



Commercial Customs Operations Advisory Committee  
(COAC)

U.S. Customs and Border Protection

Executive Summary

March 01, 2017

9:00 p.m. - 1:00 p.m.

**Opening Remarks**

Ms. Valerie Neuhart called the COAC public meeting to order. She welcomed attendees from the different offices, relayed administrative items, and performed a roll call. Members not present: Suzanne Hoeger and Kevin Pinel. All other members present

U.S. Customs and Border Protection Acting Commissioner Kevin McAleenan proceeded to welcome everyone to the first COAC of the new administration and then updated attendees on things that happened since the previous meeting. Commissioner McAleenan stated that CBP's core missions are priorities for the new President and his team. He also noted that work continues on the Automated Commercial Environment (ACE) and the U.S. Single Window (SW). He gave updates on the progress of ACE, saying that the rescheduled deployment date will be published in the Federal Register 30 days before deployment.

Immigration and Customs Enforcement Deputy Director Dan Ragsdale stated that enforcement is going to be a strong piece of trade policy. Citing work around the Super Bowl, he spoke of 56 arrests and the seizure of 250,000 counterfeit items. He ended by saying that the Intellectual Property Rights (IPR) Center will continue to be the centerpiece but not the only focus.

Treasury Deputy Assistant Secretary Tim Skud spoke next, pointing out that the President is looking for regulations that can be eliminated and requesting the COAC's input on regulations it thinks can be eliminated. He next mentioned ITDS, saying that the 20-year effort was 99.5% complete by the end of 2016, with the Fish and Wildlife Service (FWS) component the only thing remaining.

DHS Deputy Assistant Secretary Christa Brzozowski spoke on the passage of the Trade Facilitation Agreement (TFA), saying momentum on trade will continue from the White House. She then gave previews of upcoming work: streamlining and simplifying regulations, achieving immediate connectivity for the Fish and Wildlife Service in the automation area, and endorsing the continued effort of the COAC Working Group. Deputy Assistant Secretary Brzozowski said that trade agreements are probably going to be a big focus this year.

Trade Co-Chair Julie Ann Parks offered thanks to the hosts for another COAC meeting and then acknowledged Commissioner's McAleenan's support, saying the transition from former Commissioner Kerlikowske to him is an area they feel great comfort in balance between the enforcement and trade elements. Ms. Parks highlighted licensing and license automation, pointing out the new regulatory changes to International Traffic in Arms Regulations (ITAR) that allow the automation of processes and thanking the Agency, highlighting the time saved from a paper-elimination perspective and from a CBP perspective. Moving on to the Trade Enforcement and Revenue Collection (TERC) Subcommittee, she noted the next step for the Group was probably going to be around mitigation guidelines work. Ms. Parks offered her encouragement to the trade community to participate in the Trade Efficiency Survey and then concluded by speaking on status checkpoints.

Trade Co-Chair Vincent Iacopella stepped in next, continuing updates on the different subcommittees and reaffirming that there is still a commitment on both the government and private sector side to achieving the goal of a program that incorporates both security and trading. He noted the importance of getting so much ACE functionality out to the trade. He also announced the launch of the E-Commerce (ECOM) Working Group, saying that the e-commerce issue offers both a lot of opportunity and a lot of challenges for the government and the trade. The Work Group is formed from all players in the industry right now, including facilitators, customs brokers, retailers, and government. The goal of the group is to tackle issues that assist the government in the mission for security, consumer product safety, revenue collection, and private sector participation.

### **Trade Modernization Subcommittee Report**

Subcommittee Co-chair Lenny Feldman thanked everyone for their support in the last quarter. He said that the changes in the administration would offer an opportunity to look at what benefits particular entities and companies throughout the country. He next spoke about completed work on the Centers of Excellence and Expertise (CEE) Uniformity Working Group, saying that the enforcement and facilitation side has worked to create that uniformity that's needed across industries. There has also been a lot of discussion around executive orders and the policy of the Executive Branch, with the Group trying to be cognizant about complying with federal regulations. Mr. Feldman concluded by stating he's very excited about the progress made in looking at international engagement in light of the Trade Facilitation Agreement with Regulations and Rulings.

Subcommittee Co-Chair Cindy Allen then took over the Working Group updates, highlighting the Revenue Modernization (Rev Mod) Working Group's opportunity to study the intake of money and stating that it is time to move to more automated function and processes. She thanked CBP for listening to the Group's previous recommendations on integration from the sea perspective and acknowledged the challenges with getting the ACE regulations out and facilitated before implementation of the functionality.

Ms. Allen also talked about e-commerce, expressing her amusement over how things were moving back to the days when shoppers ordered from store catalogues. However, she pointed out, instead of just big-box retailers, businesses operated out of garages or dining rooms are also included in the process, and understanding how that impacts trade flows is challenging. She then noted that the goods coming in are typically in the de minimis value, so it is challenging, from

an enforcement and targeting perspective, to get needed information. Future work of the Work Group will include mapping out the supply chain now and how it will look in the future in order to really define e-commerce, education on terminology, and where e-commerce is headed in the future. Lastly, Ms. Allen briefly spoke about Section 321.

Member Alexandra Latham provided the Group's international engagement recommendations. The recommendations were around: leveraging advances from prior free trade agreements, continuity in trade preferences, consistency in implementation, the North American Single Window, regulatory cooperation, e-commerce and innovation, de minimis harmonization and U.S. export facilitation, express delivery services, and looking beyond the WTO Trade Facilitation Agreement. **The COAC unanimously voted in favor of these recommendations. See Appendix for full recommendations.**



Next were the Revenue Modernization Working Group's recommendations, presented by Ms. Allen. These recommendations were around duties, taxes, and fees; single-entry and post-entry reconciliation; all fees; broker fees; informal entries; 3 recommendations around the Truck Crossing Fee; a recommendation about the Truck Crossing Fee, APHIS, CBP User Fee, and tonnage; the Express Consignment Fee and Low Value Shipment Fee; ocean fees; the Overtime Reimbursable Fee; and PGA fees.

Deputy Director Dan Ragsdale noted that these recommendations are in line with what ICE has been trying to do to get officers and trade specialists out from collecting money. He mentioned a pilot in Buffalo that led to 40% increased efficiency. Co-Chair Skud then had some clarification questions and a suggestion for the ease of truck border crossing and tax application. The COAC then voted on and accepted the recommendations. **The recommendations passed**

**unanimously. See Appendix for full recommendations.**

Next were the recommendations from the Rulings and Decisions Improvement Working Group. Mr. Feldman discussed the three areas the Working Group focused on, some of the Group's concerns, and then read the recommendations. The recommendations were around: resource allocation; expediting and facilitating the review and approval of rulings and decisions; 2 recommendations on communication and outreach; consistent and uniform decision making; process improvement and efficiencies; enhancement and/or facilitation of R&R technical expertise and greater exposure to operational matters; alleviating the backlog of rulings; expediting the issuance of substitution drawback rulings under the TFTEA; automation, innovation, and visibility; funding for R&R to develop a web-based, end-to-end case management system; the CROSS Rulings Database; and binding ruling

requests and reasonable care.

Deputy Assistant Secretary Brzozowski offered comments, as did CBP Executive Director Alice Kipel, and Director Jeffrey Nii, Director David Dolan, and Director Sherri Jordan, and **then the COAC voted on and unanimously approved the Group's recommendations. See Appendix for full recommendations.**

Mr. Feldman concluded the presentation with a more in-depth explanation of the E-Commerce Working Group's purpose and focus, and Mr. Michael Walsh offered comments.

#### **One U.S. Government Subcommittee Report**

Subcommittee Co-Chair Amy Magnus began this report, which included no recommendations. She spoke of working with Fish and Wildlife Service, which both she and Director Nii agreed was a helpful endeavor, and Member Madeleine Veigel discussed the meeting, commending the suggestions from Fish and Wildlife. Senior Wildlife Inspector

Sheila Einsweiler gave brief specifics on issues the meetings touched on, such as supply chain security in relation to the Fish and Wildlife components; the ability for trade to file under a Port Exception Permit, which the next Implementation Guide will accommodate; concerns about the certified disclaimer process, which will be addressed with a new standard disclaimer code; concerns about N/Y scenarios; and the need for the Fish and Wildlife Service to create an electronic listserv process for public bulletin dissemination.

Chief William Woody, U.S. Fish & Wildlife Service offered comments, acknowledging the importance of working with the COAC Group on this and noting no slowdown in the ivory trafficking coming out of the Darfur region, with some things ending up in the U.S. He made one request: that the COAC examine the issue very closely. ACE Business Office Director Kimberly Marsho also offered comments, saying there is one big deployment to

go before all ACE core trade processing capabilities are deployed and asking for continued engagement.

### **Exports Subcommittee Report**

Subcommittee Co-Chair Elizabeth Merrit began this subcommittee report, saying that the bulk of the export manifest process work, which was very productive, had been focused on the truck manifest. She acknowledged the effort the different members of the group put forth in order to come to a shared understanding of what the system components need to be to make the system efficient and effective.

Subcommittee Co-chair Merrit, Member Michael Young, Member Michael White, and Subcommittee Co-chair Heidi Bray then provided the Subcommittee's 17 recommendations, which were around: changing the data element "name of exporter" to "shipper name" and changing the definition of "shipper name"; CBP delineation and definition of truck

export manifest data elements and creation of a comprehensive, explanatory spreadsheet of the U.S. export manifest data elements; options of transmitting additional information and specific truck manifest data elements; that CBP delete the truck export data elements "ultimate consignee" and "intermediate consignee" and replace these with a single data element of "consignee," with a recommendation on how "consignee" should be defined, as well as a recommendation on truck bills of lading; removal of any reference to commercial sales documentation from the definition of "name and address of the notified party"; how the data elements "port of place of unloading" and "place where the cargo was accepted" are defined and when they will be required; ensuring a system of look-up tables is in place for carrier codes; a recommendation on the data element "trip number" or "unique consignment number" and how it is defined; how the data element "cargo quantity" is interpreted; a recommendation on Hazmat; a recommendation on

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the data element "AES ITN" or "AES filing exemption code"; removal of certain elements from the export manifest systems' manifest data element list; an evaluation to determine whether the government has a compelling interest in carriers providing detailed split information on the export manifest; a recommendation that CBP include a data field for the provision of a bill of lading identifier from another mode of transport in all of its export manifest systems; a recommendation that CBP develop an airline/truck dual-filing, dual-manifest approach; a recommendation around incorporation of ACE functionality into air import manifest, QP/WP, and the new export manifest systems; and a recommendation that CBP do all possible to preserve existing benefits for Trusted Traders as the truck export manifest system is developed.

When the floor was opened for comments, Deputy Assistant Secretary Skud emphasized the importance of looking to the World Customs

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Organization (WCO) Data Model when diving into examination of the different data elements. CBP Director Jim Swanson noted that he was enjoying the process of drilling down on the data. He also said the discussions have gone beyond speaking of trucks, which was the area that had been left open for this discussion. Commissioner McAleenan also commented, noting his intrigue on this set of recommendations. **The COAC then voted on and unanimously approved the recommendations. See Appendix for full recommendations.**

## **Trade Enforcement and Revenue Collection**

### **Subcommittee Report**

Subcommittee Co-Chair Lisa Gelsomino provided this report, saying there were no recommendations, only some brief updates on the Group's work. Since November, she said, the Group has been reviewing the Trade Facilitation and Trade Enforcement Act (TFTEA), looking at where things have been implemented, where things are still needed, and examining Section 105, the



Joint Strategic Plan. She noted that Section 105 is still under review by the Department of Homeland Security. They've also been looking at Section 115, Importer Risk Assessment, and discussions will continue.

As far as the Antidumping/Countervailing Duty (AD/CVD) Working Group, by working in collaboration with CBP, the Department of Commerce, and ICE, they've been able to implement about 75% of the recommendations made in the 13th and 14th term. The Group has also had numerous discussions about the Enforce and Protect Act (EAPA). Ms. Gelsomino urged meeting attendees to set up CSMS messaging to receive real-time updates on antidumping matters. She also mentioned the scheduled March 14, 2017, EAPA workshop. As for IPR, she expressed her excitement over the E-Commerce Working Group and what it would accomplish for stronger enforcement on these shipments. She then noted that the Forced Labor Group was paused so CBP could consider the Group's previously offered

recommendations. The Group will be picking back up after this COAC meeting and will look at how the recommendations can be implemented and possible new approaches. She concluded by commenting they are hoping to begin a Mitigation Guidelines Working Group by the end of this year.

CBP Executive Director Troy Riley said that the Department has been vigorously pushing the Joint Strategic Plan forward and is still collecting information. He also gave a more in-depth discussion of the Enforce and Protect Act workshop Ms. Gelsomino had mentioned. Next, CBP Director Michael Walsh pointed out the e-commerce connections between IPR and the movement of goods, stating it points to the darker side of e-commerce. CBP Branch Chief Christal Oliphant then commented that CBP is working with the Working Group to make sure the trade community is aware of the five upcoming seminars this year. At this point, Ms. Gelsomino stepped back in to point out the release of the ACE Definition Guide that was

also developed in response to recommendation from the AD/CVD Working Group and great collaboration between the trade, DOC, and CBP.

When Director Neuhart requested public comments, Mr. Tim Trainer from Galaxy Systems, Inc., Chair of the USTR Department of Commerce Industry Trade Advisory Committee on Intellectual Property, stated that his group invites CBP people to the group meetings and provides comments on intellectual property to those who do attend. He also wished to point out that his group follows things that go on at CBP, ICE, and elsewhere, and that those discussions come up as agenda items at his committee's meetings.

Next, CBP Director Jerry Malmo provided additional insight on the status of Section 111. He said that the Office of Trade (OT) has provided formal comments back to the approximately 37 COAC recommendations. He also said they have incorporated those recommendations, to the extent

possible, into the policy statement given to their Office of Regulations and Rulings.

### **Global Supply Chain Subcommittee Report**

Subcommittee Co-chair Brandon Fried and Subcommittee Co-Chair Adam Salerno gave this report. Mr. Fried stated the Subcommittee has no recommendations but that the Group has not been idle. He mentioned the Air Cargo Advance Screening (ACAS) initiative, which has been in a pilot stage and has screened over 300 million shipments, without detecting any threats. He said it's time to codify the lessons learned from the pilot as soon as possible. He also urged the new administration to exempt ACAS from its regulatory moratorium. Next, Mr. Salerno spoke on the Group's C-TPAT Minimum Security Criteria work, saying the six working groups have brought forth preliminary documents and that work has also been done to update C-TPAT best practices. Lastly, he noted the recasting of the Cross-Border Pipeline

Working Group.

CBP Director Liz Schmelzinger then briefly spoke on the progress to the C-TPAT Minimum Security Criteria (MSC) changes, noting they need to have discussions regarding the impact of any changes. She, too, discussed C-TPAT best practices, pointing out that they have not been updated or published since 2009. She briefly explained the five-step evaluation process for best practices: evidence of implementation; a documented process; senior management support; a system of checks, balances, and accountability; and sustainment.

### **Trusted Trader Subcommittee Report**

Subcommittee Co-chair Mike Young said that this group has been on hiatus since July to allow for foundation work to be undertaken. He pointed out the creation and production of a strategy document was completed. He also noted the need for interoperability capability from a Trusted Trader program, being a critical factor from an export perspective, and expressed excitement over

the potential receipt of feedback on status and benefits from the Trusted Trader pilot participants. He commented on a future CBP white paper that will allow review of the protocols and benefits of the program.

Director Schmelzinger commented that C-TPAT would be the foundation component of any Trusted Trader strategy, and the next layer would be what they're doing with the Trusted Trader pilot: transitioning into a trade compliance process and program that meets the needs of the trade and allows CBP a high degree of comfort with Trusted Trader members. She then spoke more in-depth on the progress of the Trusted Trader pilot.

### **Update on the COAC Annual Trade Efficiency Survey**

Member and project lead Michael White explained the purpose of the survey: providing feedback, from an import and export process, of what's going on. He encouraged everyone to complete it. Director Neuhart then moved into closing

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comments. There were comments from Deputy Assistant Secretaries Skud and Brzozowski, CBP Assistant Commissioner Mark Koumans, and Executive Assistant Commissioner Brenda Smith. Then, Ms. Neuhart adjourned the meeting.

## **APPENDIX**

### **TRADE MODERNIZATION SUBCOMMITTEE International Engagement and Trade Facilitation 010133**

#### **Recommendation #1**

#### **Leverage Advances from Prior Free Trade Agreements (FTAs):**

COAC recommends that CBP work with the appropriate U.S. government stakeholders and the private sector to review the text of more recent trade agreements to adopt modernized provisions, particularly in the areas of simplified rules of origin, importer self-certification, trade facilitation, enforcement, supply chain security, and non-tariff trade barriers.

### **010134**

#### **Recommendation #2**

**Continuity in Trade Preferences:** NAFTA currently benefits U.S. exporters, U.S. importers, and consumers and it should continue to maintain trade preferences that provide a significant positive economic impact to U.S. workers and the long-term investments of our companies. COAC recommends CBP work with the appropriate U.S. government stakeholders and the private sector to ensure there is a continuity of trade preferences, that tariffs not increase and non-tariff barriers continue to be reduced, and that positive U.S. trade and investment persists with our NAFTA partners.

### **010135**

#### **Recommendation #3**

**Consistency in Implementation:** In order to improve the consistency of NAFTA treatment to the same goods within the NAFTA region, COAC recommends that CBP work with Canada and Mexico to establish standardization in NAFTA trade preference qualification and consistent enforcement.

**010136****Recommendation #4**

**North American Single Window:** In another effort to simplify trade for all businesses, particularly small and medium sized businesses, the COAC recommends CBP work with Canada and Mexico to collaborate on cross border data sharing and data harmonization, remove or modernize unnecessary regulatory barriers within the North American Region through the use of a single window. (See COAC recommendations from the 1 USG subcommittee's North American Single Window Alignment working group delivered at the November 17, 2016 COAC meeting)

**010137****Recommendation #5**

**Regulatory Cooperation:** For products that are subject to partner government agency regulations, COAC recommends that CBP work with U.S. partner government agencies in the U.S. as well as Canada and Mexico to streamline and harmonize those regulations to create alignment in regards to documentation and data requirements, inspections, and enforcement in order to facilitate cross border trade within the NAFTA region for those regulated commodities.

**010138****Recommendation #6**

**E-Commerce and Innovation:** COAC recommends that CBP work with the appropriate U.S. government stakeholders and the private sector to ensure that NAFTA or other FTA reflects the need for modernization of regulations impacting the e-Commerce business model, including areas of admissibility, targeting, and partner government agency regulations. The goal would be to streamline regulatory requirements and improve enforcement.

**010139****Recommendation #7**

**De Minimis Harmonization and U.S. Export Facilitation:** COAC recommends that CBP work with Canada and Mexico to achieve a commercially significant *de minimis* level, which reflects the modern reality of online commerce. The U.S. has a *de minimis* value of \$800, which is the value at which companies pay no duties or tariffs. Canada has a *de minimis* value of \$20, and Mexico is \$50.

**010140****Recommendation #8**



**Express Delivery Services (EDS):** Since NAFTA was established, the U.S. has negotiated numerous FTAs with other countries. Newer agreements include provisions to harmonize the clearance and movement of goods in the EDS industry. COAC recommends that CBP work with U.S. government stakeholders to ensure NAFTA includes modern provisions with specific focus on the facilitation and streamlining of EDS shipments.

## **010141**

### **Recommendation #9**

**Beyond the WTO Trade Facilitation Agreement (TFA):** In many areas, NAFTA countries have gone beyond the TFA, and we should use this opportunity to promote regional competitiveness. COAC recommends CBP work with Canada and Mexico to utilize prior FTAs trade facilitation chapters as a baseline to create a higher standard to support how modern borders should operate in the NAFTA region.

## **Recommendations on Revenue Modernization:**

## **010142**

### **Recommendation #1**

**Duty, taxes and fees:** The COAC recommends that CBP consolidates port specific daily and monthly formal entry statements, to one monthly statement, inclusive of all statements from all ports of entry nationwide.

## **010143**

### **Recommendation #2**

#### **Duty, taxes and fees, single entry and post entry reconciliation via 28s, 29s, PSCs, liquidated damages, rate advances and supplemental**

**duty payments at liquidation:** The COAC recommends that any form of payment currently processed manually such as duties, taxes and fees, single entries, reconciliation (NAFTA or Value), post entry adjustments via 28s, 29s, post summary corrections, liquidated damages, rate advances, and supplemental duty payments at liquidation, and/or voluntary tenders should be automated and available via ACE ABI, ACE AMS, the ACE Portal and Pay.gov. This payment process should anticipate importers as individuals, corporations as filers, brokers as filers and Surety when paying on behalf of the importer and/or bond principal.

## **010144**

### **Recommendation #3**

**All Fees:** The COAC recommends that CBP regulations be updated to accept electronic payments.

## **010145**

### **Recommendation #4**

**Broker Fees:** The COAC recommends that individuals or companies who hold Customs Broker Licenses be able to make payments through ACE for all brokerage related fees. This would include individual license holders, employers paying on behalf of the individual, and the company to pay fees on their own behalf through ACE or ACE portal, singly or combined.

## **010146**

### **Recommendation #5**

**Informal Entries:** The COAC recommends that CBP create the ability for express consignment operators' brokers to pay duties, taxes, and fees electronically for daily consolidated informal entry filings, replacing manual check payments. See Great Idea Form (GIF) titled "Consolidated Informal Entry Summary (Courier Entries)."

## **010147**

### **Recommendation #6**

**Truck Crossing Fee:** The COAC recommends that CBP requires that all carriers submit an eManifest through ACE prior to crossing. In addition, the Working Group recommends that an ACE application allows for the set-up of a deposit account to be linked to an eManifest so pre-payments may be automatically debited from the account based on the eManifest. Users should be able to view the detail and history of their financial transactions in the common ACE platform.

## **010148**

### **Recommendation #7**

**Truck Crossing Fee:** The COAC recommends that CBP leverage the RFID technology, including on FAST cards, to collect single entry payments.

## **010149**

### **Recommendation #8**

**Truck Crossing Fee:** The COAC recommends that truck carriers have the ability to view a detail and history of their DTOPS-related transactions via access through the ACE portal, including all transactions associated with payments based on eManifest.

## **010150**

### **Recommendation #9**

**Truck Crossing Fee / APHIS/ CBP User Fee / Tonnage:** The COAC recommends that CBP create a smart phone app to provide a more efficient way of pre-paying fees, to reduce lines at the border. Carriers, couriers or travelers could show their receipts on their smart phones at primary inspection sites, decreasing border processing times.

## 010151

### Recommendation #10

**Express Consignment Fee (Low Value Shipment Fee):** The COAC recommends that since shipment manifests contain the breakdown of cargo by entry type and payment, it could be used to bill express consignment couriers for their express consignment fees, rather than the fee being self-reported. Alternatively, couriers could use a pre-paid account in ACE portal to pay for Express Consignment Fees.

## 010152

### Recommendation #11

**Ocean Fees:** The COAC recommends that CBP consider providing an incentive for ship agents and/or carriers to move toward e-payments. If it is a current regulatory option to allow for payment by cash and/or check, there should be an incentive provision for e-payment on line. This should be in the form of an allowance for the ship agent / payer to be granted 48 hours following the vessel's arrival to make payment if done via one of the approved e-payment methods.

## 010153

### Recommendation #12

**Overtime Reimbursable Fee:** The COAC understands the current complexity of the calculation of overtime fees as well as the difficulty to calculate these at the time the service is provided. The COAC recommends that the regulations be changed to simplify the current process and allow a more flexible method of overtime assessment, which would meet both CBP and Trade requirements. This would eliminate a significant amount of work for CBP in calculating the overtime required, and for industry who would be able to determine the due amount based on a defined rate, facilitating ease of payment. At such time as the regulation/s could be changed for the overtime calculation, it is recommended that payment of overtime be added to the fees collected via the Mobile Collection Receipts (MCR) application.

## 010154

### Recommendation #13

**PGA Fees:** The COAC recommends that CBP, through ACE single window, create the ability for fees associated with Partner Government Agencies (PGA) processing

services be automated (i.e., Fish and Wildlife (F&W) overtime clearance fees and USDA annual permits).

## **Rulings and Decisions Improvement:**

### **Resource Allocation**

#### **010155**

##### **Recommendation #1**

COAC recommends that in light of the foreseeable, imminent shifts in U.S. trade and border policy, CBP should ensure that R&R possesses the necessary resources to maintain trade and other critical subject matter priorities despite other issues that may become of significant concern. COAC also feels this is necessary due to the Administration's mandate to eliminate two regulations for every one regulation that the Government issues.

#### **010156**

##### **Recommendation #2**

In order to expedite and facilitate the review and approval of rulings and decisions, COAC recommends CBP and R&R undertake a review of its work process and organizational structure to optimize its resources particularly to ensure that it operates at a sufficient supervisor to attorney ratio. The ratio should be a key consideration in the organization of R&R. For instance the Tariff Classification and Marking Branch has one supervisor for nineteen (19) employees and presently covers subject matter that four branches previously handled.

### **Communication and Outreach**

#### **010157**

##### **Recommendation #3**

COAC recommends that until the rulings submission process is fully automated, R&R should provide a template and/or checklist to the Trade to help ensure ruling requests and protests include all vital information needed for R&Rs deliberation.

#### **010158**

##### **Recommendation #4**

COAC recommends that R&R conduct outreach, as resources permit, at association events and via webinars to clarify the type of information and best practices the Trade should consider when requesting a ruling or decision.

#### **010159**

##### **Recommendation #5**

To enhance consistency and uniform decision making, COAC recommends that R&R take steps to ensure robust internal communication between R&R and the Centers to

convey significant, pending R&R matters, using to the extent possible, electronic means.

## **Process Improvement & Efficiencies**

### **010160**

#### **Recommendation #6**

COAC recommends, as is specified in the Trade Facilitation and Trade Enforcement Act (TFTEA), that CBP should encourage bi-directional training that enhances R&R subject matter expertise. CBP should support and encourage greater participation of R&R attorneys in training programs that are provided to Centers and/or Port personnel. R&R attorneys should also take advantage of training offered by universities, trade associations or other institutions.

### **010161**

#### **Recommendation #7**

In order to enhance and/or facilitate R&R technical expertise and greater exposure to operational matters, R&R should consider placing R&R attorneys, on a temporary duty basis, in the Centers and/or ports. This should enable R&R to be more interactive with the Centers and/or ports, and could be done on a virtual basis, provided that the necessary electronic environment between R&R and Centers and/or ports is made available.

### **010162**

#### **Recommendation #8**

COAC recommends, to assist in alleviating the backlog of rulings, that R&R consider offering a new option for the protestant to request an expedited sixty (60) day Application for Further Review (AFR) decision that would not result in a written published decision by R&R but would merely instruct the Center to grant or deny the protest. The use of this process would be at R&R's discretion and would be considered for future as well as pending AFRs.

### **010163**

#### **Recommendation #9**

COAC recommends that in order to expedite the issuance of substitution drawback rulings under the Trade Facilitation and Trade Enforcement Act (TFTEA), R&R should leverage the expertise of the National Commodity Specialist Division (NCSD) as appropriate.

## **Automation, Innovation & Visibility**

### **010164**

#### **Recommendation #10**

COAC recommends that CBP and R&R devote resources to develop an automated process/system for the submission, processing and dissemination of all types of ruling requests and decisions.

## **010165**

### **Recommendation #11**

COAC recommends that CBP provide funding for R&R to develop a web based, end to end case management system. This system should contain functionality that, at a minimum: receives the submission of ruling requests, creates records of such inquiries, enables the submitting party to check status and receive major milestones of case processing, records and disseminates and publishes the ruling or decision once the ruling or decision is final.

In the interim R&R should notify the inquiring party of major milestones including: case received, case assigned, awaiting information, in process, and decision rendered. Leveraging current document imaging functionality, R&R should provide a mechanism to receive ruling requests electronically via email and once the decision or ruling is rendered, email a copy to the inquiring party.

## **CROSS Rulings Database**

## **010166**

### **Recommendation #12**

COAC recommends that R&R, in conjunction with OIT, research what enhancements could be made to the CROSS system search and notification/alert features, as commercially permissible.

## **Binding Ruling Requests & Reasonable Care**

## **010167**

### **Recommendation #13**

COAC recommends that its proposed Mitigation Guidelines Working Group address with R&R whether the pendency of a response to a prospective ruling request affects a determination as to whether the submitter exercised reasonable care.

## **EXPORTS SUBCOMMITTEE**

## **010168**

### **Recommendation 1**

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With regard to the data element “Name of Exporter”: The exporter is not a party that is captured by transportation documents or carrier manifests.

- Therefore, it is recommended that CBP change the name of this data element name to "shipper name".

Additionally, the US definition of shipper is not in line with the WCO definition for the equivalent data element "consignor", nor with the Canadian definition of “shipper”, both of which designate the proper party to be that which is shown on the bill of lading / shipping document / transport contract.

- COAC recommend that CBP change its definition of shipper name to “the name of the party shipping the goods as shown on the Bill of Lading (BOL)/shipping document.” This recommendation applies to the manifest systems, import and export, for all modes of transport.
- Furthermore, because truck BOLs are not standardized, COAC recommend that CBP provide guidance regarding which of the potential fields on a truck BOL contains the proper party to be submitted as the shipper element.

## **010169**

### **Recommendation 2**

- As the next step of the process, COAC recommend that CBP clearly delineate and define all truck export manifest data elements such that they are suitable for determining IT requirements, and develop a comprehensive explanatory spreadsheet of the US export manifest data elements that also references them to the import manifest data elements of Canada and Mexico.

## **010170**

### **Recommendation 3**

It is understood that CBP may wish to allow or encourage – and potentially in the future even require – the submission of additional data elements. However, it is problematic when CBP makes provision for such new elements by expanding the definition of an existing data element, instead of creating a new data element with its own clear definition.

One example is the shipper data element, the definition of which has been proposed to include “an identification number that will be a unique number to be assigned by CBP upon the implementation of the Automated Commercial Environment”. However, a carrier is unlikely to find this future CBP identification number in the shipper name field of the transport document. Similarly, with the data element “Cargo Description”, along with “detailed description of the cargo”, CBP has also included in the definition the 6-digit level of the Harmonized Tariff Schedule. But a plain language description of the goods and an HTS classification are two different things.

We believe that this “definition expansion practice” leads to a lack of clarity in data element definitions, is a hindrance to international harmonization, and is impractical with regard to IT programming and cargo documentation practices.

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- We therefore recommend that, as a standard future practice, if CBP wishes to provide filers the option of transmitting additional information, that this information be delineated as new, clearly-defined data elements. This recommendation applies to the manifest systems, import and export, for all modes of transport.
- With regard to specific truck manifest data elements, we recommend that CBP remove 1) the identification number item from the definition of shipper and 2) the HTS reference from the definition of cargo description, and instead include them as a separate, new, optional data element to be provided in new, separate fields of a message.

## **010171**

### **Recommendation 4**

With regard to the data element of “consignee”, the carrier has information on only one party: that who is listed on a transportation bill as the consignee.

- We therefore recommend that CBP delete the truck export data elements “ultimate consignee” and “intermediate consignee”, and replace these with a single data element: “consignee”.
- We further recommend that this “consignee” data element should be defined in alignment with the WCO SAFE Framework and Canada e-manifest definitions of “consignee” as the name of the party to whom the cargo/goods are being “shipped to” or “consigned” as shown on the Bill of Lading or shipping document. This recommendation applies to the manifest systems, import and export, for all modes of transport.
- Similar to “shipper” above, because truck BOLs are not standardized, we recommend that CBP provide guidance regarding which of the potential fields on a truck BOL contains the proper party to be submitted as the consignee element.

## **010172**

### **Recommendation 5**

With regard to the data element “Name and Address of the Notify Party”, CBP has defined this as “the name and address of the party to be notified as specified in the carrier's/freight forwarder's contract of carriage or commercial sales.” The carrier, however, does not have access to commercial information.

- COAC therefore recommended that CBP remove any reference to commercial sales documentation from the definition. Furthermore, customers do not always



provide a notify party, therefore this data element should be designated as "conditional", with further delineation needed regarding when it is mandatory.

## **010173**

### **Recommendation 6**

- With regard to the data elements “Port or Place of Unloading” and “Place where the cargo was accepted”, COAC recommend that CBP define these in alignment with similar Canada CBSA e-manifest data elements, and make them conditional, to be required only when these places differ from the information provided in the consignee field for place of unloading, or the shipper field for place where the cargo was accepted.

## **010174**

### **Recommendation 7**

- With regard to the data element carrier code, we recommend that CBP coordinate closely with CBSA to ensure that a system of "look-up" tables are in place for both manifest systems in order to translate between US and Canadian carrier codes.

## **010175**

### **Recommendation 8**

- With regard to the data element “Trip number or Unique Consignment Number”, we recommend that these be listed as two separate data elements, with the definitions aligned to those found in the Canada e-manifest system.

## **010176**

### **Recommendation 9**

With regard to the data element cargo quantity, it is understood that CBP wants the lowest level piece count, and that carriers should employ due diligence to transmit accurate data in this regard. However, it is sometimes impossible for a carrier to determine whether or not the piece count provided to it by a shipper is accurate.

- Therefore we recommend that, as per the Trade Act, CBP ensures that the policy interpretation of this element provides that carriers should be able to reasonably depend upon the information provided to it by shippers, and that CBP direct any enforcement actions toward shippers who are providing inaccurate information to carriers.

## **010177**

### **Recommendation 10**

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- With regard to Hazmat, we recommend 1) that CBP align with the Canadian designation of the UN number as the required Dangerous Goods Code element, unless no UN # exists for the commodity involved, and 2) that the data element Chemical Abstract Service ID Number be eliminated or made optional.

## **010178**

### **Recommendation 11**

- With regard to the data element AES ITN or AES Filing Exemption Code, we recommend that all of the possible citations utilizing the expected codes should be provided for review.

## **010179**

### **Recommendation 12**

With regard to the data elements “license code”, “export control classification number”, and “License or Permit Number”, we note that all of these are commodity elements, not related to the transport contract that is the basis of the manifest. We also note that the Automated Export System should already capture all of these data fields attached to an ITN, therefore to also require them on the manifest would be duplicative.

- COAC therefore recommend that CBP remove these elements from the truck manifest data element list, and that the issuance of an ITN be used as a “one-stop shop” for validation of these and any similar commodity-related data elements. This recommendation applies to the export manifest systems for all modes of transport.

## **010180**

### **Recommendation 13**

- With regard to data elements related to split shipments, COAC recommend that CBP undertake an evaluation to determine whether the government has a compelling interest in carriers providing detailed split information, such as number of pieces on a given conveyance, on the export manifest. This recommendation applies also applies to the rail and air export manifest systems.

## **010181**

### **Recommendation 14**

With regard to promoting seamless intermodal transport, the Canadian highway e-manifest system includes a field in which the filer can provide an ocean bill of lading number. The US truck data element list does not include this field. We also note that

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ocean-to-truck is not the only possible intermodal transfer; particularly across the northern border, air-to-truck (and vice-versa) transfers are standard practice.

- COAC therefore recommend that CBP include a data field for the provision of a bill of lading identifier from another mode of transport in all of its export manifest systems, including air, ocean, rail and truck, to provide a mechanism to link together information for the same shipment that has been filed in different systems under different bill numbers.

## **010182**

### **Recommendation 15**

The current process by which conventional carrier air shipments exported from the US by truck are reported to customs today is inefficient and burdensome. Known as “flying trucks”, these are trucks that operate under air carrier flight numbers and carry shipments travelling under an air waybill, including shipments that have entered the United States by air and are being exported to Canada by truck, and those that originate in the United States and are exported by truck, and are then transferred onto an aircraft in Canada for export to a third country.

- As the automated truck manifest is developed, we recommend that CBP develop an airline/truck dual-filing, dual-manifest approach, in which 1) air carriers – via the Air Export Manifest System – provide CBP with data on the house and master bills departing on an airline flight-number-identified truck, and 2) truckers – via the Truck Export Manifest System – provide CBP with the required truck specific data elements, so that 3) CBP can link the two data submissions together behind the scenes.

## **010183**

### **Recommendation 16**

Express air shipments moving multimodal (ground-to-air and air-to-ground) on trucks across the Northern and Southern Borders, commonly referred to as “Flying Trucks”, are still required to stop at the border to present paper in-bond documents. This includes shipments exporting from an FTZ. The current manual processes result in inefficiencies and service delays.

There are a number of disparities/gaps in functionality today, such as

- Air Manifest-originated in-bonds can be closed in QP/WP, but QP-originated in-bonds cannot be closed in Air Manifest, and most carriers and many forwarders use only Air Manifest.
- For shipments moving entirely by air, Air Manifest can be used to electronically arrive and close all in-bonds, but this electronic capability disappears once a shipment moves to a different mode. The same “full-electronic” capability should exist in all modes of transportation, including inter-modal moves.

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To automate in-bond processes, full and robust ACE functionality must be adopted to open, arrive (e.g., transmit an ASN 3 message) and close/export (e.g. ASN 7 message) all transportation in-bonds, including those for shipments moving inter-modally.

- We therefore recommend that functionality be incorporated into in Air (import) Manifest, QP/WP and the new export manifest systems (air and truck) so that all in-bonds, regardless of the modal or functional (e.g., ABI versus manifest) ACE system in which they were originated, can be electronically arrived and exported. The new functionality must include the ability to create - in the manifest system - electronic in-bonds for export shipments originating from an FTZ, and the ability to use both CBP 4-digit port codes or three-letter airport codes in all ACE applications to enable creation and arrival/export of in-bonds.

## **010184**

### **Recommendation 17**

- Keeping in mind CBP's need to conduct adequate pre-departure manifest targeting for export shipments, we recommend that CBP do all possible to preserve existing benefits for trusted traders as the truck export manifest system is developed. In particular, we recommend that account-based programs be leveraged to preserve the exemption for pre-departure manifesting for trusted trader participants in the Canadian Customs Self Assessment program, and that similar benefits be provided for participants in the Operadora Economica Autorizada (OEA) program for Mexico's trusted traders across the southern border.