



AAEI

STATE OF THE ASSOCIATION

December 2015

Suite 1120 | 1717 K Street, NW | Washington, DC 20006

www.aei.org



We Make Global Trade Happen

State of the Association December 2015

Dear Members, Colleagues and Friends:

I am pleased to issue this 7th annual “State of the Association” message which serves as our annual report to you, AAEI’s members, as a single digest of the Association’s legislative, regulatory and trade operations programs that we have undertaken over the past year. I encourage you to share this message with your global trade team and company management so that everyone in your organization understands the breadth of AAEI’s engagement on your behalf.

Big Push on U.S. Trade Legislation

Like many U.S. trade associations, AAEI was pressed into service to support the various trade bills progressing through Congress. In order to handle this year’s load of trade legislation, we worked in concert with a number of associations within a coalition. Among AAEI’s advocacy capacity added this year at the new office is our monthly “Usual Suspects” luncheon in which we invite approximately 25 trade associations who we collaborate with on legislative and regulatory issues. These monthly luncheons have been very effective in helping us coordinate our advocacy for the Customs Reauthorization bill, trade preference bills, and Trade Promotion Authority.

A major piece of trade legislation in which AAEI led the effort is Drawback Simplification, which was included in the Customs Reauthorization bill, the Trade Facilitation and Trade Enforcement Act (TFTEA). AAEI’s Drawback Committee has worked on this effort since 2002. In order to enhance our chances of including drawback into TFTEA, AAEI developed a Drawback Simplification Package (March 2015) to provide Members of Congress with a framework for understanding what drawback is, why it is important, why simplification is needed, and why drawback simplification legislation is necessary. We worked with support from our core “Usual Suspects” trade associations to advocate for the text that AAEI drafted based on the principles reached with U.S. Customs and Border Protection through the ACE Trade Support Network more than a decade ago.

Coalition letters are grouped together and listed below. As you can see, the legislation has required constant vigilance.

- **Customs Reauthorization Bill**
 - [AAEI Letter on Drawback Simplification \(February 25, 2015\)](#)
 - [AAEI Drawback Simplification Package \(March 25, 2015\)](#)
 - [AAEI Letter to U.S. Senate \(May 14, 2015\)](#)
 - [AAEI Signs Multi-Association Letter Supporting Passage of Customs Reauthorization \(October 1, 2015\)](#)
 - [AAEI Letter to Speaker Boehner to Schedule Vote on Customs Reauthorization bill \(October 2, 2015\)](#)
 - [AAEI Signatory to Business Residue Coalition Letter Supporting Conference on Customs Reauthorization Bill \(November 30, 2015\)](#)

- **Trade Promotion Authority** (Trade Benefits America coalition led by the Business Roundtable)
 - [Trade Benefits America Coalition Letter \(May 21, 2015\)](#)

- [AAEI Sends Letter to Senate Urging Passage of Trade Legislation](#) (May 18, 2015)
 - [AAEI Sends Letter to Congress Urging Passage of Trade Bills](#) (June 15, 2015)
 - [AAEI Sends Letter to the House of Representatives Seeking Passage of Trade Bills \(June 5, 2015\)](#)
 - [AAEI Calls on Congress to Pass Stand-Alone TPA Bill \(June 22, 2015\)](#)
 - [AAEI Sends Letters to Senate amid Dramatic Turnaround for Trade Agenda \(June 29, 2015\)](#)
 - [AAEI Signs Trade Promotion Authority Conference Letter](#) (July 24, 2015)
- **Other Trade Legislation**
 - [AAEI Sign Multi-Association Letter on Miscellaneous Tariff Bill](#) (January 14, 2015)
 - [AAEI Co-Signs Letter on Export-Import Bank Board Vacancies \(January 26, 2015\)](#)
 - [AAEI Supports Action on West Coast Port Shutdown](#) (February 9, 2015)
 - [AAEI Letter in Support of Export-Import Bank Reauthorization](#) (March 25, 2015)
 - [Miscellaneous Tariff Bill Letter](#) (April 21, 2015)
 - [Peaceful Uses of Nuclear Energy \(April 24, 2015\)](#)
 - [AAEI Letter in Support of Residue Provision in Customs Reauthorization Bill](#) (May 4, 2015)
 - [AAEI Sign Multi-Association Letter on Ports Performance Act](#) (June 22, 2015)
 - [AAEI Co-Signs Letter on Ports Performance Act \(July 20, 2015\)](#)
 - [AAEI Files Comments on the DRIVE Act \(November 2, 2015\)](#)

Regulations

AAEI's committees continue to be the workhorses of the Association by reviewing all the regulatory notices which may impact AAEI members and the international trade industry. As we move into the home stretch for the Automated Commercial Environment (ACE) to be completed by October 1, 2016, AAEI's Task Force is carefully monitoring CBP's progress toward its deadline. In addition to the educational webinars on ACE, AAEI continues to send letters concerning CBP's progress in meeting the October 2016 deadline to complete ACE.

- Customs
 - [AAEI Submits Letter to CBP regarding ACE](#) (March 20, 2015)
 - [AAEI Comments on U.S.-Australia Free Trade Agreement \(April 13, 2015\)](#)
 - [AAEI Comments concerning CBP's Proposed Importer ID Input Record \(Form 5106\)](#) (August 26, 2015)
 - Please note that this is a long-running CBP proposed collection activity that AAEI submitted commented on in [February 2014](#) and [December 2014](#).
 - [AAEI Expresses Concern to CBP About ACE November 1st Deadline](#) (September 9, 2015)
 - [AAEI Calls for ACE Improvements before New Mandatory Deadline](#) (September 14, 2015)

Since the Department of Commerce has completed most of the Federal Register notices for the Export Control Reform, there has been a lull in formal regulatory notices related to exports. However, most of the action has shifted to sanctions relating to Russia and the change in the United States relationship to Cuba and Iran.

- Exports
 - [CBP's Enforcement of Foreign Trade Regulations Prompts AAEI Letter](#) (April 13, 2015)
 - [AAEI Co-Signs Letter of Support for US-China Section 123 Agreement](#) (May 4, 2015)

Another major law that has taken years to implement is the Food Safety Modernization Act (FSMA), which includes two major programs affecting importers, the Foreign Supplier Verification Program (FSVP) and the Verified Qualified Importer Program (VQIP). AAEI's Regulated Industries Committee (RIC) continues to monitor FSMA, including major guidance documents on VQIP.

- Regulated Industries
 - [AAEI to FDA: VQIP Draft Guidance Misses Mark for Food Importers](#) (August 24, 2015)

AAEI Initiatives

- **Trusted Trader Program**

AAEI continues to meet with federal agencies under the umbrella of the Border Interagency Executive Council (BIEC) to implement the President's [Executive Order 103659-Streamlining the Export/Import Process for America's Businesses](#) ahead of the December 1, 2016 deadline. As you know, last year AAEI rolled out its white paper, "[A Blueprint to Trust](#)," to serve as an intellectual framework to assist federal agencies understand the merits of account-based management of U.S. importers.

To further our outreach to federal agencies, AAEI's Trusted Trader Work Group has developed Risk Assessment charts for each of the major risk areas: Commercial Compliance; Environmental Compliance; Health/Safety Compliance; and Security Compliance. AAEI will work with all the federal agencies who regulate goods, both import and export.

AAEI continues to be a thought leader in trade operations with the Healthcare Industries Committee new update to its [FDA Best Practice Manual](#) (September 28, 2015). Look for more cutting edge training materials from HIC in 2016.

Under the guidance of AAEI's Trade Policy Committee, we continue to participate in stakeholder sessions during the negotiations rounds for the Transatlantic-Trade and Investment Partnership (T-TIP). We continue to coordinate with our colleagues, the European Shippers Council, to collaborate on ideas that will advance our goals of clarity, simplicity, harmonization, and trade facilitation for trusted traders. Below are the presentations that AAEI delivered to E.U. and U.S. negotiators this year.

- **Transatlantic-Trade and Investment Partnership (T-TIP)**
 - [An End-Game for T-TIP](#) (April 23, 2015)
 - [A Common Approach to Trade Compliance and Facilitation under T-TIP](#) (October 21, 2015)

Litigation

This year was a disappointing one as we awaited the decisions on appeal in [U.S. v. Trek Leather](#), where the U.S. Court of Appeals for the Federal Circuit (CAFC) held that applying 19 U.S.C § 1592(a) to an individual does not require "any piercing of the corporate veil" for purposes of assessing duties and penalties. Because of this decision, many trade compliance professionals are concerned that CBP may seek to hold individuals responsible for corporate non-compliance with U.S. customs laws. As a result, AAEI continued its participation in the case by filing an *amicus* brief with the U.S. Supreme Court urging that the Court to grant *certiorari* and hear the case. Unfortunately, the Court denied *certiorari* and the CAFC decision

stands. On appeal, the case is *Harish Shadadpuri v. United States*, [No. 14-986](#), and you can view AAEI's [amicus brief](#). AAEI remains concerned about the impact of this case on trade compliance professionals.

In addition to the Trek Leather case, AAEI filed an amicus brief in the rehearing of *International Custom Products v. United States*, [No. 2014-1644](#), which is part of the ongoing saga of “when is a customs ruling not a binding ruling.” International Custom Products (ICP) held a binding ruling on the tariff classification of “white sauce” which CBP disregarded by assessing \$28 million in additional duties and reliquidating the entries. The most disturbing aspect of the case is the Court dismissing ICP’s case due to the requirement to pre-pay duties to litigate the entries before the court.

Independently, these cases just look like bad law. Taken together, these decisions represent an ominous trend of what federal courts permit federal agencies to do regardless of any sense of fairness. Think of how a trade compliance professional explains to management that a binding ruling from CBP does not protect the company from a \$28 million tax bill – it is just absurd. AAEI will continue to file amicus briefs to stem the tide of CBP actions which upend the “shared responsibility” between CBP and the trade for compliance, and begin drafting a new customs statute to revamp many archaic legal requirements that no longer make sense in the 21st Century.

International Outreach

AAEI is pleased to advise members that the Secretary-General named AAEI to the new World Customs Organization Private Sector Consultative Group (PSCG) to continue our work on the WTO Trade Facilitation Agreement, the SAFE Framework and Authorized Economic Operator programs. During the recent WCO Permanent Technical Committee meeting in October 2015, AAEI was privileged to co-present with CBP Deputy Assistant Commissioner Ana Hinojosa on “Customs-Business Partnership Centers for Excellence & Expertise.” I will be leading the PSCG’s Action Group on e-commerce to make recommendations to the WCO, and this will be a new item on the agenda of AAEI’s International Policy Committee. AAEI welcomes any and all members to join me at the upcoming WCO PSCG meetings in February 2016.

In addition to AAEI’s cooperation with the European Shippers Council on T-TIP Stakeholder Presentations, AAEI continues its outreach through a new entity, the Global Shippers Alliance, [AAEI Extends Global Reach with Shippers](#) (March 23, 2015). In November, I attended the Global Shippers Alliance meeting in Hong Kong and presented a paper, International Trade 2020, on trade facilitation. In 2016, GSA will hold a meeting in Paris on March 22-25.

Agenda for 2016

For 2016, we have a number of projects planned. First, our major task is reviewing and filing comments on the text of the Trans-Pacific Partnership (TPP) in early January 2016. Second, we are developing an eTrade Track pilot (as described in the CSIS paper [Fueling the Online Trade Revolution](#) at p. 25) for submission to the Trade Facilitation Alliance to address security and facilitation issues faced by e-commerce companies. Finally, as more e-commerce companies join AAEI, we are pleased to be the leader of the WCO PSCG Action Group on e-commerce and will be working on recommendations to the WCO on how customs administrations should treat e-commerce shipments. We look forward to active member participation in these initiatives so that AAEI continues leveraging its technical expertise to new areas.

In preparation for a new Congress, AAEI will also further develop its government affairs capabilities in 2016 to provide your company with the support you need to track trade legislation and regulations as well as in-depth analysis that can be routed

to your government affairs representatives or incorporated into your presentations for management. We welcome your ideas on the type of tools you would like us to develop in this area.

We hope that after reading this State of Association message, you and your management conclude that AAEI delivers great value for your membership dues. If there is an issue that you want AAEI to cover, please let us know.

Sincerely,

A handwritten signature in blue ink that reads "Marianne Rowden". The signature is written in a cursive, flowing style.

Marianne Rowden
President & CEO
AAEI



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