

Subject: Second Open Letter to Importers and Exporters on ACE

Date: January 8, 2016

In a previous open letter, the National Customs Brokers and Forwarders Association of America (NCBFAA) explained the Association's role in facilitating the transition of the government's import and export processing automation to a new system, the Automated Commercial Environment. Much of this work has been done in partnership with software providers and U.S. Customs and Border Protection (CBP), as well as other regulatory agencies. We have reached a critical point in the transition and it is important that the recipients of this change, the importers and exporters whose goods must traverse U.S. borders expeditiously, without delay, understand what is occurring so that you can reasonably manage the impact of this change on your business.

The replacement of CBP's system is a very big deal for you. Data must be entered by your customs broker or forwarder for your products so that duties can be paid, observance of U.S. consumer and security statutes can be verified, and goods can be cleared for import or export without human intervention -- so that the border does not become an obstacle for getting your merchandise to market.

As with any transition of this magnitude, the potential for missteps is always there. In 2005, a similar transition to a new automated customs processing system in Australia resulted in disaster. The system was not completely developed and was not ready for use by the trade. Delays in clearing merchandise threw the country's economy into disarray.

In the U.S., an Executive Order has mandated a "Single Window" for the provision of trade data to every affected government regulatory agency by the end of this year. Early in 2015, CBP set a hard deadline of November 1, 2015, for all companies to transition to the new system (ACE) and transmit customs data, as well as the data required by ten or so partner government agencies to effectuate release of goods into U.S. commerce. The government wasn't ready, the private sector wasn't ready, and the transition was postponed for key components of ACE until February 28th, next month. This delay made sense. Rather than being driven exclusively by an arbitrary deadline, it was critical that any deadline be balanced by taking care that the hand-off was seamless. A number of events in 2015 and an inability to complete and test important components of ACE dictated that supreme caution be taken. We face the same decision now.

We have said that live testing of software by importers and exporters, by brokers and forwarders, by software providers, and by CBP jointly, without any further changes whatsoever, demand a minimum of sixty days. Customs now says that its work is complete; the facts, however, suggest otherwise. Software refinements continue and system updates are being issued on an almost daily basis. In fact, some entry



functions (such as the process for placing goods in a bonded warehouse), will not be available until the last minute, February 28th, the transition date.

NCBFAA has asked that all software changes for processes going into effect on February 28th come to a dead stop, so that software developers can field a final product and so that we, and you, can adapt our own automation systems to these new ACE functions, sufficiently test that software through use in an operating environment and work in partnership with our customers to develop business processes to successfully transition to the new system requirements.

NCBFAA has endorsed ACE as a vastly superior system to its predecessor. Brokers and forwarders have invested millions of dollars in matching the government's commitment to the "Single Window." Our goal is success for ACE, but more important is our commitment to our clients to achieve an uninterrupted flow of commerce. We have reached a critical juncture in the life cycle of this project. In order to avoid unprecedented delays and unnecessary out-of-pocket expenses, developmental work – to include meaningful testing and process development by the private sector - - must be completed before use of the new system is mandated and the existing system is terminated.

