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SANDLER, TRAVIS & ROSENBERG P.A.

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THE PROLIFERATION OF free trade agreements has created enormous sourcing opportunities for importers to save duty, lower costs and increase their profits. Congress recently added South Korea, Panama and Colombia to the list of countries with free trade agreements with the U.S.

In addition, the Andean Trade Preference Act and the Andean Trade Promotion and Drug Eradication Act, which had expired in February, were renewed until July 31, 2013, and provide one-way duty-free treatment for qualifying products from Colombia and Ecuador (to be used until the Colombian-U.S. FTA is implemented). The U.S. also is negotiating the Trans-Pacific Partnership agreement, which will open up trade in goods and services among the nine countries around the Pacific Rim: Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, Vietnam and the U.S.

These trade preference programs are intended to boost U.S. exports and increase jobs. The policies behind them are linchpins of Obama administration trade policy, and will be touted in the upcoming presidential campaign.

The implementation of trade preference programs by Customs at the ports of entry, however, is another story.

Lack of message and, more importantly, training, by Washington to the field in what is and is not required to meet the requirements of these trade programs in many cases has effectively undermined intended benefits. The ad hoc administration of these programs at the port level leaves importers in a daze of uncertainty, with rules changing from week to week and from port to port. We can expect to see this problem coming to a head in 2012, either though some legislative initiative (possibly the pending Customs Reauthorization Act) or election-year pressure to resolve these bottlenecks to enable trade to flow as originally intended.

The next trend we can expect to see is the sourcing of labor-intensive manufacturing such as apparel away from China to other Southeast Asian countries, particularly Vietnam, Cambodia, Bangladesh and India. Continued pressure on China to stop suppressing the valuation of its currency is coming not just from the U.S., but also from Europe, as nations struggle to hold the eurozone together in the face of its own debt crisis.

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INTERNATIONAL BROTHERHOOD OF TEAMSTERS

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THE HISTORIC LABOR activism that marked 2011 will grow and spread in 2012. Corporate America will continue to attack middle-class workers by violating their rights and lowering their wages. Their political allies will continue to try to shrink the middle class with austerity budgets and anti-union laws.

The backlash will be fierce. Last year, blatant attacks on working families inspired massive protests throughout the Midwest in the winter. The Occupy movement flourished everywhere in America during the fall. In November, Ohio Gov. John Kasich suffered a stunning electoral setback when voters overwhelmingly rejected S.B. 5, his anti-worker bill. The protests of 2012 and political activity will make the events of 2011 seem mild.

On Election Day, voters told Kasich they were fed up with the corporate war on workers. They didn't think it was fair to blame nurses, firefighters and teachers for the greed and recklessness of Wall Street. They wanted unions to continue to speak up for the middle class in the state Legislature – and to spend union money in their communities. Since the defeat of S.B. 5 in Ohio, Kasich has switched gears and said he won't support a right-to-work ballot initiative introduced by Tea Party extremists.

Right-to-work proposals failed in all 13 states where they were introduced last year. Voters didn't buy the arguments from corporate-backed politicians that such laws were needed to improve their states' business climates. The same politicians will try again to destroy unions in 2011.

They are likely to meet the same fate as Gov. Scott Walker in Wisconsin. Walker rammed through a bill to weaken government unions over huge protests. Wisconsin's unemployment rate has since risen faster than the national rate – and Walker risks losing office in a recall election.

TRANSPLACE

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WHEN THE FEDERAL Motor Carrier Safety Administration created the Compliance Safety Accountability program, there was a lot of uncertainty about how the new rules would impact the transportation industry and what impact CSA would have on highway safety. With a mountain of data now available on the FMCSA Web site, we can draw several important conclusions.

The FMCSA regulates and reports CSA data on 768,322 truck and bus companies, 325,349 of which have had at least one inspection in the last 24 months. What about the other 58 percent? Only 91,722 companies – about 12 percent – have a score on at least one of the five BASICs, or Behavior Analysis and Safety Improvement Categories. Finally, 51,230 of the companies with a score on at least one BASIC have at least one score above the intervention threshold.

With the trucking industry's phenomenal safety record, the FMCSA is flagging more than half of the companies with a score? That makes no sense. Furthermore, the measured carriers are primarily the over-the-road carriers shippers and brokers use. We know the vast majority of these carriers are safe operators.

It gets worse. For the 200 largest trucking companies, CSA scores on three BASICs have absolutely no correlation with accidents per million miles or accidents per power unit. Thanks to the fine work done by Anthony Gallo's team at Wells Fargo, we know the Fatigued Driving, Unsafe Driving and Driver Fitness BASICs are useless in predicting accident rates.

We need changes. First, the FMCSA should take the scores down from the Web. Many shippers and brokers are credentialing carriers using the BASIC scores. In doing so, many small trucking companies are being damaged by being denied the opportunity to haul freight. Shippers and brokers are also needlessly exposing themselves to additional litigation risks.

Second, the FMCSA should abandon its efforts to establish CSA scores as the basis for safety ratings. Carriers deserve due process. On-site audits are better than faulty mathematical models to determine which carriers are fit for service.

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