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Discussion Following the Remarks of Mr. Cocksedge and Mr. Browning

Discussion

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DISCUSSION FOLLOWING THE REMARKS OF MR.
COCKSEGE AND MR. BROWNING

MR. GROETZINGER: We would now like to take your questions.

MR. ABRAHAMS: My name is Bob Abrahams. I am with the U.S. Department of Commerce. This is for Mr. Browning. Given the 24-hour rule that is currently in effect for water borne shipments and the requirement that all modes of transportation will have to comply with that by October, if Canadian carriers, say truckers, rail carriers, or air freight carriers for that matter, are C-TPAT certified or cargoes are FAST certified, will those C-TPAT carriers and FAST cargoes still have to comply with the 24-hour rule? That seems a little redundant if they are pre-certified under the system.

MR. BROWNING: Bob, the answer is yes. They will need to continue to provide that. Let me see if I can put this in context. One of the key components of our sort of layered defense is to try to address the new security environment, and I am fond of saying to the trade that pre 9-11, we were going gangbusters in terms of trade facilitation. We were really doing some creative things. We were moving trade. We were collaborating with trade. September 11th happens and the American public says we have to provide the necessary security. More importantly, we found the global trade environment to be very vulnerable from the standpoint of potentially providing a terrorist the opportunity to again strike at our economic interests and at global economic interests.

Six million maritime containers on an annual basis come into the U.S. If you take our maritime and our land border, you are talking 19 million containers that move across. What happens with the 24-hour rule is it allows us to take the manifest information of a particular container, run it against our targeting systems, and make a decision. The fact that the carrier is C-TPAT certified simply says that they put measures in, that once they received that container, should diminish the possibility that someone could secrete something in that cargo that could be dangerous or nefarious. So the 24-hour will continue to be part of that process.

The Trade Act of 2002 also puts an additional burden on us. It says for both imports and exports we must have manifest data in advance. It says that we have to have consultations with the trade community. We had those consultations in January. We put out a few strawmen. I should say, as the case with most strawmen, that our suggestion went up in flames. The trade has come back with their counter to that. But we are going to be mandated to collect this information. This is all part of that paradigm shift. Information is going to be key. Information is going to have to be absolutely positively

key to making decisions about what you let move, and what you want to examine more closely.

MR. ABRAHAMS: So the 24 hour rule, even on the export side, will eliminate Level 4 filing for those people who do file under post shipments for shippers export declarations.

I will extend this to Mr. Cocksedge. When Canada brings in its 24-hour rule, I assume it might be similar to U.S. rules with regards to inspection of U.S. exports of trucks going across the border.

MR. COCKSEGE: Yeah.

MR. ABRAHAMS: Will that slow down the whole process just-in-time?

MR. COCKSEGE: Since the data is almost all electronic, I do not think we will have any barrier on the physical movement of the goods. The answer to the first part of your question is Canada's actually announced that the 24-hour rule will go into effect.

MR. ABRAHAMS: For all loads?

MR. COCKSEGE: That is right. I think it is in April.

A SPEAKER: On the C-TPAT, is that your terrorists' customs partnership? The registration system coming into the country, I can understand because it is your country. You can control who can come in and out. I am concerned about the impact on people. For example, I understand you have to clear all employees or people who work and everyone you supply to and who supplies to you. I guess my concern is what backlash might this have on the so-called former nationals of countries of terror and if you are not going to export that same system? Canadian companies might employ those types of individuals.

MR. BROWNING: Clearly, with the C-TPAT program one of the recommended things is to take a look at your personnel and in some respects to even rate the personnel. I will use the carrier industry because there are a lot of sort of rough and rugged folks that are truck drivers, who have bits and pieces in their background. I thought I heard earlier today someone say that if you had a drunk driving charge when you were 16 years old, this would be the kind of thing that would preclude you being part of these programs. I do not think that is the case. We are not being irrational about it. What we are looking for here is the risk-based analysis point we addressed earlier.

All the programs we are going after are designed to deal with counterterrorism or terrorism threat for security purposes. I have not heard huge backlash from either the carriers, shippers' or anyone in terms of what is being asked for and what information they need to get folks cleared. On the pre-driver's side for FAST, there are some offenses that may disqualify, such as narcotics trafficking. But that makes some sense when you connect that to this process. The fact that you have had a drunk driving charge when you were 16 years old is not the kind of thing that is going to disqualify you.

A SPEAKER: I guess my concern is you might base it on nationality at some point.

MR. BROWNING: No.

A SPEAKER: Right now, there are no waivers in place or exceptions on these countries of terrorism, so to speak.

MR. BROWNING: No. That decision process has not been based at all on nationality, not from CBP's standpoint.

MR. CREAN: John Crean, from Bank of Nova Scotia. I am fascinated by the risk-base analysis that you are doing. My background is risk in a different industry entirely. What we deal with, and I suspect what you are dealing with, is low probabilities and high-impact risks, which of their nature are very difficult to deal with when frequency distributions are not well-known. This becomes a very statistical game, back testing. I would be interested if you could give us some examples of the sorts of things you are playing with there and whether or not there is cooperation between the two countries so that we could move towards a common risk-based system that will make it easier in the flow of information.

MR. BROWNING: I cannot give you specifics as to the risk analysis. I can say, for example, in the context of counterterrorism risk, we have a rules-based system with approximately 900 different rule sets in it that could be bounced off a particular manifest or container that would give us a score. Based on whatever that score is, we would then make decisions about the level of risk that we attach to that. In the context of what we have been doing with Canada, and again I want to acknowledge the fact that Canada was the first country that was prepared to prototype with us and exchange our people, I have actually myself visited our office in Seattle to see the Canadians Customs Officers working side-by-side with our Officers making analysis of the information and making decisions. The same things are happening in Canadian ports. There is a great deal of exchange. There is a great deal of dialogue.

Indeed, part of what is driving the decision by the Canadian government to look at the 24-hour rule, is the fact that there have been people who have tried to circumvent our 24-hour rule by going through Canada. One thing I think we have to keep in mind in this whole process and when we talk about programs like the Container Security Initiative or the 24-hour manifest rule, is that shortly after the tragic events of 9-11, many of you will remember that there was a person who was interdicted by the Italian authorities. He was an Egyptian fellow in a container. Telecommunications, computers, and false I.D.'s. He was en route to Canada.

After many, many years of being very facilitative, the Customs service did not all of a sudden wake up one day and say, we have been too nice. What can we do to make life miserable today? The 24-hour manifest rule, CSI, C-TPAT none of those were the driver. The driver was real concerned

about vulnerabilities in the system. When we look at that process and the dialogue, there is a commonality that is starting to occur within Customs Administration. The 24-hour rule that Canada is going to implement is intended to complement what we are doing and should get us going in the same direction.

We have over the course of the past week been speaking about CSI, the Container Security Initiative. It has gone beyond the U.S. and Canada. Japan has posted their officers in L.A. and Long Beach. They have a team of three officers that are doing screening in L.A. and Long Beach. So when I say to you that there is a paradigm shift that is occurring in global trade right now, it really is a significant shift. The Koreans and the French are speaking to us about stationing officers. The French for some time have had advance manifest rule requirement. It is just not well-known because of the nature of the trade that occurs within the European community. So there is a move afoot now to find that necessary balance.

One point that needs to keep focused is that a box moving from one location started in Asia will typically go from the point of origin where it is packed to an intermediary spot. From there it goes to a trans-shipment point and then to its ultimate destination. At each point that box stops. When it does, the country at which it is located in is at risk. What the process of supply chain securities is intended to do is to insure that as those boxes move globally, all the participants in that process have an understanding of what is in that box and what risk should be attached to it. I do really believe that this is a major change in the direction for global trade and certainly, for regulatory agencies like the Customs and Border Protection.

MR. CRANE: What you are really saying in the end is that we are moving away from free trade, we are moving away from globalization, and we are moving to a new world of barriers and fortresses.

MR. BROWNING: I totally disagree with that.

MR. CRANE: That is the implication of what you are saying.

MR. BROWNING: No, it is not. I totally disagree with that.

MR. CRANE: We are doing the same thing with people.

MR. BROWNING: No, I totally disagree with that. The reason I disagree with that is for this reason. September 11th comes along and we basically close down the borders because of the public reaction to what happened. The big four auto manufacturers will say to you that their just-in-time inventories almost came to a screeching halt. For the fact that we had dialogue with them and figured out a way to move forward, it would have come to a halt.

As dark of a cloud as 9-11 is, it has finally given us the political will among governments. It has gotten the trade community thinking about its part, its role, in this process. It has government agencies like myself, and I see my Coast Guard colleagues up here, working together to find a way to

make the system more secure and to continue to facilitate. We are at Level Orange right now and stuff is still moving across this border in an efficient and effective manner. We are at Level Orange and providing the security that the American public and the Canadian public demands of us, but stuff is still moving.

I disagree with any notion that this process has to be a trade barrier. If we do it right it has the potential to actually build a more facilitative environment than what existed pre 9-11, because we have everybody involved in the process realizing we have got a shared interest and it makes sense for us to do this. Anything short of that, at least from my perspective as the Deputy Commissioner for CBP, means the terrorists have won, and I will be damned if I will allow that to happen.

MR. GROETZINGER: Thank you to both our speakers. Please join me in showing our appreciation.

