

Customs Modernization Act of 2021
Recommendations

Pacific Coast Council of Customs Brokers and Freight Forwarders – the PCC

The Pacific Coast Council of Customs Brokers and Freight Forwarders is comprised of the 5 local associations: San Diego, Los Angeles, Northern California, Columbia River and Washington State representing approximately 8,000 independent licensed customs brokers and freight forwarders and supporting employees. We facilitate international commerce along the nation's largest and most diverse trade gateway, at seaports, airports, northern and southern land border crossings, both imports and exports.

1. Experience has shown that developing effective trade facilitation and enforcement laws, and regulations is simply not possible without Federal and private sector collaboration. As the partners and 'force multipliers' for Customs and Border Protection (CBP) and the other Federal agencies, **customs brokers are uniquely at the intersection of Federal policy/regulation and private sector practices. In developing the ModAct-21, and subsequent regulations, we urge Congress and CBP to solicit and consider customs brokers' recommendations, every step of the way.**
2. International trade is a significant component of the US economy, but it is delicate. Customs' policies can help the private sector control costs, or alternatively, can significantly increase costs to US industry and consumers. **As the nation confronts the ongoing supply chain crisis and dramatically rising inflation, drafters of the ModAct-21 must carefully consider the impact of each provision.** Delayed decision making, multiple submissions, overly demanding data collection, not trusting 'trusted traders', lack of informed compliance are all drivers of increased costs, that quickly ripple through the economy, driving further inflation and supply chain injury to the economy. **At no other time has balancing trade enforcement and trade facilitation been more essential.**
3. Changes in international trade require evolving customs policies including changing and updating digital programs. Experience has shown that programming of new initiatives, or revising existing programs, can lead to system failures which continue to emerge for years. Experience also shows that the programs cannot be revised in short time frames, without trade disruption. And when the agency creates new or revised programs, the private sector must then also develop and install new programs. These are, without exception, expensive and disruptive. **Programing and reprograming initiatives must, from the outset, incorporate all Federal agencies involved in the import process, and only be initiated with adequate funding, specified deliverables and timetable -- and always must be done in collaboration with the private sector.**
4. Data collection is expensive, for all parties, Federal and private. It imposes a significant programing and payroll costs on the private sector. Thus each provision of ModAct-21, and each ensuing regulation, should be drafted with consideration – is it essential to achieve a specific objective? Does the Federal agency have the plan, technology and personnel to effectively use the data? What is the cost on the private sector entity required to submit the data? **Before imposing data collection requirements on the trade community (or on the Federal agencies themselves), the costs and benefits must be carefully measured.**

5. CBP and other agencies can more effectively deploy their financial, personnel and management resources in several ways:
 - a. **'Trusted Traders' should be trusted.** CBP and private sector have invested years of effort to implement Trusted Trader programs, which can increase compliance while significantly reducing CBP enforcement costs. Customs brokers have embraced these programs. **The ModAct-21 should direct CBP to adopt practices that will allow the agency to focus its monitoring and enforcement resources on potential 'bad actors', by limiting scrutiny of and reporting by companies, including customs brokers, which have gained CBP's trusted trader status.**
 - b. **Pursue a "One Government" approach, where ever possible.** Including a single release at the border, shared programs (e.g. ACE)
 - c. Adopt universally accepted business practice of **measuring compliance at the account level, not each transaction.**
 - d. **As e-commerce explodes in volume, for the de minimis small packages, as well as for both formal and informal entries, a US party (including a licensed customs broker) should be required to make entry.**
 - e. No enforcement measure can be effective if compliance is impossible. This is the case with the ModAct-21's proposed new standard of care for a new requirement of submission of advance documentation or information prior to entry filing or certification. **Thus that proposed new standard of care should be revised to require the customs broker to attest to information that it does know, and not require the customs broker to submit information that it does not, and generally cannot actually know.**
6. CBP seeks to perform its essential functions in a manner that supports international trade growth, and does not impede it. An effective first step is to manage these functions by **establishing metrics for time frames for cargo release and decisions on ruling requests and protests.**

International trade is changing perhaps more rapidly than ever before: unprecedented volume of exports, continuously evolving Trade Sanctions, Forced Labor Enforcement, Drug interdiction, E-Commerce, and Supply Chain disruption.

The demands on the trade community, both the private sector and Federal agencies, to adapt are relentless. The PCC continues to stand ready to assist and advise the Congressional Committees, CBP and Federal agencies to achieve Customs Modernization Act objectives.

Eduardo Acosta, President, eacosta@rjones.com
Vince Iacopella, Chair, v.iacopella@albawheelsup.com
Peter Friedmann, Counsel, OurManInDC@FederalRelations.com

March 26, 2022

Pacific Coast Council of Customs Brokers & Freight Forwarders Assns.