Departmental Advisory Committee on Commercial Operations of U.S. Customs and Border Protection

November 17, 2006

The Honorable W. Ralph Basham
Commissioner
U.S. Customs and Border Protection
Department of Homeland Security
1300 Pennsylvania Avenue, NW
Washington, DC 20229

Dear Commissioner Basham:

COAC appreciates the opportunity to comment formally on the creation of the Office of International Trade (OT) at U.S. Customs and Border Protection (CBP). We understand that CBP will transmit these comments to the appropriate Congressional committees, in accordance with the requirements of Section 401 of the Security and Accountability For Every Port Act of 2006 (P.L. 109-347).

As you are aware, Assistant Commissioner Dan Baldwin discussed the creation of the new office with 11 COAC members via conference call on October 17, 2006. COAC supports your goal of facilitating the flow of legitimate commerce while securing our borders and protecting against unfair trade practices and illicit commercial enterprises. COAC's comments on that call regarding OT were generally favorable with respect to your overall purpose in creating the new office and the efficiencies intended to be gained. The goals of eliminating redundancy and streamlining functions are laudable and should benefit CBP and the trade community if they come to fruition. Likewise, we are hopeful that the creation of OT will lead to increased prominence within CBP of the functions encompassed in OT's mission, including functions related to intellectual property protection and enforcement against counterfeiting.

However, there is little detail at this point on the specifics of OT's mission and the office's relationship with other functions within CBP and the Department of Homeland Security (DHS), nor on the specific improvements expected to be realized as a result of the reorganization. As a result, our comments, while

supportive, are conditioned on receipt of more detail as implementation of OT continues.

As discussed and approved at the November 9 COAC public meeting in New York, COAC's specific comments follow:

1. We would appreciate detailed information regarding OT's overarching mission as well as the missions of each of its component offices.

2. COAC is seeking clarification of the relationship between OT and the Office of Field Operations (OFO). We understand that OT is responsible for developing policy and that OFO is responsible for its implementation; it would be very helpful, however, to clearly and publicly define the relationship between these two offices. It is vitally important that there be no disconnect between these two offices, neither at headquarters nor in the field. We are concerned that it may be more difficult to ensure consistent implementation by OFO of policies created outside of that organization. To safeguard against implementation issues and to ensure that policies developed will be effective in the field, OT and OFO must communicate consistently as policies and the resulting implementation strategies are developed. In addition, continuing quality control functions should be implemented at the locally and regionally controlled OFO level in a very robust manner to ensure uniform implementation of policies between ports.

3. It would be helpful for COAC to have a better understanding of the respective roles of the newly-appointed Assistant Commissioner for International Trade and Trade Relations Mike Mullen and Assistant Commissioner Baldwin with respect to the trade community and the development of trade policy, planning and program development. Likewise, COAC is seeking clarification on the role of the senior trade policy official at DHS, Assistant Secretary for Policy Stewart Baker, vis-à-vis OT.

4. CBP has undertaken reorganizations in the past, some of which have not been viewed by the trade community as particularly successful. COAC cautions CBP to ensure that OT's authority and its relationship with other CBP and DHS functions related to trade are well-defined and widely understood so that OT will meet its desired objectives.

When this does not occur, the results are detrimental both to CBP and its mission and to the trade community.

During the call, COAC expressed an interest in receiving additional information as to the mission of each of the offices that fall under the jurisdiction of OT, which Assistant Commissioner Baldwin indicated that he will provide to COAC. To augment the presentations by you and other CBP officials at the November 9 COAC meeting, we look forward to receiving this information to more fully understand the new office's operations. In addition, this information will be of particular use in connection with the work of the COAC Subcommittee that will be working with CBP in assessing the impact of establishing OT and providing a report to Congress by October 2007, as required by Section 402 of the SAFE Port Act.

COAC values the excellent working relationship between CBP and the trade community. We look forward to working with you, Assistant Commissioner Baldwin, and the OT staff as implementation of this reorganization continues as well as to continuation of this strong working relationship as OT undertakes its mission.

Sincerely,

MEMBERS OF THE 9th TERM COAC

Anthony Barone, Pfizer, Inc.
Sandra Fallgatter, JC Penney
Scott Johnson, Gap, Inc.
Christopher Koch, World Shipping Council
Marian Ladner, Epstein, Becker & Green
Bruce Leeds, The Boeing Company
Mary Jo Muoio, Barthco International, Inc.
Karen Phillips, CN
Bethann Rooney, Port Authority of New York & New Jersey
Peggy Rutledge, GreenLine Systems, Inc.
Norm Schenk, UPS
Lisa Schimmelpfenning, Wal-Mart Stores, Inc.
Bob Schueler, Delphi Corporation

Brad Shorser, Sears Holdings Corporation
Kevin Smith, General Motors Corporation
Curtis Spencer, IMS Worldwide, Inc.
Tom Travis, Sandler, Travis & Rosenberg
Hank White, American Bar Association
Mike Zachary, Port of Tacoma
Federico Zuñiga, F. Zuñiga, Inc.

cc: DHS Assistant Secretary Baker
CBP Deputy Commissioner Spero
Treasury Department Deputy Assistant Secretary Skud
CBP Assistant Commissioner Ahern
CBP Assistant Commissioner Baldwin
CBP Assistant Commissioner Mullen