

Commercial Customs Operations Advisory Committee (COAC) Public Meeting Executive Summary

February 28, 2018

The logo for the Commercial Customs Operations Advisory Committee (COAC) features the letters 'COAC' in a bold, serif font. The 'C' and 'A' are blue, while the 'O' and 'C' are red. Below the letters are two horizontal lines, one red and one blue.

COMMERCIAL CUSTOMS OPERATIONS
ADVISORY COMMITTEE

Opening Remarks

The meeting was called to order and a roll call conducted. Commercial Customs Operations Advisory Committee (COAC) members present were: Cindy Allen, Brenda Barnes, David Barry, Heidi Bray, Celeste Catano, Lenny Feldman, Brandon Fried, Susie Hoeger, Vince Iacopella, Alexandra Latham, Amy Magnus, Elizabeth Merritt, Julie Ann Parks, Adam Salerno, Madeline Veigel, Michael White, and Michael Young. The following COAC members were absent: Lisa Gelsomino and Kevin Pinel.

Acting Commissioner Kevin McAleenan then recognized three events: the final meeting of the 14th term of the COAC, the two-year anniversary of the Trade Facilitation and Trade Enforcement Act (TFTEA), and the completion of the core development of the Automated Commercial Environment (ACE). After acknowledging outgoing COAC members, including Ms. Parks and Mr. Iacopella, Mr. McAleenan discussed how the TFTEA has influenced the committee's work and briefly outlined some of the accomplishments and work yet to be done. He concluded with a summary of the completion of the core ACE development, pointing out certain areas that need improvements. Department of the Treasury (Treasury) Deputy Assistant Secretary Timothy Skud noted that some COAC members were involved in the request for

information for regulatory reform for CBP and the establishment of the Regulatory Reform subcommittee. Then, Department of Homeland Security (DHS) Assistant Secretary, Michael Dougherty, discussed the National Security Strategy and key areas of work: trade deals, trade intelligence, e-Commerce, and forced labor. Mr. Iacopella and Ms. Parks then talked about the role of the COAC in bridging gaps in policy and regulation and possible future work of the committee.

The Trusted Trader Subcommittee

Ms. Latham and Mr. Young discussed two areas the subcommittee had focused on: the development of an enhanced Trusted Trader Trade Compliance Program and updating the existing Minimum Security Criteria. Ms. Latham reported on work the subcommittee had done in the trade compliance area, including the formation of a Trade Compliance Working Group that would focus on these areas: establishing quantification and assessment metrics, developing a participating government agency (PGA) engagement strategy, evaluating recommendations on establishing increased levels of service for Trusted Traders, and identifying possibilities for longer term work. Mr. Young then discussed the Minimum Security Criteria (MSC), highlighting the creation of a registry of suggested elements to be applied within the MSC and

CTPAT. Next, he talked about the subcommittee's recommendations to the CBP. One was that it engages a large group of industry to socialize the CTPAT MSC, receiving feedback on any challenges the new criteria may create and then modifying the criteria. The other recommendation was: Since potential benefits for different areas within trade may differ, comments from industry should be considered when updating the MSC. Executive Director Thomas Overacker talked about the COAC's involvement with Trusted Trader and CTPAT, incorporating into trade compliance standards, and the need for updated MSC standards. During the comment period, Mr. Feldman underscored the trade community's wish to play a role in updating the MSC. Then, members voted to submit the recommendations, which were unanimously approved.

The One U.S. Government Subcommittee (1USG)

Ms. Hoeger said the goal is to achieve a One U.S. Government at the Border approach. She gave examples of how Participating Government Agencies' (PGA) engagement and partnership are crucial and stressed the need for clarity on data provision by PGAs and how those requirements apply to Section 321 shipments valued under \$800. Ms. Magnus then gave an update on a recently published trade facing document for ACE downtime procedures, saying the trade was not pleased with the current form of the

ACE dashboard. Ms. Veigel updated attendees on the Fish and Wildlife Working Group's activities: an on-hold white paper, work towards beginning the pilot of 3-177 data elements through ACE, and discussion of a previous recommendation. Director James Swanson noted the comment period was open to both the working group and the associations, and he said the standardized document led to fairly seamless transitions into downtime procedures. Executive Director Deborah Augustin commented on the final scheduled core ACE deployment and movement into the post-core phase and highlighted the role of PGAs in enhanced border coordination. Mr. John Leonard affirmed the CBP's commitment to collecting PGA concerns on de minimis shipments, and he discussed Fish and Wildlife's upcoming flow chart and resumption of the pilot program. Mr. Jim Byram noted that advances recommended by the working group were being made, and then Mr. McAleenan voiced his pleasure over the progress of downtime procedures and the dashboard and thanked Ms. Augustin and Mr. Swanson.

The Exports Subcommittee

Ms. Merritt updated meeting attendees on progress made in the export manifest area. There were three recommendations on targeting, the hold regime, and account management. Then, Ms.

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Bray summarized the results of testing for post-departure filing with advance manifest, and she provided one more recommendation around participation in the Automated Export Manifest Pilot. Mr. Swanson thanked Ms. Merritt for her work, saying it would lead to an operational document for future participants. He also agreed with the concept of targeting earlier to better facilitate the trade process, and though CBP is resource constrained, he affirmed its commitment to benefitting the U.S. economy. He concluded with comments on post-departure filing and beginning a pilot in export manifest. Ms. Augustin expressed a desire to make the pilot a good learning experience. During the comment period, Mr. Mike Mullen voiced support for the export manifest recommendations. Katie Weiner stressed the need for the export community and government to work together and expressed interest in the post-departure filing desktop exercise. Members then voted on and unanimously approved the recommendations.

The Trade Modernization Subcommittee

This subcommittee had launched a Regulatory Reform Working Group, and Mr. Feldman highlighted what this group hoped to accomplish, including focusing on automation, cost benefit, and consistency with new statutory requirements. The subcommittee had also prioritized previous recommendations, particularly regarding international engagement and facilitation as well as

separately regarding more automation of the case management process for CBP rulings and decisions. Ms. Allen discussed additional prioritization of recommendations, the broker regulatory re-write and the Section 321 group, and she talked about the E-Commerce Work Group. She explained why the subcommittee chose this area to focus on and what she hoped the work group would accomplish. Three teams would be formed and would focus on mapping and understanding e-Commerce, the growth of e-Commerce, and international outreach and education. Mr. Leonard stated the year would be big for e-Commerce and agreed with the decision to streamline that group, saying they chose the right priorities to focus on. Mr. McAleenan also discussed e-Commerce, saying it would probably be the main focal point for some time due to the many issues. During the comment period, Mr. Skud suggested the group think about the implications for Value Added Tax (VAT). Mr. Iacopella commented on Section 321 data elements, and he voiced approval of the strategy. He also felt the World Customs Organization (WCO) e-Commerce document might contain some block chain solutions. Ms. Magnus and Mr. Jose Jody Gonzalez voiced concerns, such as clogging up the supply chain and understanding what products entered the U.S. Mr. Emir Pineda expressed Miami International Airport's desire to help improve e-Commerce. Mr. Charles Lopez felt there might be an opportunity to work through the E-Commerce Committee into other areas and that Miami would be a natural place for this to happen. Mr. Mullen discussed the challenges and opportunities of e-Commerce and said the trade has problems with the WCO framework of standards. Ms. Kasie Brill said the U.S. Chamber of Commerce

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wished to help streamline existing interdiction and seizure processes.

Global Supply Chain Subcommittee

Mr. Salerno began this report with a discussion of the subcommittee's future work. After speaking on the Emerging Technology Working Group, he, Ms. Catano, and Mr. Young outlined the three areas the group would work on: the Air Cargo Advance Screening Pilot, automation of the block chain process, and In-Bond regulations. Mr. Overacker noted CBP's commitment to Air Cargo Advance Screening (ACAS).

Mr. Swanson discussed the In-Bond program, explaining areas the CBP was still working on. Ms. Augustin said the CBP was excited to move forward with exploring emerging technology in the block chain area, and then the meeting was opened for member and public comments. Ms. Barnes felt block chain was up and coming and very exciting, Mr. Young said there is a lot of work to be done regarding ACAS and new technology, and Ms. Michelle Seiers requested contact information for the In-Bond Work Group.

The Trade Enforcement & Revenue Collection

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Ms. Julie Parks began this report with an explanation of TERC's four working groups, and she highlighted the subcommittee's key priorities: account-based enforcement, leveraging Trusted Trader programs to encompass certain trade priority issues, and how to make best use of the Border Interagency Executive Council (BIEC). Mr. Iacopella summarized the subcommittee's working groups' recent work. The Anti-Dumping, Countervailing Duty Group was involved in discussions between the trade and customs regarding the 90-day response period for CBP rejections of anti-dumping and countervailing duty (AD/CVD) and the CBP Form 28 requests touched on in the previous meeting. The Forced Labor Working Group was involved in discussion on the use of the CBP Form 28. The Intellectual Property Rights (IPR) Work Group reviewed white papers on IPR priorities. The Bond Work Group had put together a recommendation for the COAC around establishment of a separate supplemental AD/CVD Bond. Mr. Troy Riley noted the work group took a hard look at the formula and explained its purpose, and then members voted on and unanimously approved the recommendation. After recognition of exiting members, including Ms. Parks and Mr. Iacopella, and thanks to the staff of the Office of Trade Relations, the meeting was adjourned.

COAC Recommendations

February 28, 2018

TRUSTED TRADER SUBCOMMITTEE

The COAC recommends:

010293

1. CBP engage a large group of industry to socialize the CTPAT MSC in a public comment forum, with sufficient timeline to enable feedback and consolidation before finalizing the new MSC. This would function similar to a regulatory comment period and further the co-creation process. Comments received from industry should be considered, and the MSC should be updated appropriately, to ensure that CTPAT meets the shared goal of security and trade facilitation. The comment period should be flexible and no implementation should move forward until this is complete.

010294

2. Simultaneously, CBP should encourage companies to provide feedback on additional tangible benefits for participation in the program.

EXPORTS SUBCOMMITTEE

010295

Targeting Regime: Based on the success of the Air Cargo Advance Screening pre-departure targeting strategy, we recommend that CBP structure its export targeting system in a manner that maximizes the early targeting of export shipments while simultaneously ensuring that the national security concerns of the United States are fully accounted for. In particular, we recommend that CBP utilize the export pilot period, in close collaboration with pilot participants and other industry representatives, to, first, test out various methods for accomplishing the earliest possible targeting of export shipments, and second, accurately measure the impact of late targeting of cargo carrier operations and the movement of legitimate cargo in order to facilitate a proper cost-benefit analysis for the regulatory rule-making process.

010296

Hold Regime: Similar to early targeting, the success of the automated export manifest will also depend upon the ability to intercept shipments requiring inspection at the earliest possible point, prior to consolidation taking place. We therefore recommend that CBP utilize the export pilot period, in close collaboration with pilot participants and other industry representatives, to examine potential mechanisms to empower early inspection and the ability of forwarders and carriers to have input into the location for inspection, and to test the best candidates in real time.

010297

Account Management for Manifest Compliance: Air carriers have long requested centralized account management with regard to carrier compliance with manifest requirements. As air will soon be subject to three individual electronic manifest regimes – import manifest, Air Cargo Advance Screening, and export manifest, the drumbeat for account management will only increase. We therefore recommend that, as an integrated part of the air automated export pilot, CBP and 2-3 volunteer air carriers engage in a proof of concept for account management of carrier manifesting compliance.

010298

Post Departure Filing: COAC recommends that

- CBP work with Census and carriers participating in the automated export manifest pilot to identify Post Departure Filers to participate in testing during the manifest pilot
- CBP begin to utilize, in the nearest possible timeframe, the export pilot to validate the concept of a low risk exporter program as put forth in the Post Departure Filing proposal.

TRADE ENFORCEMENT AND REVENUE COLLECTION (TERC) SUBCOMMITTEE

010299

In support of recommendation #010282 to establish a separate supplemental AD/CVD Bond, COAC recommends that CBP pilot the proposed bond formula with surety members of the Bond Working Group prior to implementing any regulatory changes to meet Section 115 of the Trade Facilitation and Trade Enforcement Act (TFTEA). This pilot will provide valuable input to CBP to help establish policy, automation requirements in ACE, and provide a smooth transition for the trade.