



October 2020 - Info Expeditior

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WESCCON 2020 Was a Virtual AND Real Success



WESCCON 2020 was held remotely on October 22nd and 23rd. This event was a "virtual" success which provided attendees with a full agenda of informative and substantive seminars featuring leaders from Customs, FDA, and West Coast Ports. Speakers also included compliance experts, attorneys, surety representatives, and leaders of the international trade community. Congratulations are due to **Eduardo (Lalo) Acosta, the PCC President**, for leading the PCC during what can mildly be called a "difficult time" for all. Many thanks, as well, to **Maurine Cecil, WESCCON General Chair, and the entire WESCCON Committee.**

Excerpts and highlights from WESCCON 2020 are featured throughout this edition of our newsletter. We hope that you will find value in these articles, and that they perhaps will encourage you to attend WESCCON 2021 next year **in person** at Palm Springs.

CBFANC Elections for 2021 Board of Directors

Chris Ramos, Chairman, CBFANC Board of Directors

DEADLINE FOR NOMINATIONS IS NOVEMBER 6, 2020!!!!

CBFANC Board of Directors
2021 Elections coming up soon!

Ask not what CBFANC can do for you; ask what you can do for CBFANC!

- [Happy Thanksgiving from CBFANC to ALL](#)
- [All Compliance Matters Regardless of Chaos and Confusion!](#)
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FDA to Meet with Brokers on November 5, 2020

FDA is hosting a virtual meeting with brokers on November 5, 2020. This meeting will give brokers a chance of ask questions, get updates on issues, and also learn of the workings within FDA during the COVID crisis. Please see the article in this newsletter for details.

CBFANC Educational Events Schedule

Topics

August 19 - Classification Webinar
 September 16 - CBP CEE Seminar
 October 21 - Valuation
 November 18 - Export focused webinar
 December 9 - Happy Hour (Holiday) or CBP Importer/Broker Audit Assessment or BOTH! TBA.

CBFANC Social Media

Please connect with us!

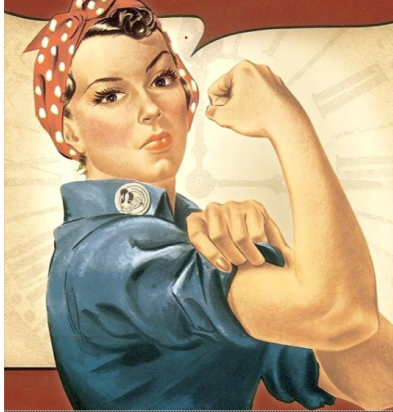
Twitter - [@cbfanc](#)

LinkedIn - [CBFANC](#)

We Want You



We Want You!



We are seeking member participation on the CBFANC Board of Directors. If you are a professional member of CBFANC and are interested in serving on the board of directors please ask another member to nominate you for the upcoming elections. Nominations can be sent to info@CBFANC.org.

If you know a fellow CBFANC professional member who you think would be a great addition to the board of directors, contact that person and see if they would like you to submit a nomination in their favor to info@CBFANC.org.

Board terms are for three years. The board meets every other month for a dinner meeting, and on other months it meets via conference call.

Now is your chance to help shape the future of our association.

The election results will be announced at our annual meeting/holiday gathering to be held on December 9, 2020.

Facebook - CBFANC**Events Around the Bay**

- [P.A.E.I](#) - Professional Association of Exporters and Importers
www.paei.org.
- [OWIT NC](#) - Organization of Women in International Trade Check website for updates
- [Monterey Bay International Trade Association \(MBITA\)](#) - Monterey Bay International Trade Association
Check Website for updates
- [Norcal W.T.C.](#) - The Northern California World Trade Center
Check Website for updates
- [PTA](#) - Pacific Transportation Association
Check Website for updates

Below, Chris Ramos, KSI Inc, CBFANC Chairman**E-Commerce Challenges CBP Resources and Mission**

Jack Hubbard, Editor



Richard DiNucci, Director of Field Operations, pictured above. Below find highlights of Mr. DiNucci's WESCCON 2020 presentation.

Pilot program tackling e-commerce has been a huge change in the field at the ports of Oakland and SFO. High volumes is the major challenge. The shut down of air due to COVID resulted in volume shifting to ocean freight.

Some carriers are allowed to move containers from Oakland to SFO area locations for exams. But, this is a challenge, we are finding too much non-compliance.

We must focus on the security angle, while other focus points will not go away. Increased volumes are likely to stay. Due to the drastic drop in international passengers, we have been able to move personnel to cargo and this has been helpful. But, when air travel recovers we will have a big staffing problem.

CBP needs to be more agile technologically in order to deal with the dramatic increase in volume resulting from e-commerce. Relationships will have to be much more transparent to help us cope with the vast amount of data needed to successfully handle these shipments.

Non-compliance sits at 20%, which is no where near where we need to be. Will be relying on our trusting partnership with licensed Customs broker before solely relying an automated

computer process. We cannot do this without their help.

New CARB Program?

Henry Osaki, Mutual Express, and TWG co-Chair

CARB Advanced Clean Fleet Rule

- CARB is working on a new clean truck regulation
- 1st Workshop held 9/18/20
- The rule is for all trucks in California, but the initial focus is Drayage Trucks



- Goal: 100% electric drayage truck fleet by 2035
- Concept: Starting in 2023, any new truck entering the CARB drayage registry must be zero-emissions electric truck.

Per the above info, below is an urgent follow up message from Henry Osaki, Trucker Working Group Co-Chair. Henry works with Mutual Express.

There is an urgent issue on CARB's recent regulation where any new truck that registers into the CARB Compliance Database (Drayage Truck Registry) stating beginning 2023 must be zero emissions. That's correct. Zero emissions for semi-trucks. For cars it's 2035. As you know we truckers must be registered in the CARB DTR so anyone with a new truck must register their brand new trucks 2023 or after. This is going to crash the market if not skyrocket existing rates, cut down on the number of trucks going in and out of the port. 2023 is still just over 2 years away. There isn't even any manufacturers out there for this or technology much less parts, kits, or anything!

No proper research, feasibility studies, factual effective numbers, and much of it based upon "well that sounds like a great idea".

Unchallenged, this is going to have a very severe and astronomically huge impact on all of us.

FDA Virtual Meeting Nov 5

From CBFANC Agency Committee: FDA-Broker meeting November 5, 2020 10:00 a.m. to 12:00 p.m. FDA Division of West Coast Import is inviting Customs Brokers for a virtual semi-annual meeting for updates and discussion. Members are encouraged to join and to submit agenda items ahead of meeting.

Please RSVP to CBFANC for meeting details for broker meeting with FDA:

<https://fda1.webex.com/webappng/sites/fda1/meeting/info/0>

[391c49fe8e3449f867e58a5762e19e8?MTID=mb07d9df2bec30d7b0087ff27dfcc7d37](https://www.cbfanc.org/v_newsletters/newsletter_8353271.htm)

ISF a Big Challenge in the Sec 321 e-Commerce Environment



Jim Swanson, Director of Cargo & Security Controls Division CBP. At WESCCON 2020 he expressed concerns and challenges regarding ISFs in the brave new world of e-commerce:

ISF is a huge issue, each pkg needs an ISF to the lowest level B/L. To accomplish this we need to capture data directly from the players, and develop a different focus that is not on a transaction basis. We know that we can rely on data from the people who actually have it. Block chain could result in more accurate processing. This year the pandemic increased volume. How do we handle containers, how will exams be done? We still need resolution in this area for ocean freight shipments.

Oakland As Seek to Remove Howard Terminal From Port of Oakland

Evey Hwang, CBFANC President, Alba Wheels Up



Let's build a ballpark and destroy the Port of Oakland!



Evey Hwang, CBFANC President and ardent opponent to the Oakland As real estate development.

October 29, 2020 – **Bay Area Conservation Development Seaport meeting**

BCDC's Seaport Planning Advisory Committee meeting included updates on Seaport Plan and an opportunity for the East Oakland Stadium Alliance to voice concerns.

From East Oakland Stadium Alliance (EOSA):

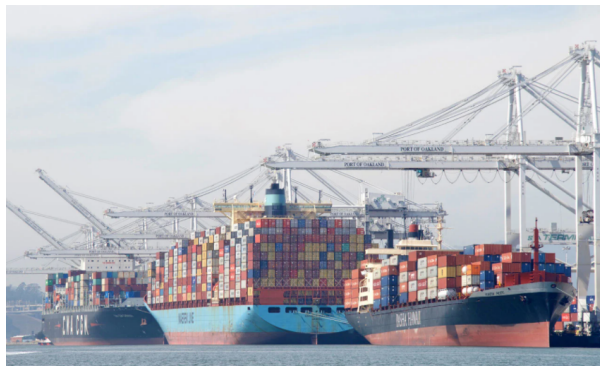
"Consistent with the Bay Plan, the Seaport Plan designates areas determined necessary for future port development as port priority use areas to reserve them for cargo handling and regional maritime port use. On January 17, 2019, BCDC voted to initiate two Bay Plan amendments to update the Seaport Plan. Bay Plan Amendment (BPA) No. 1-19 is a general update of the Seaport Plan to revise the plan's cargo forecasts and related policies, ensure consistency with updated Bay Plan policies, and update mapping and port priority use designations to reflect changes in port planning and operations. **BPA No. 2-19 specifically addresses a request by the Oakland Athletics to remove the port priority use designation from Howard Terminal at the Port of Oakland to allow for the development of a baseball stadium and mixed-use district on and adjacent to the site.** Ultimately, the SPAC will consider both amendments and provide its recommendations to the Commission.

Bottom line is that if Alternative 2 is adopted, Howard Terminal would be removed as a port priority use designation, thereby clearing the way for the A's to move forward with their plans to build a ballpark and luxury housing. As long as Howard Terminal continues to be reserved for maritime use, the A's cannot move forward with their real estate plans.

In past meetings, BCDC has already discussed the importance of Howard Terminal to the future success of the port and it's imperative that they hear directly from our coalition on Thursday that they must remove Alternative 2 from all consideration and retain Howard Terminal as a port priority use area. **We are at a critical juncture in this process and need robust participation from members during public comment at Thursday's meeting.** "

As a member, CBFANC is aligned with EOSA and opposes Oakland As landgrab on Howard Terminal for a ballpark and luxury condo development.

West Coast in Turmoil--Terminals, Cold Storage, Trucking All Struggle; Emission Controls Could Close CA Ports



Containers are ready to unload, & there are containers on deck waiting to be put on ships. High volumes pose challenges for our industry. Add to that emission control goals that are based on fantasy and will cause lasting and devastating damage to our ports.

While import volumes have ebbed and flowed during the COVID crisis, exports have stayed strong. Volumes of cargo overwhelm the ports. The demand for West Coast cold storage capacity has grown, as protein and other temperature sensitive exports are shipped from the Mid-West and other inland points of origin. Meanwhile, imports of food stuffs have dramatically increased--all requiring cold storage capacity, drayage trucking and proximity to marine terminals. Recently, Gov. Newsom put forth unrealistic emission control mandates. These and other topics were covered by a lively panel presentation that featured the following speakers: **Branden MacDonnell, PCC Logistics; Weston LaBar, Harbor Trucking Association; John McLaurin, PMSA.** [Please click on the link below for excerpts of their comments and ideas.](#)

[The panel discussion begins here...](#)

Pacific Ports Panel Discusses Challenges and Search for Solutions

Moderated by Bill Mongelluzo, Journal of Commerce



Bill Mongelluzo, JOC, served as the moderator for the annual Pacific Ports Panel, which is always a highlight at WESCCON. Speakers included [Mario Cordero](#), Port of Long Beach; [Gene Seroka](#), Port of LA; [Bryan Brandes](#), Port of Oakland, and [John Wolfe](#), NY Seaport Alliance

(Seattle/Tacoma). Below are some of the opening remarks by Bill. The following discussions can be accessed by clicking on the link below.

There are big problems at the ports. Marine terminal congestion is terrible, there are severe chassis shortages, severe trucker shortage, warehouses are packed, space is tight or nonexistent. Meanwhile, West Coast ports have returned as the gateway of choice for international shippers. Let's talk about this.

[Ports Panel Discussion continues here...](#)

Port Updates

Evey Hwang, CBFANC President, Alba Wheels Up



October was a busy month at the Port! Also a stressful month dealing with congestion, delayed rail connections and chassis shortages at the ports. Below are notes from October Port meetings. Reminder to join the Pacific Coast Council Tuesday (10:00 a.m.) calls to gain insights on critical port concerns as well as trade issues.

For details about the below meetings, please click on the link below.

October 1, 2020 – **Public Engagement Meeting for the former Oakland Army Base**

October 13, 2020 – **PCNC Harbor Trucking Update**

October 15, 2020 – **Port Efficiency Task Force**

October 27, 2020 – **Trade Facilitation Committee**

Editor's note: Evey Hwang, president of CBFANC, attends many meetings every month, and serves as a vocal and effective advocate on behalf of our members. When you wonder what CBFANC does for you, please remember this single article, as it is representative of the hard work and time dedicated by CBFANC activists to benefit the greater good. Please continue via the link below for the details of the above meetings. Thank you.

[October Meetings Details can be found here...](#)

Comments on CES Applications Deadline: Nov. 22, 2020

CBFANC Ocean Committee

From CBFANC Customs and Ocean Committee, Important Notice from CBP inviting comments on CES Applications. Per Port of San Francisco Information Notice 728-21-03, invitation to submit comments on two Container Examination Stations applicants:

Customs Specialized Services, 1035 Watson Center Road, Carson, CA 90745;

Impact Transportation LLC, 2498 W. 19th St Bldg 806, Oakland, CA 94607.

Comments must be received within 30 days from the date of the Information Notice. Please submit your comments by November 22 2020 to:

U.S. Customs and Border Protection
Attn: Area Port Director
555 Battery Street
San Francisco, CA 94111

COVID19 Affects FDA Operations, Creates New Challenges



Daniel Solis, FDA Acting Assistant Commissioner, member of Office of Enforcement and Import Operations (OEIO), pictured above. Below is an excerpt from his presentation at WESCCON 2020.

PPE, hand sanitizers and other imports started at the very outset of COVID pandemic. OEIO is making sure that imports of food and PPE items are safe. This involves the OCI (Office of Criminal Investigations) at FDA. The OEIO has five regions in the USA. FDA can now debar importers in violation, and OEIO can destroy non-compliant shipments and unapproved drugs and opioids, and fraudulent test kits.

Due to COVID, FDA adopted remote location processes and tools. We engage in "mission critical" inspections, relying on CDC guidelines before going out into the field. We rely on CBP CES stations to facilitate inspections in the remote environment we are in.

[Read here about FSVP, Document Handling, and other new challenges](#)

Forced Labor Prohibitions--Awareness is Key to Compliance



Heather Litman, an attorney with GDLSK, LLP, spoke at WESCCON 2020 about anti-forced labor laws that can have big affect on importers if they fail to maintain proper controls over their supply chains. Below are excerpts from her presentation.

The regulations regarding forced labor read “wholly or in part” not just the finished goods, the new initiative includes all inputs. Consider for example the Uyghur camps and the oppression in that region of China. Even a small input from this region could result in cargo being seized.

19 CFR 12.42e, CBP will detain violative cargo, IOR has 90 days to prove no forced labor involved. 19 CFR 12.42f, if “no evidence to the contrary” goods will be seized. The Dept of Labor has a list of hundreds of items from 70 countries. Good resource is the Forced Labor page from CBP website: “Forced Labor Process.”

WRO: Withheld Release Order. IORs need to recieve a WRO or their cargo can be destroyed.

Difficult burden of proof: CBP wants the IOR to prove the absence of a negative, i.e. any forced labor, or North Korea labor, no inputs at all involved, etc. Do you know how goods are made, by whom, where and how? Do you have due diligence programs? Do you do supply chain reviews?

Please check the CBP website: Responsible Business Practices in Forced Labor Risk in the Global Supply Chain.

WROs are increasing, 9 so far this year, so enforcement is ramping up. However, auditing overseas is basically impossible due to COVID. This adds to challenges!

CTPAT Participation Falls During Pandemic

Steven W Baker, Law Offices of Steven W. Baker



CTPAT Minimum Security Criteria Changes and Covid Pandemic have led to Loss of Members

The Customs-Trade Partnership Against Terrorism (CTPAT) program has been losing members through both program withdrawals and suspensions for failure to comply with program requirements. The primary issues appear to be the changes in the Minimum Security Criteria that members must meet, and changes in the finances and/or importing activities of many companies due to the Covid pandemic.

[suspension & attrition are lead causes, read more here](#)

Genset Shortages Plague Port of Oakland

Sung Wook (John) Lee, SW Logistics



Attention import reefer clients at Oakland Port.

Did you know currently there is a shortage of gensets at the Port of Oakland?

From what we are told, some carriers are not guaranteeing genset availability for import reefer containers unless it is stipulated in the service contract.

Shortage of gensets may require importers to seek out their own genset arrangements per importer requirements or be forced to transload at port to domestic refrigerated trucks for delivery.

If any of our membership is encountering this problem, we would like to hear about it. Please email us at

ocean@cbfanc.org

Update on Continuing Education for Brokers, Sec 321 and Other Trade Issues

John Leonard CBP



John Leonard from CBP is Executive Director, Trade Policy and Program, Office of Trade CBP. At WESCCON 2020 he touched on a variety of topics. Below are excerpts.

A regulated program of continuing education is seriously past due. It will mandate a certain number of hours over a determined period, perhaps 3 years.

Sec 321 data pilot involves entry type 86 automated process for de minimus, not thru ABI but from other platforms to receive the data. Focus will be on more advanced information in order to address concerns about counterfeit, contraband, drugs, unsafe foods, etc. We will issue a NPRM, followed by the comment period, then new rules will take affect.

Trade remedies? Not affected by the pandemic. On Dec 9th there will be a webinar on exclusions and protests. Put it on your calendar!

The Global Business Identifier (GBI), will replace the MID. Evaluative Proof of Concept (EPC), will test this new data program, and CBP will be asking for volunteers. There should be a FR notice in mid 2021.

By and large, we anticipate entirely new entry processes for the 21st century. Licensed CHBs will remain a key participant. This evolution will be gradual and long term.

COVID19 Dictates

Keith Sanchez, Avalon



Keith Sanchez is Divisional Vice President with Avalon Risk Management. Keith gave a compelling presentation about the increases in cyber crime during the current pandemic. Excerpts are shown below.

Since COVID19, there are 20,000 to 30,000 cyber attacks per day. Phishing is up by 600%. Having offsite employees inadvertently increases risks such as, data breaches, attacks by ransom ware, denials of service that can jam your website. You could also be a launch point for malicious code and virus transmission.

Cyber crime's cost is \$108 billion to US businesses alone.

Everyone faces new exposures due to cyber crime: Lawsuits; cost of notifying customers; costs of restoring data; costs of business interruptions; liability for libel and slander; cost for IT forensics; fines and penalties from government agencies (federal, local and overseas).

Thieves use the internet to misrepresent legitimate cargo carriers, often leading for cargo being released to the wrong trucker! Be aware of fictitious invoices, which your accounting department might accidentally pay (that money will be lost forever).

[If you are breached, how does this affect your compliance under 19 CFR 111, and your CTPAT status???](#)

[Read here for additional details about this crucial issue](#)

Amendment to Interchange Agreement Increases Trucker Liabilities



Below is an excerpt from the official notification issued by the Uniform Intermodal Interchange and Facilities Access

Agreement for CMA-CGM, SPL, and ANL:

In the event Motor Carrier returns/delivers an empty Container contrary to Provider's Empty Return Instructions (i.e. at the wrong interchange or container yard, or under the wrong interchange and/or company), Motor Carrier agrees to pay a Mis-Use Fee of **\$1000.00** per occurrence, in addition to any per diem charges (see Section B) incurred from the initial interchange (outbound) up to the date of interchange in accordance with Provider's Empty Return Instructions. Notwithstanding the foregoing, in the event Motor Carrier returns/delivers an empty Container to Columbia Group Depot yard in Newark, NJ that did not originate from Maher Terminals in Elizabeth, NJ, a non-origination fee of \$250 per container will be charged to the Motor Carrier to cover the additional cost incurred for the empty return.

[To read the notice in its entirety, continue here...](#)

Happy Thanksgiving from CBFANC to ALL**All Compliance Matters Regardless of Chaos and Confusion!**

Paulette Kolba is a nationally known compliance expert who has also served on behalf of LACBFFA, the PCC, and NCBFAA. At WESSCON 2020, she made a presentation regarding new export requirements and the need for freight forwarder

awareness and compliance. Below are excerpts from her presentation.

The current regulatory landscape is chaotic and confusing. Executive orders can go into effect immediately! PGA scrambles to update regulations. FF must be extra diligent about what's going on and the new regs.

Issues can pop up without warning. For example, regarding PPE, executive order was issued on April 3rd, and on April 4th CBP was already holding cargo. Then, the regs came from FEMA a week later! CBP scrambled to put processes in place and share info with the trade. CBP now has experience in this area, as does FEMA, so the process is much smoother now. But, the start was bumpy.

Due to civil unrest in Hong Kong, its status was changed to mirror China restrictions. Controlled items needing a State Department license can no longer be shipped to Hong Kong. Anti-Boycott regulation and the impact of UAE leaving the Arab League. UAE remains on the list of countries who boycott Israel. Be sure that your staff is up to date on the boycott regulations.

[ECCN, EAR99, Military End Use, Routed Export Transactions, READ HERE](#)

Trade and Tariffs: What We Will Be Watching in the Months Ahead

Ray Bucheger, FBB Federal Relations



Ray Bucheger, FBB Federal Relations, works closely with OurManInDC, Peter Friedman, and he has been a strong supporter and resource for the PCC over the years. Below are excerpts from Ray's presentation at WESCCON 2020.

The environment in trade will not change no matter who wins the White House or Congress. small firms have been hit hardest, forcing some out of business. China 301 tariffs resulted in punitive duties on \$250 billion worth of cargo. Only a very small fraction of exclusions were granted, and not for the long term. On December 31st will exclusions lapse for

good? Keep in mind that the intent of our government is to force companies to move out of China. And, keep in mind that Congress has done nothing to counter Trump's actions on trade and we cannot expect action from them after the election regardless of its outcome.

EU trade continues to be a challenge. And, recent WTO ruling granted EU authority to assess additional duties. Trump threatens further retaliation if EU takes action on the WTO ruling.

[Ray's comments continue here...](#)

CBP Broker Management Update



Melba Hubbard is Branch Chief, Broker Management, Commercial Operations Revenue & Entry (CORE) Division CBP. Melba gave an update on broker management issues. Below are excerpts from her presentation.

New rules & permit requirements are in development for brokers and others. There have been 50 to 60 comments in response to the NPRM, comment period closed on Aug 5, 2020.

A big challenge will be implementing the requirement that Customs business must be done by a CHB in the US. Also, POAs must come directly from IORs, not via FF or third party.

TFTEA, impacts CHB responsibilities regarding identification of importers. Minimum standards will be established, we are working on what will and won't be required. Verification of the POA is critically important. We are trying to find a timely and efficient means for brokers to comply. We know that "good brokers" are already doing this, but we want these standards applied to everyone.

Acceptance of payments for broker triennials will begin on Dec 15, 2020, and it will involve a new payment process. We are setting up a webinar to explain the new process, the date for the webinar will be announced soon.

Trans Pacific Ocean Carrier and Freight Trends-- Turmoil and Challenges



Bill Rooney, Vice President of Strategic Development, Keuhne & Nagel. Bill spoke about the capacity crunch and other issues facing West coast ports. Below are excerpts of his presentation.

The capacity crunch—less space and high volumes at the same time. Why?: 1. Consumer spending shifted from services for goods; 2. COVID closures resulted in precipitous drops across the Pacific, and carriers reduced capacity. But, the rebound was quick! Supply chains now looking for more inventory, redundancy, which is resulting in more cargo. Add to that the surge from e-commerce and we have big obstacles to overcome.

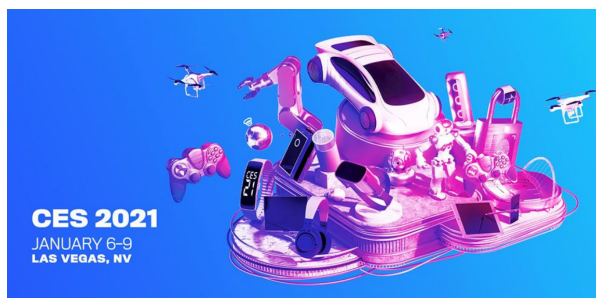
LA/LB will continue to set records. Will carriers continue "capacity mangement?" Consider that the 40'contr base rate used to be \$800, is now in the thousands of dollars. Carriers are thus motivated to continue this practice.

Carriers have consolidated: 7 years ago there were 20 carriers and 5 alliances; today there are 9 carriers and 2 alliances.

This allows easier capacity management, which will continue having a material impact on rates even as global GDP falls 5% due to the pandemic. 20 extra ships will start to sail next month, and this will add some relief but won't affect rates.

LA/Long Beach is ground zero! 7 ½ days turnaround for a container, twice as long as recently. There is a growing incentive for dual transactions to minimize trucker turn around times (and the associated delays and costs, which are substantial).

Consumer Electronics Show CES to be All Virtual in 2021



Customs brokers and forwarders and logistics professionals have long considered CES held annually in Las Vegas to be one of the most important trade shows of the year. In 2021,

however, the event will be strictly virtual due to COVID19 concerns. This development will have a big, negative impact on the struggling hospitality industry in Las Vegas. The CES is the largest event by exhibition space in the country, spanning nearly 3 million net square feet. More than 170,000 people from 164 countries, regions and territories attended the weeklong showcase earlier this year. The virtual CES 2021 will run from Jan 6 to Jan 9. (*Source: Wall Street Journal, July 29, 2020*)

KEEP CALM AND WEAR YOUR MASK



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