCI will continue to update you as we receive additional information.

The information in this email is not intended to serve as legal advice. Those with questions or need for additional information should contact CBP directly.

The following was excerpted from the CBP Website:

**Traveling outside of the U.S. - Temporarily taking a firearm, rifle, gun, shotgun or ammunition abroad for hunting purposes.**

**What is the process for a traveler temporarily taking a firearm, rifle, gun, shotgun or ammunition abroad for hunting or sports-related purposes?**

Current *export* regulations issued by the Department of State require travelers to file electronic *export* information (EEI) for temporary *export* of personally owned firearms via the Automated *Export* System (AES) prior to departure from the United States.

CBP is aware of issues that travelers are having with the implementation of this regulation and is working to ensure that no traveler attempting to legally take their firearm out of the country experiences significant delays or incurs additional cost.

Because of these issues, we are temporarily suspending implementation of the regulation as we work with our government partners to modify the AES system to make it more user-friendly for



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individual travelers. In the interim, CBP will continue to follow their long standing practice of issuing and certifying a Certificate of Registration (CBP Form 4457). During this time, when a traveler contacts CBP to register their firearm for export and reentry, CBP will:

- Complete a CBP Form 4457 to ensure a problem-free return to the U.S., and
- Provide a fact sheet about the regulation and how to comply in the interim.

If you need to register your firearm in the course of your travel, please give yourself enough time to do so, 2-3 hours is a good estimate. You also have the option of registering in advance at a CBP Port of Entry. Once a firearm is registered, the 4457 can be used repeatedly for that particular firearm.

CBP advises travelers to become familiar with the import requirements of the foreign country(s) that they may be traveling through or visiting. Those countries may have more restrictive laws and regulations regarding the use of firearms within their countries. For many countries that do allow the temporary importation of firearms, the CBP Form 4457 is required for entry of a U.S. owned firearm into their country. (Canada does not require it, but it does facilitate the temporary importation. **Be sure to become familiar with [Canada's import requirements.](#)**)

Please note, if you are taking ammunition, and there is a possibility you will not use it all and would like to re-import it, your 4457 should reflect the kind of ammunition you are departing with.

Upon returning to the United States, the traveler will make a regular declaration regarding the personal effects and goods that they are carrying and ensure that they declare any firearms and ammunition. To satisfy the Bureau of Alcohol, Tobacco, Firearms and Explosives requirements for the re-importation of a firearm please refer to 27 CFR 478.115(a). The ATF regulations allow for the use of the CF 4457 upon re-importation, and does not require an approved import permit (ATF-6), provided that CBP is satisfied that the firearm was previously exported from the United States and is now being returned. To establish such proof, a bill of sale, receipt, copy of ATF Form 4473, household effects inventory, packing list, or registration on Customs Forms 4457 or 4455 may be used, if the registration form is completed prior to departure from the U.S. For military personnel, a properly executed Department of Defense Form 12521 signed by either the serviceman's commanding officer or an authorized Customs officer may be used. The acceptability of such proof is within the purview of the Customs officials at the port of entry."



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This has been an on-going discussion with Coppersmith and CBP - Jeff met with them at Nationals to discuss this as well. The information is somewhat contradictory so we are advising clients to file anyway if they want rather than take a chance. This was written into the Regulations in 2012 but was just not enforced until recently. The discussions are on-going.

## FDA Chicago O'Hare Import Updates

### Chicago O'Hare Entry Review Schedule

Please submit all documents to the [Import Trade Auxiliary Communications System \(ITACS\)](#) or via e-mail to [chicagoimportreview@fda.hhs.gov](mailto:chicagoimportreview@fda.hhs.gov). Please include your e-mail address and phone number in the additional remarks section when uploading documents via ITACS.

The following individuals will be the primary point of contact for your entry.

**For entries starting with filer codes 231-499** please contact Antoinette Chancey at (630) 860-1307x1111.

**For entries starting with filer codes 500-999 (plus 9A-9Z letters)** please contact Brittany Ross at (630) 860-1307x1115.

**For entries starting with filer codes A – K** please contact Ashley Lewis at (630) 860-1307x1105.

**For entries starting with filer codes L-Z (plus 000-230)** please contact Timothy Brennan at (630) 860-1307x1106.

To best route FDA O'Hare import-related questions or concerns, please note the following local points of contact:

- To ask about **notices of action, detentions, sampling results, refusals, and private laboratory reports**, first contact the compliance officer listed on the Notice of Action. If you feel the inquiry was not addressed, contact the FDA Chicago office's Director of Compliance Branch Nicholas Lyons via e-mail at [Nicholas.lyons@fda.hhs.gov](mailto:Nicholas.lyons@fda.hhs.gov) or by calling (312) 596-4220.
- To ask about **sampling scheduling, documents submitted/reviewed for processing, and notice of availability**, contact the FDA Chicago O'Hare Import Supervisor Tonnie Carter via e-mail at [tonnie.carter@fda.hhs.gov](mailto:tonnie.carter@fda.hhs.gov) or by calling (630) 860-1307 x1109.



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## Contact Information

### To check the status of an entry

- Use the online application [Import Trade Auxiliary Communications System \(ITACS\)](#) to search for your entry and status.
- If you still have a question, contact the FDA entry reviewer listed above.
- If your inquiry was not resolved, contact the FDA Chicago O'Hare Import Supervisor Tonnie Carter via e-mail at [tonnie.carter@fda.hhs.gov](mailto:tonnie.carter@fda.hhs.gov) or by calling (630) 860-1307 x1109.
- Use the [FDA import office map](#) to locate port contact information.
- If your entry is detained, contact the FDA compliance officer on the Notice of Action mailed to you.

### To ask general import policy or operation questions contact the FDA Division of Import Operations (DIO)

- E-mail [FDAImportsInquiry@fda.hhs.gov](mailto:FDAImportsInquiry@fda.hhs.gov).
- Please note that questions related to a specific entry should be sent to the local FDA import office handling the entry. The Division of Import Operations will not instruct a local FDA import office to release or process an entry in a specific way.
- If entry-specific questions are sent to DIO, DIO will forward the inquiry to local FDA import office handling the entry.

### To contact an FDA import office

- Use this [FDA import office map](#) to locate port contact information.

### To submit request removal from import alert or submit a change of address

- E-mail [ImportAlerts2@fda.hhs.gov](mailto:ImportAlerts2@fda.hhs.gov).

### To learn about food imports and FDA prior notice requirements

- Use the [prior notice system](#) to file prior notice of a food entry.
- Call 866-521-2297 anytime 24 hours a day, 7 days a week. For international callers, dial 571-468-1488.
- E-mail [prior.notice@fda.hhs.gov](mailto:prior.notice@fda.hhs.gov).



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## **To ask about medical device and electronic product import policies**

- Visit [Importing and Exporting Medical Devices](#) for detailed information.
- E-mail [cdrhocimport@fda.hhs.gov](mailto:cdrhocimport@fda.hhs.gov).
- Call 301-796-7100 or 301-796-7400.

## **To ask about drug and biologic import policies including PLAIR**

- Visit [Small Business Assistance: Import and Export of Human Drugs and Biologics](#) for more detailed information.
- E-mail [CDERImportsExports@fda.hhs.gov](mailto:CDERImportsExports@fda.hhs.gov).
- Call 888-463-6332.

## **To resolve a dispute**

- Contact the [FDA Ombudsman](#).

## **To submit feedback on this newsletter**

- E-mail [lisa.misevicz@fda.hhs.gov](mailto:lisa.misevicz@fda.hhs.gov).

## **CBP Full Enforcement ISF:**

CBP will begin “full [Importer Security Filing] enforcement” on May 14, said Craig Clark, who manages the ISF program at CBP, during a May 5 conference call. That will mean the local ports will no longer need to go through headquarters before pursuing liquidated damages and that the ports will not be required to issue warnings prior to liquidated damages, he said. The change, which was expected (see 1505040020), will mark the end of a year-long ISF enforcement strategy meant to increase the focus on more serious offenders.

While the ports won’t be required to issue warnings before liquidated damages, it will be up to the port whether to continue to do so, he said. “This does not mean, however, that it will be the Wild West,” he said. The ISF guidance from a year ago still applies and there will continue to be a focus on significantly late and repeat offenders, he said. The majority of ISF violations are late ISFs, he said. Clark encouraged filers to be sure to file ISFs late when necessary, as late ISFs are much better than no ISF, he said. Filers should also avoid using “flexible filing” codes because such filing creates additional problems and the “compliant transaction” is amendable “as it is,” he said.



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## **LA/Long Beach:**

CBP will begin the next stage on full enforcement for the filing of the Importer Security Filing (ISF) beginning on May 14, 2015. On that date, all penalty actions for ISF violations will be initiated in each of the local Customs' Ports and copies will not be sent to CBP HQ for review and approval. Also, the local Ports will not be required to issue 3 strikes before issuing penalties for liquidated damages.

The Ports will still have flexibility in their processes that were allowed during the previous stage of enforcement. For example, here in Los Angeles, CBP still plans to place holds on Cargo that does not have an ISF matched to it on the manifest within 4 days of arrival. However, Los Angeles CBP will issue penalties to continually late ISF filers. Other Ports may still issue warnings while some may just take immediate penalty action.

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As the ever-nearing deadline of November 1 approaches, I am relieved to be able to report that the various PGA's are actively engaged and working with both customs and the trade to ensure they will be ready when November 1st arrives. As promised, the PGA message set implementation guidelines have been posted to the CBP website. See CSMS # 15-000273 dated 5/12/15. Included are the associated forms requiring electronic submission either at the time of entry or entry summary. Note there have been 2 updates to the forms list already. See CSMS# 15-000281 dated 5/15/15 & CSMS#15-000293 dated 5/21/15. No doubt that this is only the beginning of many updates / changes as the race to ACE picks up the pace.

## **FDA**

FR Notice expected as FDA states they will begin pilot testing in July. Indications were the pilot would be limited with regards to commodities and ports, with the possibility of opening the pilot to all commodities in August. FDA released their supplemental guidance document on 5/12 and is scheduling outreach events including webinars addressing the guidance document. The supplemental guidance document is located at <http://www.cbp.gov/trade/ace/catair> under the PGA message set tab. The mandatory / optional considerations are at this time still up in the air. FDA is still considering what will be required to make an admissibility decision and what could be handled post entry.



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FDA also advises they will begin releasing at the line level in July. Additional attention to segregation may be needed when this begins. Submission of documents to FDA will continue via the ITACS system rather than via DIS as ITACS is able to receive documents at the line level whereas DIS currently lacks this capability.

## **CPSC**

Still waiting for information on what CPSC will require. Discussions underway and we hope to have an update soon.

## **EPA**

TSCA will now be a PGA message set. NOA's will now be filed at time of entry. ODS/TSCA pilot scheduled for fall.

## **APHIS**

Not ready for non-Lacey; we are hoping they are ready in September.

## **USDA/FSIS**

Form 9540-1 is now electronic.

See the ITDS website [www.itds.gov](http://www.itds.gov) for a complete schedule of pilots. See also the Business Transformation Process Document at <http://www.cbp.gov/document/guidance/ace-cargo-release-business-transformation-process-document> for additional PGA information. Some may also find the updated Tariff Code to Agency Cross Reference helpful located at <http://www.cbp.gov/document/guidance/agency-tariff-code-agency-program-cross-reference>



# CURRENCY NEWS

## Fluctuating Currencies - Some Customs & Trade Considerations

**By: Thomas J. O'Donnell**

Over the past year or so, the dollar has strengthened against most other currencies. For example, the dollar has appreciated about 20% against the Euro (€) and the Japanese Yen (¥) while the Swiss Franc (CHF) has appreciated against the dollar by some 10%. When a particular foreign currency appreciates against the dollar, U.S. imports from that country become more expensive and U.S. exports to that country become cheaper. Conversely, where the U.S. dollar appreciates against a particular foreign currency, U.S. imports from that country become cheaper and our exports to that country become more expensive. Governments are well aware of the effect the value of a country's currency has on its balance of trade, so countries manage (some say "manipulate") the value of their currencies in order to affect their import and export volumes. More on this, below.

Where a contract to purchase imported goods is denominated in a foreign currency, the importer's actual dollar cost of goods can change significantly between the date goods are ordered and the date they are imported. Where the particular foreign currency in the purchase contract has depreciated against the dollar between date of contract and date of payment, the merchandise has become cheaper for the U.S. importer because fewer dollars are needed to purchase the equivalent amount of the foreign currency. For example, a year ago, the dollar cost of purchasing €1,000,000 worth of goods from Germany was about \$1,332,000, while today the same number of Euros can be purchased for about \$1,080,000, a difference of \$252,000. Conversely, a year ago, the cost of purchasing goods for CHF 1,000,000 was about \$880,000, while today the same 1,000,000 Swiss francs would cost about \$970,000. In these circumstances, it is not unusual for buyers and sellers to attempt to limit their exposure to losses due to currency fluctuations. One way to do this is to peg the foreign currency to a specific number of dollars. Another way is for the seller or buyer to hedge their currency needs in the forward market.

For contracts expressed in a foreign currency, U.S. Customs converts the foreign currency into U.S. dollars using the exchange rate in effect on the date of export. Thus, the converted invoice value of the goods reflects the true dollar value of the goods at the time of export and the proper dutiable value of the goods. In some instances, however, the parties may agree to share the risk



## CURRENCY NEWS

of fluctuating currency. Let us assume that on April 1, 2014, a U.S. importer purchased a German machine for €1,000,000, with shipment of the machine and payment scheduled for April 1, 2015. As illustrated in the example above, from a dollar standpoint, the U.S. importer's costs decreased by some \$252,000. However, if the parties agreed to share the risk of currency, the U.S. importer would have to pay the German exporter the Euro equivalent of \$126,000, which is half the amount the Euro depreciated against the dollar in this time frame. Typically, currency sharing payments are not reflected in the invoice value of the goods, but are made by separate payment. In an instance such as this, the importer is required to report the currency sharing arrangement to Customs and add the \$126,000 payment to the dutiable value of the goods.

Parties may also agree to use an agreed upon rate of exchange for a foreign currency. When this is done, the dutiable value of the goods imported into the U.S. is not determined by the exchange rate on the date of export, but is figured at the rate agreed upon by the parties.

Currency fluctuations also may be taken into account in more informal ways. For example, unrelated parties may agree to make compensating payments where one of the parties to the transaction has incurred losses due to exchange rate movements. This often occurs where parties have longstanding relationships. This also occurs between related parties, and may consist of lump sum year-end payments designed to preserve targeted profit margins. These kinds of payments are perfectly permissible, but they must be reported to Customs and appropriate adjustments must be made to dutiable value. In general, U.S. Customs requires the tender of additional duties where post-importation price increases occur, but will not refund duties where post-importation price reductions have occurred. An important exception exists where post-importation price decreases occur between related parties pursuant to a formula that the importer uses in filing its income tax returns.

For certain commodities (e.g., glassware, tableware), changes in dutiable value can have significant effects on duty rates that are based on price breaks. For example, certain glassware valued between \$0.30 and \$3.00 is dutiable at the rate of 30%. However, the same glassware valued between \$3.00 and \$5.00 is dutiable at 15%, and is dutiable at 7.2% if valued over \$5.00. In some instances, it makes sense to voluntarily agree to pay the supplier more for the goods in order to obtain the benefit of the lower duty rate.



## CURRENCY NEWS

The appreciation of the U.S. dollar against foreign currencies also can have substantial effects on whether, for antidumping purposes, foreign goods are being sold at less-than-fair-value. Under U.S. law, dumping occurs when foreign goods are sold in the home market at prices higher than what they are sold for to the U.S. and such less-than-fair-value sales injure or threaten to injure a U.S. industry. When a foreign currency depreciates against the U.S. dollar, the price of foreign goods sold to the U.S. drops, while the price in the country of export remains the same or increases somewhat, but less than the price reduction realized by the U.S. purchaser. This acts to widen the price differential between the foreign market and the U.S. market, thereby creating less-than-fair-value sales or increasing the existing margins of goods already sold at less-than-fair-value. This is often referred to as "Exchange Rate Dumping." This factor, coupled with the large excess production capacity of many foreign producers (e.g., steel, aluminum, olive oil) could very well result in the filing of an increased number of antidumping cases.

Finally, some lawmakers in both political parties believe that currency manipulation should be subject to countervailing duties. Countervailing duties are imposed to offset subsidies given to foreign producers by their governments in order to promote exports. This subject has been raised in recent trade negotiations and also has been the subject of proposed legislation.



## SAVE THE DATE

### **GTEC - Global Trade Education Conference**

**When:** Monday, August 3rd through Tuesday, August 4th, 2015

**Where:** Hyatt Regency Schaumburg, Schaumburg, IL

\*Advance Registration Deadline: Monday, June 1st, 2015

### **About the Conference**

The NCBFAA Educational Institute is proud to invite all global logistics professionals to the First Annual Global Trade Educational Conference (G·TEC). This two-day event during beautiful springtime Chicago, IL will give customs brokers, freight forwarders, NVOCCs, OTI, service providers, importers, exporters and all global logistics professionals an opportunity to update themselves on industry developments and connect with colleagues new and old.

All trade professionals are strongly encouraged to consider joining us to:

*Learn from industry subject matter experts on today's pressing matters! Get an opportunity to voice your questions to federal, state and industry experts about the latest issues affecting your business! Acquire fresh ideas by networking with old friends and business colleagues while meeting new people!*

### **Conference Registration**

GTEC Full Conference Pass - This full conference pass will grant attendees access to all seminars and activities for both days of the conference.

GTEC One Day Pass (Monday) - This pass will grant attendees access to their choice of conference day and the seminars and activities included.

GTEC One Day Pass (Tuesday) - This pass will grant attendees access to their choice of conference day and the seminars and activities included.

**Register Now!**



## CALENDAR OF EVENTS & SAVE THE DATES

MAY  
**21**

**Introduction to New Shipper's Letter of Instruction (SLI)**  
2:00-4:00 PM

JUNE  
**18**

**AD/CVD presented by Dave Jordan of Roanoke Insurance Group**  
2:00-4:00 PM

JULY  
**16**

**Summer**  
No Session

AUG  
**20**

**Summer**  
No Session

SEPT  
**17**

**Merit's last ditch ACE seminar**  
2:00-4:00 PM



## CALENDAR OF EVENTS & SAVE THE DATES

OCT

15

**“What happens when you don’t follow the Export Regulations”**  
2:00-4:00 PM

Nov

19

**AES/BIS - 600 Series**  
2:00-4:00 PM

**\*\* Seminar subjects may be subject to change \*\***

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# SAVE <sup>THE</sup> DATE

ANNUAL GOLF OUTING

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THURSDAY,  
JULY 9, 2015

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CHECK BACK SOON FOR MORE DETAILS!

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IF YOU HAVE ANY IMMEDIATE QUESTIONS  
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