

Trade Facilitation and Enforcement: Insights from Brenda Smith, Executive Assistant Commissioner, Office of Trade, U.S. Customs and Border Protection

By Michael J. Keegan



The mission of U.S. Customs and Border Protection (CBP) is highly complex. It enforces nearly 500 U.S. trade laws and regulations on behalf of 47 federal agencies. It also facilitates compliant trade, collects revenue, and protects

the U.S. economy and consumers from harmful imports and unfair trade practices.

CBP efforts help enable 30.4 million commercial transactions annually, which represent approximately \$2.4 trillion in imports and generate more than \$40 billion in duties, fees, and taxes.

CBP plays a vital role in supporting the U.S. trade agenda. It seeks to strengthen its enforcement capabilities and streamline trade for low-risk legitimate shipments. It will also continue to advance risk-based targeting by working with partners to enhance trade intelligence, detect and resolve unfair or unlawful trade practices, and develop solutions to promote legitimate trade and protect the U.S. economy.

What is CBP's national strategy to facilitate legitimate trade? How is CBP strengthening comprehensive trade enforcement? What trends are disrupting the facilitation of trade? Brenda Smith, Executive Assistant Commissioner, Office of Trade, U.S. Customs and Border Protection, joined me on *The Business of Government Hour* to share her insights on these topics and more. The following is an edited excerpt of our discussion, complemented by additional research.

What is the mission of CBP's Office of Trade?



Brenda Smith: We are charged by the CBP Commissioner to carry out the agency's trade mission, which is to ensure the compliance of goods coming into and going out of the U.S. as well as to collect \$46 billion a year in duties, taxes and fees.

CBP's Office of Trade consolidates the trade policy, program development, and compliance measurement functions of CBP into one office. It provides uniformity and clarity in the development of CBP's national strategy to facilitate legitimate trade. And it manages the design and implementation of results-driven strategic initiatives for trade compliance and enforcement. It directs national enforcement responses through effective targeting of goods crossing the border as well as strict, swift punitive actions against companies participating in predatory trade practices.

Through coordination with international partners and other U.S. government agencies, we direct the enforcement of intellectual property rights and the identification of risks to detect and prevent the importation of contaminated agricultural or food products. We also manage the enforcement of free trade agreement eligibility. By promoting trade facilitation through partnership programs, we work to streamline the flow of legitimate shipments and foster corporate self-governance as a means of achieving compliance with trade laws and regulations. A risk-based audit program is used to respond to allegations of commercial fraud. It is also used to conduct corporate reviews of internal controls to ensure importers comply with trade laws and regulations.



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Finally, we provide the legal tools to promote compliance with customs, trade, and border security requirements. This includes the issuance of all CBP regulations, legally binding rulings and decisions, and informed compliance publications. In addition, we provide structured programs for external CBP training and outreach on international trade laws and CBP regulations.

Could you tell us more about your responsibilities as Executive Assistant Commissioner of the Office of Trade?



Brenda Smith: I see myself as the primary advocate for CBP's trade mission. It goes back to the legacy customs mission. In 1789, the Fifth Act of Congress established the U.S. Customs Service to essentially pay for revolutionary war debt. Ever since, we have been on the frontline on the borders protecting the U.S. as well as collecting those duties, taxes, and fees.

On a day-to-day basis, I'm not only an advocate for compliance with those laws that protect the country, but I am also responsible for outreach to the trade community. We have more than 350,000 importers and more than 13,000 customs brokers—along with carriers and freight forwarders. These are household names responsible for managing supply chains that make sure safe goods come into the country. I work with my team and this community to make sure not only that they're following the law, but when they're bringing in compliant goods they can do so quickly, easily, and cheaply.

I want to make sure we are carrying out our security mission. Economic security is a key part of homeland security. From the Office of Trade's perspective, our role in economic security is not only making sure that people's quality of life is supported by the goods that travel into and out of the country, but also that the domestic industry is able to run its businesses on a level playing field and compete actively in the global economy.

Could you elaborate on CBP's national strategy to facilitate legitimate trade? What are your key priorities?



Brenda Smith: There is an inherent tension in what we do every day between the facilitation and enforcement of trade. Yet, what we've learned over the last couple of years is that it doesn't have to be this way; facilitation and enforcement complement one another. If we get one right, then the other is easier to do. We often use the metaphor "the needle in a haystack"—and we're trying to make that haystack smaller. We do this by leveraging our industry expertise, analytical

skills and the ability to use data appropriately. A key priority is looking at the ability to integrate the data that we have and use it to make good risk-based decisions. This involves investment in automation as well as having the right skills to analyze the data and then act on it.

Another priority is cultivating our relationship with the private sector. We want to collaborate with this group to come up with solutions. This involves focusing on cost reduction through streamlining processes and eliminating barriers to collaboration with public and private sector partners. We are also working on harmonizing processes across the ports of entry to support the adoption of a unified facilitation and enforcement posture. Along with these priorities, CBP is expanding risk-segmentation using advanced technology that can facilitate the flow of low-risk trade and travel.

What are the most serious threats and critical trends shaping your strategy?



Brenda Smith: Trade is a high-profile issue. And information integration is a significant challenge we're trying to manage. We collect serious amounts of information on goods crossing the border. We want to use this information to predict and identify issues. We are dealing with an explosion of information coupled with technological advances that make understanding the data possible.


Another challenge is the explosion in the actual volume of trade. We've seen a steady increase as we've become more globally connected. For example, people think nothing of going online and ordering something from halfway across the world and expecting it to show up on their doorstep in twenty-four hours. It happens all the time.

This increase in the volume of trade leads to a change in the trading pattern. The internet and e-commerce has introduced more players into the trade supply chain, resulting in a significant increase in the speed of trade and in the number of actual transactions. In the late 1950s, trade was burlap-wrapped bundles placed on big ships into containers. Today, we're seeing mountains of small packages being shipped from around the world. This flow of goods is very dispersed, introducing new players—people who have never done this before and are now importing or exporting goods. This change impacts the operational processes we use to manage the flow of goods.



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CBP continues to focus on simplifying and facilitating cross-border commerce while reducing the cost of importing and exporting goods. One way you’re doing this is through the implementation of the International Trade Data System—or the Single Window. Could you tell us more about this initiative?

 **Brenda Smith:** We needed to develop an efficient and cost-effective trade processing infrastructure, such as the International Trade Data System (ITDS), to modernize and simplify the way that executive departments and agencies interact with traders. We must also improve the broader trade environment through the development of innovative policies and operational processes that promote the effective application of regulatory controls. They must also promote collaborative arrangements with stakeholders, as well as a reduction in unnecessary procedural requirements that increase costs and undermine our nation’s economic competitiveness.

On average, more than \$10 billion worth of traded goods enter or exit the U.S. each day and must first be approved by our officers. Traditionally, importers and exporters had been required to submit information to multiple federal agencies, often on paper forms. They would sometimes wait days before getting the go-ahead to move their products across U.S. borders.

There’s an international standard that calls on governments to establish a single location for all information about goods crossing borders. It is literally a single window in some countries where paper forms about exports get submitted to the teller behind a window and in other places it is an electronic portal, like we’ve just built here in the U.S.


The Single Window initiative has dramatically altered the process of obtaining approval. During a four-year period, we organized the implementation of the Single Window via the Automated Commercial Environment (ACE), an online portal that allows businesses to deal with all regulatory agencies

in one place. Implementation of the Single Window via the ACE in December 2016 has eliminated more than 250 paper forms and hundreds of redundant data requests. It has greatly reduced wait times for import and export decisions.

We established an interagency council comprising 47 agencies to build consensus and help solve problems. We also collaborated extensively with private industries ranging from mass retailers to automotive and electronics firms. To create the technology and infrastructure to support the initiative, Phillip Landfried, Assistant Commissioner of the Office of Information Technology, adopted an approach that relied on innovative methodologies such as Agile. It also relied on government and private-sector partnerships to build, test, and deploy the user-friendly automated system. We’re now presenting one face at the border, and our private sector partners can get information and decisions from one place.

The ACE is now the backbone of CBP’s trade processing and risk management activities, providing a single, centralized access point to connect CBP, partner government agencies, and the trade community.

As an enabler and regulator of trade, can you tell us more about efforts to strengthen trade enforcement?

 **Brenda Smith:** Over the last decade, we’ve experienced a culture change. Before, we may have said we worked closely with the private sector—but frankly, we didn’t. Now, our collaboration approach is guided by the word “co-creation.” Very often, we will identify a problem and put it on the table with representatives from the private sector and other federal agencies as well as CBP. We solve issues together—understanding that each of us has motivations, needs, and limitations that must be addressed. At the end of the day, we are looking for solutions that work for all of us. This has led to more effective enforcement and a streamlined trade process.

Moreover, the National Targeting Center (NTC) is one of the agency's crown jewels. It analyzes traveler data and threat information to identify high-risk travelers before they board flights bound for the U.S. We've learned from the NTC effort and have applied that knowledge and approach to the trade portfolio. We have established an Integrated Trade Targeting Network (ITTN). We work to enhance CBP's strategic trade targeting capabilities to quickly detect, deter, and disrupt high-risk financial and illicit trade networks. We're also working to combat criminal organizations that illegally exploit American trade.

How does the Trade Facilitation and Trade Enforcement Act help you with that mission?



Brenda Smith: The Trade Facilitation and Trade Enforcement Act (TFTEA) of 2015 was the first comprehensive authorization of CBP since the Department of Homeland Security was created in 2003. Its overall objective is to ensure a fair and competitive trade environment. The guidance we received from our congressional stakeholders was that the enforcement of trade laws and trade facilitation is critical to the economy. The law also provided us with some new tools and new ways of thinking about enforcement challenges.

Since its enactment, we've made tremendous progress. We continue to improve upon our mission to enforce trade laws and to facilitate the lawful trade that keeps the engine of our economy running smoothly. The TFTEA also directed enhanced enforcement of antidumping and countervailing duty (AD/CVD) laws in order to ensure a level playing field for U.S. companies. In FY2016, CBP enforced 364 AD/CVD Orders covering around 150 products. In addition, during that time period, \$13.9 billion of imported goods were subject to AD/CVD laws, and CBP collected \$1.5 billion in AD/CVD deposits. The TFTEA provided CBP with new authority to investigate allegations of AD/CVD evasion through the enactment of the Enforce and Protect Act. Companies can now file allegations of evasion via our e-allegations web portal.

The TFTEA also helps CBP enforce laws that guard intellectual property rights, protecting consumers against counterfeit goods. To coordinate these efforts, CBP's Trade Enforcement Task Force works closely with partner government agencies. The Task Force focuses on detecting high-risk activity and disrupting illicit trade networks that hurt our economy and U.S. consumers.

Turning to trade facilitation, the TFTEA extended funding to complete the development and implementation of the ACE, which we mentioned earlier. The TFTEA also formally recognized and promotes CBP's Centers of Excellence and Expertise. All ten Centers are fully operational, increasing uniformity at the ports, facilitating the timely resolution of trade compliance issues nationwide, and strengthening our knowledge about industry practices. It has helped us to refine and strengthen the execution of our broad trade mission—a mission that is critical to our nation's economic security and vitality.

What makes an effective leader?



Brenda Smith: One of the key characteristics of a successful leader is the ability to scan the environment, see around corners, prepare your organization, and get it in a position to address the challenges it faces. I think back to one of my early mentors, a gentleman named Ed Kwas, who was a senior leader at the U.S. Customs Service. At the time that I knew him, he set up the first Office of Strategic Trade—which took customs into the environment of risk management and used data to make good risk-based decisions. Mr. Kwas was one of the smartest men I knew. He had a knack for seeing ahead. He would use capabilities that we had available at the time, then fortify them in such a way as to anticipate—and be ready for—challenges five years out.

Passion is another characteristic. I always look forward to getting up in the morning and going to work. Of course, there have been days when it's a little more challenging. But I've always had the opportunity to take on new challenges and learn new things. ■

To learn more about CBP's Office of Trade, go to cbp.gov/trade.



To hear *The Business of Government Hour* interview with Brenda Smith, go to the Center's website at www.businessofgovernment.org.



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