

# **Commercial Customs Operations Advisory Committee (COAC) Trade Enforcement and Revenue Collection (TERC) Subcommittee – Executive Summary**

August 01, 2018

The logo for the Commercial Customs Operations Advisory Committee (COAC). The letters 'C', 'O', 'A', and 'C' are arranged horizontally. The first 'C' and 'A' are blue, while the 'O' and the second 'C' are red. The letters are bold and sans-serif.

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COMMERCIAL CUSTOMS OPERATIONS  
ADVISORY COMMITTEE

**Commercial Customs Operations Advisory Committee  
(COAC)**

**July 2018**

**Report of the Work of the COAC  
Subcommittee on Trade Enforcement and Revenue Collection (TERC)**

**Co-Chairs**

**Lisa Gelsomino - Avalon Risk Management  
Kevin Pinel - Microsoft Corporation**

**Background**

During the first quarterly meeting of the 14th Term of COAC held on April 24, 2015, it was decided that topics from the 13th Term of the Trade Enforcement and Revenue Collection (TERC) Subcommittee would continue to be worked on in the 14th Term. This includes the Anti-Dumping and Countervailing Duty (AD/CVD), Bonds, and Intellectual Property Rights (IPR) Working Groups. The Regulatory Audit Working Group that was established in the 13<sup>th</sup> Term continues to be on hiatus until further notice from U.S. Customs & Border Protection (CBP). In July 2016, a new Forced Labor Working Group (FLWG) was also established. All subcommittee objectives and scope are consistent with the official charter of COAC.

**Summary of Work**

Since launching the TERC Subcommittee in April 2015, four (4) Working Groups have been operating. The AD/CVD, Bond, Forced Labor, and IPR Working Groups consist of COAC and non-COAC members representing over 100 different stakeholders from the trade including importers, domestic industry, U.S. manufacturers, brand holders, customs brokers, sureties, attorneys, ABI vendors, carriers, consultants, various trade associations as well as participants from CBP and other Partner Government Agencies (PGAs).

Since the last COAC meeting in February 2018, the TERC Subcommittee held only one conference call due to the hiatus of COAC as CBP worked on renewing the charter for the 15<sup>th</sup> term and appointing new COAC members. During the TERC call, CBP provided the subcommittee with an update on its plans to extend the deadline for rejecting AD/CVD entries beyond the current 90 days.

The TERC Subcommittee expressed concerns on how doing so could disrupt the supply chain and provide financial uncertainty on the closure of entries. CBP reiterated how they needed more time to determine the scope and have more leverage to collect outstanding deposits. Despite the concerns raised by both the TERC Subcommittee and AD/CVD Working Group on this issue, CBP proceeded to extend the AD/CVD rejection policy from 90 to 300 days to coincide with the same amount of time the trade had to process and post-summary correction in ACE.

During the COAC hiatus from March through July, the AD/CVD and Bond Working Groups continued to be active as outlined below. The TERC Subcommittee looks forward to continuing

its focus on all aspects of the enforcement provisions under the Trade Facilitation and Trade Enforcement Act (TFTEA) that passed in February 2016 as well as CBP's new enforcement and revenue collection priorities.

### **AD/CVD Working Group**

Since February 2018, the AD/CVD Working Group has been very active and held four conference calls to review and discuss the following emerging issues:

- **AD/CVD Recommendations:** Provided an update on pending AD/CVD recommendations to wrap up the 14<sup>th</sup> term of COAC. The AD/CVD WG is pleased to advise that 100% of the recommendations from both the 13<sup>th</sup> and 14<sup>th</sup> term of COAC received responses from CBP and most of the recommendations have been implemented. We appreciate that CBP and Commerce continue to listen to our needs for additional training tools and outreach, especially with the limited resources we all have dealing with the large volume of existing and new AD/CVD cases in addition to the new tariffs.
- **ACE:** Discussed the new AD/CVD Universe in ACE reports. The trade did not experience any issues with these changes, but would like additional training to ensure staff is up to speed per [CSMS# 18-000431 - New ACE Reports Information Notice Posted](#).
- **Tariffs:** CBP provided several updates to the AD/CVD WG on the new Section 201, Section 232, and Section 301 tariffs as well as the absolute quota functionality in ACE. The customs brokers found the edits for these new tariffs to be working properly in ACE and look forward to a better solution to handle absolute quota shipments. These currently remain in queue and don't get processed until late each evening placing a strain on the trade to process these timely and backing up deliveries along the northern border.
- **AD/CVD and Import Measures Policy:** CBP provided the WG with an update on CBP's policy to reject entry summaries up to 300 days per [CSMS# 18-000301 - Modification of Timeframes to Reject Entry Summaries](#). The new rejection policy also applies to Section 201, 301, and 232 import measures. Rejecting the entry summaries will unset the liquidation date and transmit the entry summary back to the filer for action.
- **Third Country Case Numbers in ACE.** Commerce reviewed the improvements made to more clearly identify Third Country Case Numbers per [CSMS# 18-000421 - Identifying Antidumping and Countervailing Duty Order Third Country Case Numbers in ACE](#)
- **Immediate Delivery Procedures.** The AD/CVD WG reviewed [CSMS# 17-000486 - Immediate Delivery \(ID\) procedures using ACE Document Imaging System \(DIS\)](#). Because there are so many active AD/CVD cases, the DIS process has become cumbersome and trade would like to see a more automated process.
- **AD/CVD Special Value Field:** The WG reviewed the new guidance CBP and Commerce provided to utilize the Special Value Field in ACE [CSMS# 18-000379 - Clarification– Correct Use of the AD/CVD Special Value Fields, Multiple Entry Line and Set](#).
- **AD/CVD FAQ:** The AD/CVD WG provided prior recommendations to update the FAQ to include some of the newer issues we are seeing with critical circumstances and 0% deposit rate. The WG received a pre-decisional draft of the FAQ and provided a great deal of input that will make this a very educational tool for the trade. The AD/CVD WG felt it was a great document and thanks CBP and Commerce for the time invested to improve it.
- **Steel Seminars:** CBP continues to provide updates on the steel seminars taking place throughout the year. A seminar was held in Baltimore, MD on April 10-12 and in Chicago

on May 15-17. The next one will take place in Long Beach, CA and the last one for the year will take place in Portland, OR.

The AD/CVD WG will continue to act as a standing forum of subject matter experts that can be called together by CBP when any AD/CVD issues and new emerging issues arise to solicit feedback and advice from the trade. We thank CBP and Commerce for their collaborative partnership.

### **Bond Working Group**

Since February 2018, the Bond Working Group (BWG) held three conference calls to discuss the AD/CVD Supplemental Bond and proposed bond formula. CBP also conducted in person meetings with four (4) surety members of the BWG to review a tabletop exercise on a risk-based bonding model for the supplemental AD/CVD bond. CBP continues to review its historical data on AD/CVD losses to refine how the risk-based bond formula should be calculated. Further discussions are necessary to refine how it could operate and sureties also need additional data to manage the bond calculation as outlined in prior BWG recommendations.

The BWG also discussed the Bond Directive for Determining Bonds Amounts focusing on Single Transaction Bonds (STBs) for shipments involving PGAs. The BWG made prior recommendations on streamlining the issuance of STBs since PGAs are now participating in the ACE Single Window and receive a standard PGA message set that also provides a IUSG release. The BWG looks forward to further discussions on these topics now that the 15<sup>th</sup> term of COAC is fully operational.

### **Forced Labor Working Group**

There were no calls held for the Forced Labor Working Group (FLWG) due to the COAC hiatus. A conference call is being scheduled with the FLWG to discuss CBP's framework for a Forced Labor Trusted Trader Program.

### **IPR Working Group**

There were no calls held for the IPR Working due to the COAC hiatus. The IPR WG looks forward to future calls to discuss and develop recommendations for the five key issues CBP asked the WG to address:

1. **Developing Partnership in Small Package Arena to Aid in Enforcement.** The current Abandonment Pilot recommended by the 13<sup>th</sup> term of COAC continues to work well as a cost effective alternative to CBP seizures. The IPRWG continues to discuss other alternatives to seizures that can be as effective as the Abandonment Program and how the current Abandonment Pilot can be expanded to other key areas.
2. **Mitigating Costs of Destruction.** In line with the Abandonment Program, the IPRWG discussed additional ideas for the destruction of cargo as an alternative to seizures. These discussions continue in response to TFTEA and the Executive Order on Alternatives to Seizure and Information Sharing with CBP.
3. **eRecordation System in Automation.** The IPRWG received an overview from CBP's Office of Ruling and Regulations (ORR) on the eRecordation system that allows importers to register their brand with CBP. The IPRWG was asked to provide feedback on any additional improvements that can be made to the eRecordation system or process.

4. **Bi-directional Conversations on Threats in IPR Space with Centers of Excellence & Expertise (Centers) and the Trade.** The IPRWG feels the roundtable discussions each CBP Center hosts is extremely helpful to collaborate on combating IPR Threats by industry. Other ideas discussed by the IPRWG were to have trade participants included on educational seminars, training and outreach
5. **Revisit the IPR Known Importer Program.** The IPRWG discussed how Blockchain could be utilized to facilitate this program. Additional research is needed and will be discussed in future calls.

The IPRWG will continue to act as a standing forum of subject matter experts that can be called together by CBP when any IPR issues arise to solicit feedback and advice from the trade.

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