

CONNECT's 20th Anniversary Meeting Recap, June 17, 2010

CONNECT's 20th Annual Meeting, featuring Commissioner Bersin in his first public presentation to New England was a big success. This was the first regional Conference at which Alan Bersin spoke. He acknowledged that he had been **encouraged to participate by Senator Kerry**. He did not disappoint; spending lots of time speaking with CONNECT members and attendees individually, asking questions about their challenges, and what CBP could do better. Then, he spoke for 45 minutes without notes, demonstrating surprising knowledge of CBP, considering his short tenure thus far.

My View of the Commissioner.

Clearly an individual of stature, education, and experience. **My personal assessment is that he has the capacity to provide the perspective and leadership equal to that of the exemplary Commissioner Bonner.** Bersin like Bonner, was previously a high-ranking Federal official, scrutinized and confirmed by the Senate, a US Attorney, and like Bonner, comes into office at a time of great challenge for CBP. Bonner was Commissioner on 9/11 and initiated CT-PAT, and an entire new approach to balancing security and trade, by Customs.

I expect that Commissioner **Bersin is going to implement yet another new approach, making import processing, particularly at our land borders with Mexico and Canada, a much more dynamic and fluid process**, not wholly dependent upon inspections at the border, but rather beginning the clearance process before the goods get to our border, and in some cases, completing the process well after they have crossed the border. Not everything should be done right at the border.

Recapping My DC Update

Some Board members requested a recap of my remarks -- here are the main points. I am glad to expand upon any of them by telephone or email.

1. Congress is consumed with **BP** and the Gulf. Finger pointing will continue throughout the summer.
2. More quietly, Congress will pass landmark legislation rewriting legislation of the **financial services industry**, Wall Street, securities firms and banks
3. With uncharacteristically little partisan fanfare, **Elena Kagen** will be confirmed as President Obama's second appointment to the Supreme Court in this, his first term.
4. **Massachusetts own Congressman Richard Neal** (D-Springfield, MA) is quietly ascending to one of the most powerful positions in Congress relating to international trade. There is much backroom maneuvering, but if he becomes Chairman, his Ways & Means Committee will have jurisdiction over Free Trade Agreements, all trade policy, CBP, import duties, Federal Gas Tax, Harbor maintenance Tax, Miscellaneous Tariff Bill, Affordable Footwear Act, and more.
5. **Free Trade Agreements** with Korea and Columbia seem to be dead for this year, as long as AFL-CIO continues to oppose. But Obama is pursuing the TransPacific Partnership, the major trading partners around the Pacific Rim. This could provide the basis for a much larger FTA-like agreement in the future, although it may still be a few years away.
6. China remained under scrutiny for **currency manipulation**, I said that China would allow its currency to float up, but did not expect it to happen so quickly. It is increasing now and will continue to increase over the coming weeks relative to the dollar. It will increase costs for those sourcing consumer goods in China. Clearly it is a desirable for US exporters selling to China, or competing with Chinese-manufactured goods in the US or other markets.

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7. **China textile and apparel** is the focus of a proposed new enforcement act introduced by Congress and would establish an entirely new and separate CBP enforcement program, targeting a specific commodity, a very troublesome precedent. It would create incentives for CBP to collect additional penalties and fines; it would require importers to identify a resident agent in every state in which a port of entry through which that importers products flow; it would establish a new enforcement office focusing just on textile and apparel within the Justice Department, to pursue under reporting or undervaluation or duty avoidance by textile importers.
8. The President's Export Challenge, to double exports within five years, is being undermined by **CBP's own export impediments**, for example CBP's opposition to extension and expansion of "Option 4", which would facilitate export documentation for non-threatening exports under the Automated Export System.
9. **The Lacey Act** is being reasonably implanted, and a large coalition has proposed a more orderly roll out of Lacey Act importing requirements, and a delay in expansion beyond current products now subject to CBP/APHIS documentation.
10. **Conflict Minerals.** Trying to avoid supporting the Congo and other rogue regimes, but cutting off consumption of minerals from those countries which financial support their brutal rule. Trouble is, how to do so. Current legislation would require any publically traded company to report to the Securities and Exchange Commission if any products they produce, sell contain gold or other identified minerals from the Congo. We can live with this, even though it will be difficult to do for a while until the supply chain pushes back all the way to the source of each mineral. Another more worrisome proposal would require the disclosure for each imported item, to be submitted at the time of entry. We are fighting this approach.
11. **Section 321** exemption from entry documentation process for imports valued under \$200. It is proposed to increase this to \$1,000. Not everybody thinks this is a good idea, but it appears to be supported by most in the room, and certainly by the couriers.
12. **Ocean carrier capacity.** The Wall Street Journal focused on this, this year and last. Congress is aware that the ocean carriers are no longer headquartered in the US, but the exporters (and importers) are. House Committee Chairman has announced that he will introduce legislation to end ocean carrier exemption from US antitrust laws.
13. **Clean Truck Program**, the trade community supports lower emission trucks, but opposes efforts by Teamsters and Ports LA , Oakland, etc. to ban owner-operators, and mandate employee drivers only for drayage of containers and cargo onto and off marine terminals. Once they are employees, they could potentially be organized by the Teamsters. This will impact port operating costs.

Now Congress is being asked to amend the current law, so as to allow each Port to decide for itself if it wishes to mandate employee drivers. Trade community opposes. CONNECT one of 36 organizations signing letters to Congress.
14. **Rail Competition Legislation** – would encourage the Surface Transportation Board to eliminate paper barriers, to allow competitive rail access for captive shippers.
15. **NVOCC tariff filing.** The Fed. Maritime Commission moving ahead to end this long practice that has no practical utility and imposes burdensome costs and exposure to fines. Likely to end NVOCC tariff filing obligation by end of the year..

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16. How will we build bridges, widen roads, repair infrastructure – Congress will pass **a gas tax increase**, perhaps during a “Lame Duck” session after the November elections, when there is less public scrutiny and Congress can pass needed, but unpopular legislation.
17. **We can be proud that Commissioner Bersin chose CONNECT to host his first regional speech**, and we should be encouraged that the Commissioner emphasized, from start to finish of his presentation, the need to facilitate and grow trade, and that CBP needs to make **trade facilitation a top priority**.
18. CONNECT members should plan on coming to DC and meeting with CBP officials and Capitol Hill Congressional Delegation, and other key federal agency personnel – such as FDA – this September on the **Annual CONNECT Federal Policy Briefing in Washington DC, September 22 and 23**

Respectfully Submitted,
Peter Friedmann
CONNECT COUNSEL