



AAEI

STATE OF THE  
ASSOCIATION

DECEMBER 2014

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[www.aei.org](http://www.aei.org)



We Make Global Trade Happen

State of the Association  
December 2014

Dear Members, Colleagues and Friends:

I am pleased to issue this 6th annual "State of the Association" message providing you with an annual report on the work of AAEI, the progress we have made advocating on your behalf, and to advise you how we have invested the Association's resources to build an organization for the future.

### **American Trade Policy Development**

Drawback simplification and modernization in the Customs Reauthorization bill (the "[Trade Facilitation and Trade Enforcement Reauthorization Act of 2013](#)") remains AAEI's highest legislative priority. As such, we have worked assiduously to confer with Congressional staff to ensure that the bill text accomplishes the twin goals of simplification and modernization, which was the original bargain between U.S. Customs and Border Protection and the trade community under the auspices of the Trade Support Network back in 2005. A decade certainly flies by quickly when having fun with drawback.

Although little legislation has moved, AAEI filed comments to push for extension of the [U.S. Export-Import Bank](#), which turned into a temporary reprieve as Congress will take up a longer extension for the Ex-Im Bank again in June 2015. Another bill that needs to be passed is the [Terrorism Risk Insurance Act](#), which expires at the end of 2014.

As reported in last year's State of the Association message, the movement of trade legislation remains blocked by the juggernaut of Trade Promotion Authority (the "[Bipartisan Congressional Trade Priorities Act of 2014](#)") which is bottled up in the U.S. Senate. AAEI has submitted letters as part of the [Trade Benefits America Coalition](#). Unless Congress acts during the "Lame Duck" session, all trade bills (including TPA) will need to be reintroduced in the 114th Congress in 2015.

Due to continued gridlock on Capitol Hill, much of AAEI's advocacy efforts were directed at federal agencies. On the import side, AAEI's submissions were pretty eclectic:

- FDA Request for Comments on its Foreign Supplier Verification Programs for Importers of Food for Humans and Animals – both in [January 2014](#) and [December 2014](#)
- CBP Collection Activity on Importer ID Input Record (Form 5106) – both in [February 2014](#) and [December 2014](#)
- APHIS Notice of [Request for Extension of Approval of an Information Collection: U.S. Origin Health Certificate](#)
- DHS [Retrospective Review of Existing Regulations](#) in which AAEI recommended that CBP update their AES filing regulations and invoice requirements for chemicals
- FDA [Administrative Destruction of Certain Drugs Refused Admission to the United States](#)
- CBP [Proposed Revised Informed Compliance Publication on Bona Fide Sales](#) (First Sale)

We also received an invitation from CBP to participate in the [Simplified Summary Work Group](#), which builds upon our previous collaboration with CBP on the Simplified Entry Work Group (which became ACE Cargo Release) and the Centers for Excellence and Expertise (CEE). AAEI always supports such collaborative efforts and we are fortunate to have members who volunteer to serve as AAEI's delegates to such groups. AAEI member interests were represented at every Work Group session, and our delegates held a teleconference for the membership to apprise them of the Work Group's progress.

As we approach the end of 2014, we are in the final countdown toward the October 2016 deadline to complete the Automated Commercial Environment (ACE), and so AAEL reactivated its [ACE Task Force](#) and embarked on a series of educational webinars after distributing an [ACE Survey](#) revealing that members needed a refresher on the functionality of the current ACE releases available. These seminars were very well attended and we will continue to offer them to ensure that members are ready for the transition to ACE. Shortly after completion of ACE, the International Trade Data System (ITDS) is to be implemented, which was greatly aided by the President's [Executive Order 103659-Streamlining the Export/Import Process for America's Businesses](#).

AAEL tries to be proactive in creating an environment where we work with federal agencies and get them to say "yes". CBP has attempted to augment its trusted trader program by collaborating with other government agencies (OGAs), such as the Consumer Product Safety Commission (CPSC), to offer a broader range of benefits to importers. AAEL submitted comments on the [Trusted Trader Program Test](#) while working on our own program.

The centerpiece of AAEL's efforts for 2014 has been the development of a trusted trader program for other government agencies. This effort, under the aegis of AAEL's Regulated Industries Committee (RIC), culminated in the release of a white paper, "[A Blueprint to Trust](#)." AAEL plans to distribute this document to the Border Interagency Executive Council meeting in December 2014. We recommend that you circulate this document within your trade organization and share it with your management as a publication produced by AAEL to save your organization money by leveraging the dollars you already spend on trade compliance with more federal agencies, and we hope, other countries.

On the export side, we are in the final stages of the Administration's Export Control Reform. As a result, there has been a slowdown in submissions relating to the Commerce Control List (CCL) and U.S. Munitions List (USML):

- BIS [Delegation of License Requirements Determination and Licensing Responsibility to a Foreign Principal Party](#)
- CBP [Customs-Trade Partnership Against Terrorism Exporter Eligibility Requirements](#)

Although not prompted by specific Federal Register notices, AAEL weighed in on important trade compliance and operations issues affecting exporters:

- CBP: Follow-up on our original 2013 letter concerning CBP's [Enforcement of Census' Foreign Trade Regulations](#)
- State Department: [Iran Sanctions Compliance](#) concerning the difficulty in finding financial institutions to handle transactions authorized under the Trade Sanctions Reform and Export Enhancement Act (TSRA)
- OFAC: [North Korean Sanctions Compliance](#) after discovery of inadvertent inclusion of North Korean gold in their supply chain as a result of their due diligence under the Conflict Minerals regulation of the Securities and Exchange Commission

## The Third Branch

For many in the trade community, the third branch of government (the judiciary) is an afterthought. However, this year AAEL filed amicus briefs in three (3) significant cases:

- [Deckers Outdoor Corporation v. U.S.](#): a case in which the CAFC ruled that the "plain language" of the Harmonized Tariff Schedule of the United States (HTSUS) supported CBP's classification of "footwear of the slip-on type" included footwear above the ankles. By agreeing with CBP's use of the plain language rule, the CAFC has made it more difficult for importers to challenge CBP's classification of goods. AAEL's amicus brief may be found [here](#).
- [U.S. v. Trek Leather](#): a case where the 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. As a result 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. AAEL's amicus brief may be found [here](#).
- [International Custom Products, Inc.](#): a case which revisits the question of "when is a ruling not a ruling" (i.e., binding upon an importer and CBP) has brought a small company to its knees when it sought a ruling from CBP to ensure that white sauce was classified in a HTSUS provision not subject to antidumping duties. CBP changed its position six (6) years later without withdrawing the ruling under 19 U.S.C. § 1625(c), and simply issued a Notice of Action reliquidating entries assessing an additional \$300 million in duties. The case is pending before the U.S. Court of Appeals for the Federal Circuit on procedural grounds, but AAEL's amicus brief may be found [here](#).

## Educational Events

AAEI started 2014 with its semi-annual Western Regional Seminar which we coupled with a Global Trade Compliance Forum. We were able to use a new smart phone application to conduct a benchmarking session on a variety of topics, including supply chain adjustments made during trade interruptions – Hurricane Sandy, the Fukushima nuclear shutdown, and the U.S. government shutdown. The data gleaned from the event gave AAEI Staff great insight into corporate decision-making on supply chain and trade compliance. AAEI hopes to further develop the Winter Seminar into an event that covers global trade issues in depth, in a way that is difficult to cover during the Annual Conference.

After moving AAEI's Annual Conference from New York to Washington, DC, AAEI embarked on taking the Annual Conference "on the road" to Minneapolis, MN. Because of the high concentration of corporate headquarters in Minnesota, we were able to extend special group rate registration to companies who brought 10 employees or more to the conference. Four local companies were able to take advantage of this group registration fee, so that AAEI was able to attract 550 attendees and 47 exhibitors to the conference plus 30 registrants who participated in the "Basics 101" workshop offered the day before the conference. We encourage members to work with AAEI leaders and staff on ways to leverage your educational dollars at AAEI events.

AAEI extended its traditional "members only" webinars with off-the-record discussions on a number of important and timely topics, such as the President's [Executive Order 103659-Streamlining the Export/Import Process for America's Businesses](#) with Christine L. Turner, Director of Global Supply Chain Security, National Security Council; CBP's Focused Assessment Updates with Mel Moreland, Acting Executive Director of Regulatory Audit and Elizabeth Chiavetta, Director of Audit Policy; and the new Russian Sanctions with Deputy Assistant Secretary of Commerce for Export Administration. We hope to bring these webinars to members on a more consistent basis, but we try to get the "hottest" issues addressed in webinars.

## International Partnerships

AAEI continues to expand its international partnerships, adding the [Export Council of Australia](#) to its roster of trade associations to share information and advocacy efforts. It is our hope that with partners in all the major countries negotiating the Trans-Pacific Partnership, we can join forces to push agreement over the goal line once negotiations have concluded.

Additionally, AAEI has continued to participate in stakeholder sessions for the Transatlantic Trade and Investment Partnership (T-TIP) negotiating rounds. Along with our partners, the European Shippers Council, AAEI has refined its presentation to advocate for holistic risk management system – for supply chain security and import compliance.

- [Risk Management and Global Supply Chains](#) (May 21, 2014)
- [A Blueprint to Trust: Holistic Risk Management and Effective Trusted Trader Program](#) (October 1, 2014)

AAEI hopes to use the white paper on "A Blueprint to Trust" to persuade American and European regulators to adopt AAEI's proposed trusted trader program to afford mutual recognition to a much wider swath of companies who have invested corporate resources into trade compliance programs.

A major initiative of AAEI is the implementation of the World Trade Organization's [Trade Facilitation Agreement](#) (TFA). After a bit of a hiccup, it appears that the TFA is back on track for adoption with the [Protocol of Amendment](#) to insert the TFA into Annex 1A of the WTO Agreement. AAEI will continue to advocate for members' interests with the World Customs Organization and national customs administrations through its seat on the [Private Sector Consultative Group](#) and the [WCO TFA Work Group](#) meetings.

AAEI looks forward to developing a joint work plan with the WCO in preparation for the transition of the PSCG to operate under new Terms of Reference adopted by the Policy Commission at the WCO's December 2014 meeting in Recife, Brazil. I intend to participate in the WCO PSCG meetings scheduled for April and June 2015, and will update the membership about AAEI's status as a member of the PSCG after July 2015.

Not only is AAEI adding partner associations around the world, like ECA, but we are deepening our relationship with existing partners. I have attended and spoken at the annual conferences of [i.e.Canada](#) and [INDEX](#), and participated in the plenary sessions of the [European Shippers Council](#) during my October 2014 trip to Brussels. We hope to integrate these organizations

into AAEL's educational events and collaborate with them closely on TFA implementation and Free Trade Agreements, such as TPP and T-TIP.

### **Internal Resources Development**

Our goal at AAEL is to provide more value for your membership dollars. Over the last year, this effort has taken form through three (3) initiatives: 1) new logo and website; 2) AAEL's online marketplace; and 3) AAEL's new office.

In June 2014, AAEL launched its new website and member portal ([www.aael.org](http://www.aael.org)) with a fresh logo and simple design. The member portal maximizes member self-management of their company's member profile and allows individuals to update their contact information, check their company's membership expiration date, join (or unjoin) any AAEL committee, indicate whether they plan to attend the next committee meeting, etc. The current functionality of the new website and member portal are only Phase I of a multi-phase rollout of new services.

We have also developed an [AAEL Marketplace](#) where members can order AAEL publications, including AAEL's 2014 Benchmarking Survey Results. We hope that this marketplace will make it easy for members to distribute AAEL publications to their entire global trade organization.

Finally, I have spent much of 2014 planning and building the Association's new office located at [1717 K Street, NW, Suite 1120, Washington, DC 20006](#), conveniently located near the Farragut North (red line) and the Farragut West (blue/orange lines) Metro stations. At almost 5,000 square feet, the new office is designed to be your "office away from the office" in Washington, DC so that any AAEL member can come to AAEL's Headquarters, and grab a bite to eat from our large kitchen appointed with a refrigerator, microwave, beverage cooler, and fresh ice machine. We will have spare offices for members to fire up their laptops and take conference calls. Additionally, we envision hosting trade association meetings, webinars and seminars to offer increased educational opportunities for AAEL members. Essentially, we built the new office for you, our members, so that you can do whatever you need to get done while you are in the Nation's capital. Please come and stop by.

We encourage you to share this State of the Association message with your global trade organization and your management as a summary of AAEL's activities and our support for your trade compliance function. We hope that after reading this State of Association message, you and your management conclude that AAEL delivers great value for your membership dues.

Sincerely,



Marianne Rowden  
President & CEO  
AAEL



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