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The Customs Facilitation and Trade Enforcement Reauthorization Act of 2009

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Act's Overview

- Senate Finance Committee Chairman Max Baucus (D-MT) and Ranking Member Chuck Grassley (R-IA) introduced the Customs Facilitation and Trade Enforcement Reauthorization Act of 2009 (S. 1631) on August 6, 2009.

- Baucus



- Grassley



Overview (Cont'd)

- Goal: to re-prioritize the trade functions of U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement Agency (ICE).
- Policy: Trade remains a cornerstone of the U.S. economy, and U.S. customs agencies must work harder to facilitate trade and enforce U.S. customs and trade laws.



Overview (Cont'd)

- Bill establishes within CBP's Office of Field Operations a Customs Facilitation and Trade Enforcement Division
- Bill creates new high level positions
 - Principal Deputy Commissioner and
 - Assistant Commissioner of Trade
- By September 30, 2011, the Commissioner would be required to designate and dedicate within the Office of Field Operations (OFO) at least 40 Commercial Enforcement Officers who would be assigned among the 40 U.S. ports of entry that experienced the highest volume of trade in FY 2009.



Reauthorization Act

- Would Establish a 24-Hr Commercial Land Border Port of Entry Pilot Program
 - Would require the President to establish a pilot program under which he would designate certain land border crossings as commercial ports of entry and ensure that each port so designated has sufficient resources to perform its functions 24 hours a day
 - Would require CBP and ICE to coordinate with other federal agencies to enforce U.S. trade laws at our borders and prevent unsafe or infringing goods from crossing our borders.



Reauthorization Act (cont'd)

- Goal to strengthen trade enforcement:
 - Joint strategic plan
 - CBP should develop risk assessment technology to better target cargo



Reauthorization Act (cont'd)

- Import Safety
 - The Working Group will assist the Secretary of Homeland Security in developing a Joint Import Safety Rapid Response Plan
 - The bill also requires CBP to train port personnel to respond to import health and safety threats



Reauthorization Act (cont'd)

- The bill establishes the National Intellectual Property Rights Coordination Center within ICE
- Strengthens CBP's targeting efforts
- CBP to dedicate port personnel with primary responsibility for enforcing IPR



Reauthorization Act (cont'd)

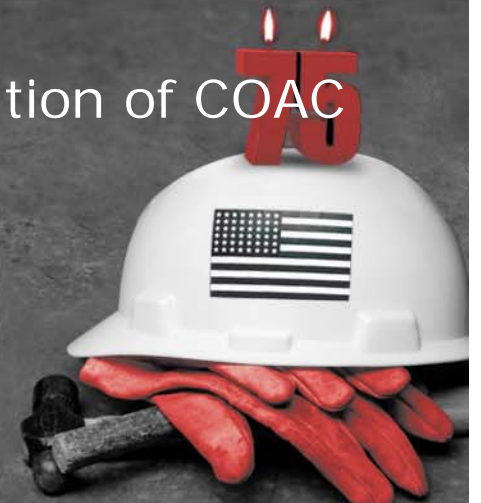
- Continuing Customs Modernization
 - The bill directs the authorization of additional funding for the Automated Commercial Environment (ACE) and International Trade Data System, and requires CBP to develop a timeline for completing the implementation of these systems.



Reauthorization Act (cont'd)

- **Improving Consultation, Interagency Cooperation, and Oversight**

- The bill requires the DHS Secretary to consult with Congress before proposing or finalizing any new trade related policies or regulations.
- It also establishes a new interagency Customs Review Board.
- The bill clarifies the composition and operation of COAC and its advisory role.



Reauthorization Act (cont'd)

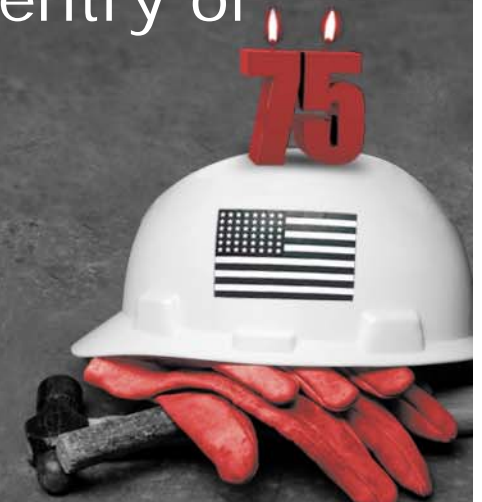
- **IMPORTER OF RECORD PROGRAM:** Not later than 180 days after the date of the enactment, the DHS Secretary would be required to establish an importer of record program to assign and maintain importer of record numbers. The DHS Secretary would be required to ensure that, as part of that program, CBP:
 - develops criteria that importers must meet in order to obtain an importer of record number;
 - provides a process by which importers are assigned importer of record numbers;
 - maintains a centralized database of importer of record numbers, including a history of importer of record numbers associated with each importer;
 - evaluates the accuracy of the database; and
 - takes measures to ensure that duplicate importer of record numbers are not issued.



Supply Chain Security



- The legislation also directs CBP to provide additional trade benefits to participants in voluntary trade compliance and supply chain security programs (C-TPAT) in order to facilitate the flow of legitimate goods across our borders.
- The bill also establishes a voluntary partnership program called the “Customs Facilitation Partnership Program” to facilitate the entry of merchandise.



Supply Chain Security (cont'd)

- **Prohibition on Using 10+2 Data Commercial Enforcement Purposes Would be Repealed**
 - The Act would amend the notes to 19 USC 2071 by repealing the provision (343(a)(3)(F) of the 2002 Trade Act) that prohibits mandatory advance electronic information (e.g., Importer Security Filing (ISF) information from importers and additional information from carriers (10+2)) from being used for determining merchandise entry or for any other commercial enforcement purposes.
 - i.e., under this bill CBP could use 10 + 2 data for enforcement purposes!



Proposed Drawback Procedures

- The bill also streamlines CBP's duty drawback process
 - requires that drawback claims be filed electronically, and
 - imposes objective drawback eligibility requirements



Proposed Drawback Procedures

- A person may claim drawback if the person:
 - imports the merchandise on which the drawback claim is based or obtains the importer's permission to claim drawback; and
 - exports the merchandise on which the drawback claim is based or obtains the exporter's permission to claim drawback.



Proposed Drawback Procedures

- If drawback is claimed on imported merchandise incorporated into other merchandise, the claimant shall submit a bill of materials (BOM) or formula identifying the merchandise by:
 - 8-digit HTS subheading number, and
 - quantity of the merchandise.



Status of Bill

- This bill is in the first step in the legislative process. Introduced bills and resolutions first go to committees that deliberate, investigate, and revise them before they go to general debate.
- The majority of bills and resolutions never make it out of the committee.



Status of Bill

- Introduced Aug 6, 2009
- Referred to Senate Finance Committee (hearing hasn't been set yet)
- Reported by Committee...
- Senate Vote...
- House Vote...
- Signed by President...



Questions



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