



SANDLER, TRAVIS & ROSENBERG, P.A.  
International Trade, Customs & Export Law

# 21CCF & Trade Facilitation: What Congress is Considering



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# Our Speakers:



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# About Lenny Feldman & Nicole Bivens Collinson

- LENNY FELDMAN is a Managing Partner, Operating Committee who has counseled thousands of companies in creating “comply chains” while increasing efficiencies and lowering costs. He concentrates his practice in complex issues pertaining to import and export compliance, valuation, trade preference/country of origin, penalty mitigation, supply chain security (including CTPAT), intellectual property, and other programs involving CBP and other government agencies. He is recognized internationally as a leading strategic advisor having co-chaired and served on CBP’s Commercial Customs Operations Advisory Committee under three administrations and serving as Customs and General Counsel to the National Customs Brokers & Freight Forwarders Association of America (NCBFAA).
- NICOLE BIVENS COLLINSON leads the International Trade and Government relations practice of Sandler, Travis & Rosenberg, P.A., and serves as a Managing Principal, Operating Committee residing in the Washington, D.C. office. Ms. Collinson has appeared on MSNBC, BBC Worldwide, and NPR as a subject matter expert and has over 35 years of experience in government, public affairs, and lobbying. She has drafted and guided the successful implementation of several pieces of key international trade legislation positively affecting the bottom line of many U.S. companies. She is regularly relied upon by members of Congress and government officials to make complicated issues simple. She also produces the podcast "Two Minutes In Trade."



# What Does CBP Want?

- Consensus with Trade -
  - **Advance Data:** Advance data transmissions prior to entry, true and correct to best of party's knowledge and belief; Certified by IOR or their broker (19 USC 1484, 1321)
  - **ISF Usage:** Utilize advance ISF data (not ACAS) for any lawful purpose (19 USC 1415)
  - **Info Sharing:** CBP may provide information regarding violative merchandise and is packaging to market platforms and intermediaries; Share shipment information with entity to promote compliance (19 USC 1628a)
  - **Recordkeeping:** Recordkeeping requirements also pertain to e-commerce platforms and other facilitating entities; CBP can apply adverse inference to parties not complying with records demands (19 USC 1508, 1509)
  - **Suspended/Debarred Parties:** CBP authority to prevent suspended and debarred parties from importing (19 USC 4320)
  - **Summary Forfeiture:** Alternatives to seizure, including summary forfeiture, for infringing goods of de minimis value (19 USC 1526(e))
  - **Abandonment:** Streamlined disposition of detained de minimis importations (19 USC 1499(c)(2))
  - **IPR Fines:** Civil fines for concerned parties (19 USC 1526(f))
  - **Arrival, Reporting:** Penalties for those knowingly or recklessly providing false information to filers of arrival, reporting information (19 USC 1436)



# What Does CBP Want?

- Dissent from Trade -
  - **EAPA:** Expand EAPA investigations to other entities not named in underlying investigation (19 USC 1517)
  - **Admissibility Penalties:** Penalties for unlawful imports regardless of whether seizure occurred (or violation is related to conveyance of goods) (19 USC 1595a(b))
  - **Export Penalties:** Penalties for unlawful exports in lieu of seizure (19 USC 1595a(d)&(e))
  - **Commercial Fraud:** Eliminate gross negligence culpability; For fraud, eliminate administrative procedure and commence actions directly in court (19 USC 1592)



# What Does the Trade Want?

- Entry - 19 USC 1484
  - Facilitative data transmissions
  - Clarify standards of care, right to make entry and when transmissions convert to entry (by importer/broker)
  - Pre-departure, arrival release and resolution; Minimize redundant data requirements
  - Release of merchandise unless recalled due to imminent threat; Mitigation when redelivery impossible
- De Minimis - 19 USC 1321
  - Allow FTZ withdrawals to qualify for de minimis
- Inspection/Clearance Abroad - 19 USC 1629
  - Cargo pre-clearance process at foreign ports
- Data Requests - 19 USC XXXX
  - Justification for any incremental data requests; Conditions for data collection
- Manifests - 19 USC 1431
  - Treat manifest data for all modes as confidential





## What Does the Trade Want? (2)

- Advance Electronic Information - 19 USC 1415
  - CBP provides notification of data breaches
- Fees for Customs Services - 19 USC 58c
  - MPF reduction for CTPAT validated members
- Centers for Excellence & Expertise - 19 USC 4317
  - Access for importers to address admissibility and forced labor issues
- National Customs Automation Program - 19 USC 1411
  - Codify BIEC with delegated authority where resources constrained
- Partnership Programs - 19 USC 4311
  - Development of PGA CTPAT programs with benefits
- Electronic Export Information, Export Penalties - 13 USC 304 & 305
  - Streamlined export process that reduces data redundancy
  - Clerical errors, mistake of facts are not violations
- Forced Labor - 19 USC 1307
  - Share data with importers; Appropriate detention notices
- Countervailing & Antidumping Duties - 19 USC 1671, 1673
  - Apply prospectively not retroactively

# Congressional Request for Input

- June 13 – Letter to Trade from Cassidy, Hassan, Cortez Masto and Blackburn
- Comments due **July 11**
- Specific request for comments on:
  1. Improving trade facilitation should help increase the flow of legal goods and services across borders while reducing red-tape and driving down costs.
    - a. What current barriers and challenges does the trade community face as it relates to trade facilitation?
    - b. In detail, can you describe what improvements would be most effective? Also, it would helpful to outline any information or views you have relating to—
      - i. Eliminating redundant data requirements for entry of merchandise;
      - ii. Improving the Automated Commercial Environment to better implement the “single window;”
      - iii. Facilitating data transmission by parties as it develops in the supply chain.

# Congressional Request for Input

2. Key security programs not only enhance homeland and global security, they also provide commercial benefits for active partners. Are there ways you believe the following programs could be enhanced to improve trade facilitation and security?
  - a. the Customs Trade Partnership Against Terrorism; and
  - b. pre-clearance programs at foreign ports.
  
3. As Congress deliberates updates to U.S. customs laws, how can we strike the appropriate balance between security/enforcement and trade facilitation?
  
4. Please explain what economic benefits you would expect to see from suggested improvements for trade facilitation



# Questions?



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