

Episode 9- CBP Global Identifier Program

Donna Wedgeworth: I'm Donna Wedgeworth, a Senior Trade Advisor at Torres Trade Law. And my guest today is Mr. Anthony Saranchak, better known to us at Torres Trade Law as “Tony.” Tony is a Senior Customs Advisor with the Torres Trade Advisory Group, and he has extensive experience in Customs and regulatory audits, over two decades of experience working directly with U.S. Customs and he spent most of that time as an Assistant Field Director in Regulatory Audit. After his government service, Tony applied his vast knowledge of Customs regulations to multiple positions in the commercial and private sector, and also as an independent consultant to the trade industry. And we're very pleased to have him as a part of the Torres team. So, thanks for being here today, Tony.

Anthony Saranchak: Thank you. Good to be here.

Donna Wedgeworth: This is actually Tony's second appearance in the Torres Talks Trade podcast. Be sure and catch his conversation with our Senior Associate, Derek Kyle, discussing CBP audits in episode number five. Remember, you can find Torres Talks Trade podcast on Spotify or iTunes or Amazon music, or most anywhere you get your podcast. So, they're also available on our website at TorresTradeLaw.com.

So, let's move on to today's topic, recently I was reading through the CBP Daily Digest Bulletin, like a good trade compliance professional should be doing, and I noticed a message about an update to the Global Business Identifier pilot program. And, I realized that I really hadn't heard much about that program since it was initially rolled out by CBP back in the Fall of 2020. I did some research to see what the current status of the program looked like, and that started a conversation with Tony, and it led to some interesting observations about fraud and identity theft in global trade. In addition to that, it was a recognition of how Customs Global Business Identifier Evaluative Proof of Concept, or “EPoC” as they're calling it, is really just a microcosm of a much bigger global picture for not only what CBP's future is going to be, but also really the future of global trade and specifically global trade supply chains on the importing side.

We wanted to share this with you today and discuss how it might impact your business enterprise, particularly if you're importing. Let's jump right in. Just a little background before we move too far in. Currently, and Tony correct me if I'm wrong on any of this, but currently there are two CBP codes that we want to mention so far.

Number one, is if you're going to import into the United States, you have to have an importer ID number. That's also known as your Importer of Record number and that's issued by CBP. And why do you need this? Well, mainly because it's a key piece of the information that's required by CBP regulations is part of the entry process. Without it, you can't complete an import. So that's number one. Number two, if you're importing textiles and apparel, the manufacturer is required to be identified by something known as an MID code that's a Manufacturer Identification Code, and this code is required by CBP to identify the actual manufacturer of the imported textile or apparel products.

Now, I mentioned some words there that should already be resonating with our audience. Textile importing, and identifying textile manufacturers. These are key words that everyone is hearing in global news right now. Particularly with regard to the identification and elimination of forced labor in our supply chains. As we know, that has been rife in the textile industry in particular. So, let's keep going now. We know about those codes now. CBP's proposed program, their global business identifier or GBI, would consolidate and replace those two ID codes with one unique global identifier that will be used not only to identify the importer, but also to identify all of the entity roles and functions in the supply chain that are associated with those imported products. The GBI is one step toward CBP's larger One USG concept. Their goal is to unify reporting of all the trade transactions information into one method that synergizes all that data relevant to CBP and all the data relevant to their PGAs, our partner government agencies into one platform.

So, from an import perspective, the IOR and the MID are two very important codes for CBP. Tony, start by telling us why is that IOR so important? And why is CBP proposing this new harmonized importer ID system?

Anthony Saranchak: The Importer of Record number is, for most U.S. importers, their tax ID, and that's the number they'll put on the application. And Customs is just authorizing that this can be used in the Customs systems for declarations and input entry. You can be a foreign entity that can get an IOR, Customs will assign it if they don't have a U.S. tax ID. That number's important because that is putting down on official record, who is responsible legally for that shipment.

So, who is entering it, this is the entity that's responsible for it, this is the entity that's going to have to provide, if Customs has any questions or inquiries, sufficient merchandise data and documents to support that declaration. That can be an extensive amount of data and documents. Once you get in start talking about free trade agreements, quota, anything with textiles, special duty

preferences, U.S. goods returns, U.S. goods approved abroad, for sale for export, and even the special tariff provisions, Customs is going to be looking at those. They're probably just starting to look at those, to whatever extent to look at them. Because you have to remember, Customs has a five-year statute of limitations. So, they're usually behind in looking at things because of resources and because they know there's this five-year window that they can go back and look at things.

Donna Wedgeworth: Right, right.

Anthony Saranchak: There's also been in some cases, rulings requested and court cases involving who the IOR actually was. What happens is, there've been parties that disputed that after the fact, usually when money gets involved, where one of the parties didn't intend to be the IOR, but was, because they weren't paying attention. And then, for some reason, anti-dumping or free trade agreement, Customs comes along and sees an issue and they assess significant duties and penalties.

Then that wakes one of the parties up to say, "We never intended to be the IOR," but then you have a lot of resources involved to try and straighten all that out. You were to avoid that and be more on top of things ahead of time. Just like with on an individual basis, there's a lot of identity fraud and theft up information, credit cards, SSNs. Now that's carrying over onto the business side with identity theft. It's an issue there also.

Donna Wedgeworth: So, clearly important. This pilot program, tell us a little bit about what you know about what CBP's goal here is and what are they're trying to do with the pilot program?

Anthony Saranchak: Okay. The other reason they're going forward with is to try and find one global identifier number that's more reliable. Another thing they've relied on in the past to send resources overseas to other countries, mainly for textiles to review, to actually go to manufacturing locations and see what they're doing. They've, in the past, have used the MID, the manufacturer ID, number a lot to do that. And that number, unfortunately, just hasn't been as accurate as they intended originally. It's based on a couple things, it's a little like an algorithm that's based on the manufacturer name, their address, and their city and the country code is the first two characters. What's happened is, over time where factories and suppliers have multiple addresses, a lot of countries have trade zones where you can have the warehouse and the headquarters are right next to each other, but different addresses. So the MIDs have kind of gotten diluted and not as consistent or reliable as was intended.

Donna Wedgeworth: Okay.

Anthony Saranchak: So, Customs with all this is relying on that to do some targeting and use their resources. They're looking for a better way to do some of their targeting. But also, help facilitate trade and, because Customs has limited resources, they don't want, they don't want to waste time looking at shipments that they really don't need to.

Donna Wedgeworth: That makes sense. So, they're targeting for enforcement is really...

Anthony Saranchak: Right.

Donna Wedgeworth: ...These numbers are all identified. When we were looking at the specifics on the pilot program, the test that's currently running is offering three number options. Tell us a little bit about that. One is familiar and one is maybe not as familiar to a lot of people.

Anthony Saranchak: Right. And again, they want to run this pilot and the goal is to hopefully narrow it down to one number that they might proceed forward with. So the three numbers are the DUNS number, which is the data universe numbering system. That's by Dun & Bradstreet.

Donna Wedgeworth: The common, to most every business.

Anthony Saranchak: Of the three, this is the most commonly used one, the DUNS number. The other number is a Global Location Number that is sponsored by or run, overseen by an organization called GS1. And that relates more to the barcode on products and identifying who owns that barcode. The Legal Entity Identifier is the third one from the Global Legal Entity Identifier Foundation. All these are separate organizations that self-govern, they're separate from U.S. Customs or any other customs or country. Customs is trying to, if they can, get to an identifier that's independent, that they can rely on better.

Donna Wedgeworth: Okay, so independent, outside of the government. That makes sense that none of these numbers are being issued by Customs. These are the ones that they're going to say, "If we take this out to an independent authority to issue these numbers, then the goal would be to increase the reliability and information," hopefully.

Anthony Saranchak: Right.

Donna Wedgeworth: That's the goal for everybody. Okay, that makes sense. You mentioned that currently the IORs and the MIDs are very vulnerable to bad actors, to fraud. Who's currently who's monitoring the IORs in the import traffic, and trying to keep them from being hijacked? It sounds like that's what you're saying, that these there's really so little reliability, the IORs, and even in the MID. So, who's monitoring that right now?

Anthony Saranchak: It's really up to each importer to monitor their own trade data what is being declared to Customs under their IOR. And it's the IOR that mainly is misused by illegitimate parties for business identity theft. If you're going to misuse someone's number, you're trying to evade the law somehow, or bring in prohibited merchandise. You're doing something, or you're trying to get something in, that you shouldn't, or you're trying to evade duties.

Donna Wedgeworth: Okay.

Anthony Saranchak: So, Customs has limited IT resources to validate that field on an entry-by-entry basis. It really comes down to each port importer to be looking to have an ACE account set up, so they have access to their data and they're looking at it on a regular basis. What we're seeing is you can get that data from the brokers. But sometimes that's an extra step to get it. And a lot of companies, what we're seeing now, don't have the ACE account set up and it's taking time to get it, because Customs just getting so many requests at once.

Donna Wedgeworth: I know that's something that you and I both have run into so many times over the years where the importer relies very heavily on their agent, their broker, rather than taking the initiative to look at their own accounts in ACE. That's what that information is there for gives and it's readily available, so, they can monitor it.

Anthony Saranchak: Yes.

Donna Wedgeworth: Makes sense, and that is, unfortunately, one of the easiest ways to check. And one, I find that is the least used when trying to make sure and do a little internal inspection, internal audit to monitor your activity rather than relying on a broker. So very important point to remember that. Now, specifically, regarding the importing, tell us a little more about the issue of identity theft, and what impact you think that's having on U.S. imports and really global trade as a whole. Because this is getting pretty bad lately.

Anthony Saranchak: One level of it, the first level of it, is who's using your IOR? And that relates to sometimes brokers make inadvertent errors because

they're operating on the fastest data input that they can. They get the entry, the information, and sometimes they use the wrong IOR. And then you add into that, the other variable of parties out there trying to do illegitimate things, looking for an IOR to use. You have to stay on top of this to identify any entries that aren't really yours. Because if you have an illegitimate party doing something, they're not going to keep using your IOR over and over, they're going to use it for a short period and then they're gone. And no one's going to be able to find them. So, the broker, the importer, is still on the hook. That's who Customs is going to come through first if they have question or inquiries on that. Over time, with talking to them, you may figure it out that, "Okay, it's not our entry." But it's going to take up your time. Customs is not out to say, "I got you. This isn't your entry, you let it slip through." But they have to show, if they are asking a question or asking it for a reason, and it's not just some random question they have probably targeted or something that's come up in the industry that they're looking for. So, it's going to take up your time to try and answer that question and show to some level it's not your entry. It's easier to be proactive and find those ahead of time. And then you go right to the broker and say, "What's going on here? This doesn't look like our entry?"

Donna Wedgeworth: Got that, makes sense. Not only is the IOR, the importer's IOR, potentially at risk. But it sounds like that the identity of their legitimate supply chain entities could also be at risk for compromise under this current system, the MID system, true?

Anthony Saranchak: Yes, because, if you have related parties or sometimes there's multiple layers involved, sales and purchases, it can get complex to monitor who all those entities are because you're relying on the next person back. That's part of what this pilot program, when it starts, is trying to do so. These three numbers will not be required just for the importer, but if the importer wants to join this, Customs is asking that the importer goes back and get these for all the other entities back in the transaction.

Donna Wedgeworth: Right, okay.

Anthony Saranchak: They would have to coordinate. It's a little bit of a burden on the importer. I don't know if everyone can do it, even if they wanted to. But it'll help your supply chain better. If these other entities have to have these numbers.

Donna Wedgeworth: Right and that is echoing what we're hearing so much, again, with "supply chain visibility, supply chain visibility," right? This is another link in that chain that is putting, as you said, an obligation on the

importer. It's more work, but you learn to do it now because you're going to have to do it later. This is showing us that this is not an *if* it's going to happen, it's a *when* it's going to happen. And not only it's...

Anthony Saranchak: And it's pretty clear.

Donna Wedgeworth: ...And not only when this is going to happen, but also, the potential for either you as the importer or someone in your supply chain to be compromised by a bad actor. Right?

Anthony Saranchak: Right. Because I think Customs definitely wants to move on to some new identification number. That's pretty clear, because they've been discussing about this for a couple years now. And it's been in industry groups with representatives from trade and different industries that want something better too. It's like a joint concern of everybody. And again, going back, once you start adding more parties into a transaction, it gets hard to know who you're doing business with. Some examples of that are, I've seen examples of rogue truck drivers or rogue port or dock workers that caused big companies problems for importers, where a whole shipment got seized. An example of that with the rogue truck driver was a shipment that we were helping this company prepare for ISA. We got into a discussion about this one shipment that got seized. So, they got a Customs notice and a big penalty and everything. It was a related party in Mexico. They had more control of the situation, as far as who the parties were, but the one transportation company, the trucking company, had a rogue driver. And this was obviously a very well planned out scheme where they were diverting the truck to a point before they got to the border with the U.S. They were using some heavy equipment, obviously, to take off the doors of the truck. Then they were putting prohibited merchandise on, putting the doors back on so they would not break the seal. Then the truck went on its way through the border, got cleared, and then they would divert it again. So, they had people on both sides of the border they were coordinating with, took the doors off, took the prohibited merchandise off, put the doors back on and then went to the importer location. Well, they got caught one time because they forgot to put one of the pins back in, in Mexico, putting the doors back on. With C-TPAT and all that, there's more awareness of that by the CBP officers. They noticed it, and they pulled the truck over for a more intensive exam and they found the prohibited merchandise and the whole truck was seized. They had all those customers, they got the merchandise back eventually but they had customers waiting for product that they couldn't get there on time.

Donna Wedgeworth: All of that's sitting there because now this has happened and there's no way to eliminate that delay. So even for a legitimate user, legitimate company.

Anthony Saranchak: Right. Customs is not looking for over the board, “We have to observe every truck coming across,” or something. They're looking for reasonable care, due diligence, but you can't stop it all. Unfortunately, there are going to be cases where you have shipments seized. One way that inadvertently some company officials do is, around the holidays or something, they say, “Oh, I want a case of wine from somewhere or some cheese from somewhere or some type of food gift package, to give out.” And they have someone just put that on the back of the truck or on the container. Some of those just happen to get examined further. Again, the whole container can get seized. If you have something prohibited, not only did you not declare it. You could have something on there that wasn't declared that's one issue. But when you have something prohibited that elevates the whole issue.

Donna Wedgeworth: And again, a delay.

Anthony Saranchak: Yes.

Donna Wedgeworth: You have to monitor that chain. Looking back at the at this new Global Business Identifier program with CBP, do you see some potential benefits for importers moving to the new identifier system?

Anthony Saranchak: I think it's important, even if you're not going to be part of the pilot, to follow what's going on with it and see what works for each importer, to assess what they're doing now and what they could be doing better in the future. You would start by looking at talking to accounting and purchasing, how do they set up two vendors? What's their vetting process and then what do they do after that? Are they part of C-TPAT? If they're not, is that something, as a start, to get into. That's more like physical security related, not necessarily business identity, but it would be a first good first step, if you're not in it, to start this process.

It's a very intensive internal look at yourself. To start everyone talking about what's going on, because what they're eventually, Customs, what C-TPAT requires, a little bit, and what this eventual one identifier are looking for, is that not only does the U.S. importer have to go to the first entity back and say, what are you doing to monitor these identities? Then that party's supposed to go to the second party and ask that and to the third party on and on all the way back. So that there's more assurance, that everybody knows who they're dealing with.

And it sounds simple at times, but it can get convoluted very easily. I've seen import and export situations, I've been involved in investigations while at Customs, where there were hundreds of shell companies and layers of bank accounts set up for money laundering and nobody saw it. It was so layered and complicated that the U.S. importers didn't even realize they were part of it.

Donna Wedgeworth: Wow. So, we know that CBP is going to be moving forward with the pilot. In fact, there was a Federal Register Notice that was published in March of this year and that opened up a second round of public comments about the program. We know they're moving forward. Also, in the One USG Working Group that is a part of CBP. It's the part of the Commercial Customs Operations Advisory Committee, or what we commonly know it as COAC. They mentioned it in their quarterly public meeting that was on June the 29th. It's a topic of discussion. It is a big push for CBP to get this done. In fact, the Acting Director of Trade Policy and Programs in CBP's Office of Trade, Gail Kan, she said in her comments in the last COAC live meeting and quote, "We are going forward with the Global Business Identifier initiative." That was a very positive statement. She went on to say that CBP is quote, "super close" to having OMB approve the expansion of the test from the current nine participants onto all participants in the trade on a voluntary basis thus far.

But we know this is happening, and at some point it's not going to be voluntary anymore, it will be a requirement. So, it's best that everyone stays aware of it now. When we combine that with the clear message that Customs and other government agencies are squarely focused on eradicating forced labor in our supply chains, that's a paramount enforcement issue, and we know that. What should an importer do with all of this information that they have now? Where do they start?

Anthony Saranchak: The first thing you remember is that compliance for this, as with most trade issues, it's continuous. And that's even more important with the supply chain, looking at, assessing what you're doing now, talking to a third party, if you need to, about what's going on in the industry. Because a lot of these companies are so cost-sensitive that all these parties in the supply chain equation keep changing. So, it's hard. It's complex to keep up with who you're doing business with and who all the entities are in that whole supply chain. Because now you have more warehouses involved, you have more touchpoints or entities involved that there's points where things could go wrong. A lot of companies are consolidating and at a foreign en route point. So, instead of the truck just going from the warehouse, right to the port to get loaded, a smaller shipment's going to a different place first, where it's being combined with something else to have a full container. So again, you have more points, more

people involved where you have to make sure you know who all those entities are.

Donna Wedgeworth: Every single one of those entities needs to be identified. And if we were putting that in this new pilot program, forward looking every one of those entities would need to have one of those identification numbers that CBP is proposing, one of the three right now though, ultimately become one, correct?

Anthony Saranchak: Yes.

Donna Wedgeworth: So, it's important now that an importer take those steps to ensure that they know who you're doing business with. It's as simple as that, right?

Anthony Saranchak: Yes.

Donna Wedgeworth: And I would say of course, in trade compliance in general, document, document, document, everything. Correct?

Anthony Saranchak: Correct.

Donna Wedgeworth: They need that, and I know when I was in, recently CBP held their big annual summit and one of the things that was echoed was having a documentation and a system in place was only half the equation. But, in addition to that, and to your point, Tony, when they're inspecting or doing their supply chain inspections, when they're doing their internal evaluations on these shipments and getting prepared for this, to ensure that there's some evidentiary information available, in the event that their IOR or one of their Manufacturer Identification Codes does get compromised, and a shipment is delayed and contraband is discovered then if the importer has taken due diligence to investigate their supply chain and has evidence that they can present to CBP to say, "This was clearly done without our knowledge." That's where they need to be. Right?

Anthony Saranchak: Correct. Another point to bring up is that with manufacturers and suppliers, U.S. Customs has data sharing agreements with a lot of countries. So, Customs might know about a bad entity before the importer does. And you could have a shipment targeted. Customs' take has a lot of internal data, they're trying to use their resources the best way they can to find anything that's non-compliant or prohibited or illegitimate goods. They want to

have the best targeting process possible to keep the goods moving that don't need to be looked at and to find stuff that they want to.

Donna Wedgeworth: Excellent. It's another step in the process. Our world is changing, so our global trade is changing and must change along with it. And it is advancing clearly faster than CBP can keep up. Even if advancing quicker than a lot of the importers can keep up as well. But forewarned is forearmed, this is going to happen. Importers do take heed, this is going to be necessary. And not only is the government watching, consumers are watching it. Social compliance efforts are very important now, consumers are watching that. All of this plays into a much more broader global picture for importing and for trade in general. So, thank you for being here today, Tony.

Anthony Saranchak: Thank you for having me.

Donna Wedgeworth: I think this is a very interesting topic. It really is and it's something that we're definitely going to come back to. So, we're going to continue to monitor this. The pilot program is going on right now. CBP is going to continue with that pilot. We're going to keep monitoring this for you and we're going to come back and I'm sure we'll have more to talk about as this pilot eventually comes to fruition and we do believe it will and soon. So thank you for being here today and thank you for listening everyone.

Anthony Saranchak: You're welcome.

Donna Wedgeworth: As always you can catch this podcast along with all of the other Torres Talks Trade podcasts on Spotify, Amazon music, iTunes, all of the places where you would normally get your podcast. And, if there's anything that we can help you with, of course, please do let us know. And our information is always available on our website at torrestradelaw.com. Thank you so much. And we'll talk to you, again.