

Hearing on Authorizations of Customs and Trade Functions Senate Finance Committee

Testimony of Jerry Cook
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Mr. Chairman and Honored members of the Finance Committee, my name is Jerry Cook and I am Vice President, Sara Lee Branded Apparel.

I am an active member in various trade groups, including AAEL, JIG, AAFA and BACM. I am currently the chair of the Customs Committee of the US Council for International Business, the US affiliate of the International Chamber of Commerce, serve as an appointed advisor to Commerce and USTR on trade negotiations as a member of ITAC-XX, and I served two terms as a member of the Advisory Committee on the Commercial Operations of U.S. Customs.

Sara Lee Branded Apparel is one of the largest U.S. apparel companies in the world. Our Brands include Bali, Playtex, Wonderbra, Hanes, Barely There, Champion, Just My Size and Loveable and span across all segments of intimate wear, underwear, sleepwear, casual wear and athletic wear for consumers in more than 80 nations. However, of particular importance to this panel, is the fact that Sara Lee has been a dedicated leader in the trade community's efforts to work with the federal government to provide security to the nation while continuing to facilitate international trade. Sara Lee is one of the seven founding member-companies of the Customs-Trade Partnership against Terrorism (C-TPAT), and is among the first wave of companies to be validated under that program.

My remarks today will address commercial processing and security measures as interrelated disciplines which require immediate and continuing attention from an active partnership of the government and trade communities. Congressional support is needed:

- To deliver an enhanced system of commercial processing which builds upon the evolving concepts of "Trusted Accounts", "Greenlanes", monthly rather than transactional processing, allowance for post-entry compliance and pre-entry security processes and total automation of all processes.
- To assure that security measures continue to build upon the realities of government resources, trade volume, private sector investment in security,

the inherent differences in trade by land, sea and air, as well as in types of cargo and points of shipment.

Customs and Border Protection has done an extraordinary job in the post 9/11 environment. The demands of the nation for secure borders has required CBP to address the high priority security issues raised annually (FY 2004 statistics) by cargo totaling 28 million entry summaries with 78.9 million line items, imported by over 754,000 consignees; and by arriving passengers totaling 78 million by air, 18 million by sea and over 326 by land. At the same time, CBP must address traditional compliance issues (customs valuation, classification, country-of-origin marking ...) for the same volume of entries, and to a large extent, the passengers as well.

CBP deserves great credit for attacking its security and compliance priorities in partnership with the trade community and based upon systems designed to gather information on all transactions coupled with systems to realistically target entities, transactions and passengers for more intensive reviews. The five cornerstones of this process are advance manifest information, the container security initiative, the Customs-Trade Partnership Against Terrorism, risk management (targeting) and new technology. These initiatives have allowed CBP to use its resources effectively and to take into account the needs for US trade to remain efficient and competitive, while building the enhanced security systems demanded in the national interest and continuing its role in assuring compliance with the trade agreements as well as others federal laws enforced at our borders.

Having recognized the achievements of CBP, it is also important to recognize the continuing need for understanding, oversight and commitment of the resources and sound policy directions necessary for CBP and its partners in the trade community to meet the ever-changing needs to compete in the global economy and to achieve a safe and secure nation.

Trusted Accounts

CBP has moved in the right direction by embracing the emerging concept of "Trusted Accounts". The overwhelming burden of coping with 28 million entries and 754,000 consignees is rationally addressed by a "Trusted Account" program which assures that CBP knows the importer, has validated its credentials, has internalized its expected and repetitive patterns of trade, range of commodities and internal compliance programs, validated its security measures and identified its logistic partners. "Trusted Accounts" would provide CBP with the base-line pre-entry (or pre-shipment) information necessary for CBP to apply its targeting criteria for security purposes, while allowing flexibility for monthly post-entry submissions on traditional compliance and revenue issues (e.g., value, quantity, tariff rate).

"Trusted Accounts" are companies that have made the commitment to invest in personnel and procedures to assure that its goods are not only properly documented and declared to CBP, but are produced and transported under circumstances that assure that the goods and their shipping conveyance has not been converted into a terrorist threat.

Deviations from the norm could trigger an order by CBP to examine at a CSI port, to prevent lading on a vessel, or to intensively examine in the states. Shipments matching the known criteria would be handled in a true "Green Lane" environment. They should be given priority at the port of arrival for immediate release and transport from the port of arrival to its intended destination.

Streamlined Entry Processing

Streamlining of the entry process is an important companion to the efforts to focus CBP and trade resources on the immediate security issues raised by cargo movement. Traditional CBP processing of non-security concerns on a shipment-by-shipment basis creates a damaging diversion of CBP resources from the anti-terrorist initiatives, and imposes totally unnecessary, commercially damaging delays and costs on the companies that have demonstrated their investments in both security and compliance initiatives.

A truly streamlined entry process will allow importers to be treated by CBP as "accounts" and to accumulate and file information and pay duties and fees, on a monthly basis. Verification on an audit basis, or through a voluntary annual submission such as the Importer Self Assessment (ISA) program, provides sufficient tools for CBP to confirm or enforce compliance in a streamlined, efficient, environment.

CBP is moving in this direction, and Sara Lee has supported that effort by signing on in the first group of "accounts" (41 companies). As the "account" and monthly processes evolve, CBP should continue to assure that advance information filings are limited to the security information, that entry information filings be limited to admissibility information and that all other information be provided on a monthly basis and in formats (e.g., rolled-up) in a manner consistent with business practices.

The streamlined entry process should also ease the process for importers to correct and update the compliance information filed with CBP. Today's systems of reconciliation and post entry correction are improvements on the past, but still have not achieved the desired level of efficiency and automation. Post entry corrections remained tied to individual shipments; adjustments to monthly statements should be the norm for CBP, as they are for the financial systems within the companies it regulates. The existing statutory reconciliation process is limited to the types of corrections which could not have been known at the time of entry, and is limited as to the scope of correctable information. Congress improved the reconciliation process by extending the time period for filing to twenty-one months, but further improvements are needed. Preparation and filing of a "reconciliation" entry is expensive and labor intensive, yet there is no diminimis standard allowing importers to avoid this burden where there is no legitimate need to reconcile.

We need to assess the underlying requirements for commercial operations that provide the greatest benefit to strong security support and strong economic health. By reducing and eliminating some of the potentially less critical commercial requirements, those resources can be better diverted to advanced data transmission and targeting of in-bound cargo. The move to a "Trusted Account" should simplify both the requirement of

account data as well as the means necessary to provide data for only what is mission critical. A shift in the administration of issue resolution should be readily embraced to keep the focus on advance security targeting.

Automation

The streamlined entry process is dependent upon accelerated implementation of new automated programs (ACE and ITDS) as well as continued updates of the legacy system which still drives most customs transactions (Automated Customs System or ACS).

The need to update ACS is most recently demonstrated by the implementation of the DR-CAFTA. As with virtually all previous free trade agreements, ACS was not modified by the effective date of the agreement (February 1, 2006 for El Salvador and April 1 for Honduras and Nicaragua) and therefore, the "beneficiaries" of the new free trade agreement were required to incur the additional costs of manual filing of entries to obtain the benefits of the agreement. Some importers have elected to continue filing automated "paperless" but dutiable entries, electing to pay the duties now and obtain refunds at a later date by filing protests or other information allowing CBP to liquidate to reliquidate the entries with benefit of DR-CAFTA. The lack of automation imposes an even greater burden on CBP. CBP is required to divert personnel from their assigned responsibilities in order to take on the task of key-punching entry data into the computer from the manual entries filed with claims under DR-CAFTA. This problem will become greater as more bilateral and regional agreements are negotiated and enter into force (Peru, Ecuador ...)

The Automated Commercial Environment (ACE) is the automated system which is the hope of the future. CBP has made excellent choices in moving this program forward with support from the trade through the Trade Support Network, and now through its Trade Ambassador program. The potential is great for designing and implementing a program which is NOT reflective of the realities of trade, or which does not embrace or provide for imaginative new approaches to efficiency of the trade and compliance processes. CBP has clearly and consistently followed a policy of consultation with the trade to avoid the mistakes that a dialogue should be able to anticipate.

The Automated Commercial Environment (ACE) also is the program which we hope will generate the integrated information systems for all federal agencies involved in the import and export process. CBP has done the major work in building this program and bringing other agencies to the table, but the other government agencies have not delivered their portion of the needed product. The streamlining of the entry process is of very little value if it is limited to the concerns of CBP. A release by CBP is of no value if there is still a hold on goods, or request for additional information from the Food & Drug Administration, Fish & Wildlife, Department of Agriculture or the Environmental Protection Agency.

The single window concept is embodied in the International Trade Data System (ITDS) initiative. ITDS has been under development for nearly a decade, but continues to require strong oversight and encouragement if it is to become a reality. Few of the involved departments and agencies have secured or directed the funding or made the commitment to the process and program. FDA has built a stand alone automated program and developed some level of communication with CBP; Fish & Wildlife withdrew from ACS to build its own standalone system and has only recently initiated its involvement in the ITDS process.

Security Measures

CBP has adopted the right approach to security by working with the trade community on advanced information systems and the Customs-Trade Partnership Against Terrorism. CBP resources could not possibly be sufficient to address security issues without the information about shippers, carriers, importers and their transactions gained through these new programs.

We have worked with CBP since the inception of a new pilot program ATDI (Advance Trade Data Initiative) and helping understand the value, cost and implications for obtaining advanced data elements for shipments. The program targets to identify the right data elements to effectively "Push the Trade" back from the US borders and have the dexterity to identify where an "at risk" container is prior to arriving at a US port.

We encourage the refinement of advanced information systems to eliminate the need to transmit "compliance" information. Errors or questions regarding tariff classification and valuation need not be addressed in the pre-entry or entry process, but can be addressed in the post-entry environment. Requirements to include information unnecessary to the security effort at that early stage of transaction creates unwarranted opportunities for CBP to ask questions or delay transactions, and for the trade suffer delays or the burden of filing corrections and amendments

We recognize that the security initiatives are not temporary measures imposed on the global trade process. We believe that security measures are now a fixture in global trade, although they are not fixed rules. They must be flexible to embrace the realities of trade as it exists today – air, ocean, truck and rail each raise different concerns --and to anticipate the changes that no doubt will occur in the future – as rapidly as technology becomes out-of-date, the logistics of global trade can be expected to change just as rapidly.. It is paramount that these rules be crafted to match the real world environment in which trade takes place, and that they be capable of evolving to match the changes in trading systems. We believe this can only be achieved through a growing partnership with the trade community, allowing the government to understand and take into account and capitalize on the needs and systems of the commercial interests operating in and through our ports of entry.

Timing

We need to move now and not later to build upon the existing security and compliance initiatives underway at CBP. Neither terrorists nor commercial competitors

are waiting in the corner for the bell to ring. We are already in the ring and we need to make adjustments to meet the challengers.

Our basic strategies are in place and well-thought out. The need today is to assure that we have focused on security in a way that does not allow traditional compliance issues to burden the security effort; that we have streamlined the entry and compliance process so that it does not drain resources away from the security effort, and that we have provided the clarity, predictability and efficiencies needed by both the government and the trade.

The efforts to date by CBP, with support of the trade, demonstrate that the programs in place have achieved success and will continue to do so with proper oversight and flexibility. CBP has built strong cooperative programs to address the security issues, taking advantage of the information, commitment, investment and systems available through partnership with industry. At the same time, CBP has achieved its highest levels of revenue collection (\$26 billion in FY 2004) while the "overall duty rate" has dropped to 1.6% and two-thirds of all import value was duty-free. CBP compliance measurement also demonstrates that compliance rates for non-security issues are at an all-time high. The record demonstrates that CBP can move on to enhanced programs for security coupled with streamlined entry processing

Our goals are in common. Our efforts should be mutually aligned and not at cross-purposes. CBP has been a leader for over 200 years in policing our borders while fostering our role in the global environment. Our history of partnership is a proven approach to building model programs that serve our goals. Now is the time for CBP to move ahead with industry to new models and enhanced programs needed to address our changing security, compliance and commercial needs.

The release of business confidential data and manifest confidentiality needs to be revisited. The release of company confidential information either for an export or an import exposes both the company to risk as well as CBP to unwarranted risk. The current requirement for such data to be provided only facilitates individuals, groups and others to seek detail understanding of confidential supply chain information and makes it easier for the foes to target legitimate shipments (in-bound & out-bound) for their purposes.

In closing, we have a very challenging environment that we all must work together to succeed. We value the partnership that CBP provides and look forward to continuing that partnership and working closely with CBP. We appreciate your time and the committee's time today to assess the success and to make incremental progress in the future. We see the value of stream-lining the commercial operational process requirements and proceeding with the full implementation of "Trusted Account". The net impact we hope to yield is an improved, secure and efficient supply chain and stronger partnership with CBP that can focus on the advance data profiles/transmissions/account based activities in an account based commercial environment.