

User Fee Advisory Committee (UFAC)

Public Meeting – Summary Minutes

June 1, 2016 Washington, DC



U.S. Customs and
Border Protection

User Fee Advisory Committee (UFAC)

Executive Summary

1:00 p.m. to 3:00 p.m.

Wednesday, June 1, 2016

Committee Welcome and Roll Call

Ms. Maria Luisa Boyce gave her thanks to those in attendance, introduced herself, and then conducted a roll call of the first meeting under the new term of the Committee. Those in attendance were: Mr. Adam Schless, Mr. Ajith "A.J." Pillai, Mr. Andres Hirschfeld, Ms. Barbara Kostuk, Mr. Bradley Rubinstein, Mr. James Phillips, Mr. John Van Wallaghen, Mr. Kenneth Dunlap, Ms. Lisa Schimmelpfenning, Ms. Maria Lourdes Leon, and Mr. Michael Mullen.

After the roll call, the UFAC members briefly introduced themselves and spoke on how user fees impact them. In addition to those named in the roll call, the following people introduced themselves: Ms. Deborah Chen, Mr. Salvatore Vetrini, Mr. Matthew Pickens, Mr. Eugene H. Schied, Mr. Todd Owen, and Mr. Daniel Tanciar.

Opening Remarks by Mr. Kevin K. McAleenan

Mr. McAleenan began his remarks by expressing his thanks to those who stepped up to join the User Fee Advisory Committee. He also thanked Mr. Hirschfeld and Ms. Schimmelpfenning for their commitment as co-chairs. Mr. McAleenan stated he hoped to get agreement on the path forward for some key areas as they worked together on the transparency, efficiency, and effectiveness of user fee collection and application.

He talked about the continued growth of the international air environment, pointing out a 7-percent growth in the first 8 months of the year, up from 4 to 5 percent each year since 2009. He expressed his determination to stay caught up in innovation with the growth of this industry. He also spoke of his wish to have a strategic conversation about the optimal way the government could provide a return on investment to the industry as work on securing the border and the nation goes on.

Mr. McAleenan highlighted the Reimbursable Services Agreement and the Donation Authority, saying there were several dozen upcoming agreements. He said feedback has been very positive.

Opening Remarks by Mr. Andres Hirschfeld

Mr. Hirschfeld thanked Ms. Boyce, the CBP team, and the UFAC members for their support during this first term of the UFAC. He welcomed the new UFAC members and their contributions would be well received. He also expressed interest in learning the progress on the 20-plus recommendations made to CBP during the first term of the UFAC.

Oath and Recognition of UFAC Members

The next item on the agenda was the oath of office for UFAC members. Mr. McAleenan provided the oath for the members as they repeated what he said.

Update on Merchandise Processing Fee

Mr. Vetrini covered some of the highlights of a recent webinar on the Merchandise Processing Fee. He spoke of efforts, as part of the Trans-Pacific Partnership Agreement, to replace this fee with a one not based on an ad

valorem basis. This would be a change to the traditional approach under NAFTA, in which goods entered under NAFTA rules are exempt from the Merchandise Processing Fee.

The new approach would be to replace the simple ad valorem fee with four different, fixed-dollar fees based on value. The new minimum would be 30 dollars, up from 25 dollars, and the new maximum would be 500 dollars, up from 485 dollars, with two fees in the middle.

In conclusion, Mr. Vetrini mentioned the continued outreach with Ms. Boyce's team, as well as meetings with trade associations and individual importing companies to compare notes. He offered an invitation to meet with anyone in attendance to discuss the issue.

Ms. Boyce said there is a webinar to help educate small- and medium-sized businesses. She told the meeting attendees they would be happy to address any questions their customers might have.

Mr. Mullen questioned if Congress was accepting this. Ms. Boyce answered that Senate Finance is asking for continued outreach. She said they've asked that the Committee be kept up to date on the work going on.

Financial Assessment and Options Subcommittee Next Steps Discussion

Mr. Pickens outlined the purposes of this portion of the meeting: to talk about recommendations from the Financial Assessment and Options Subcommittee, give an update on where they are with them, and talk about the next six months and where the Committee can focus efforts in terms of what to look at and what recommendations to provide to CBP.

The first recommendation was for CBP to create a master inventory for all modes and for CBP inspection activities to reflect the fees paid by all users. Mr. Pickens stated this is an inventory already in existence, and he said he intended to share it with the Committee members.

The second recommendation was for CBP to create a comprehensive User Fee Collection Remittance and Use Process Outline, including all modes and all inspection activities. Mr. Pickens stated the outline should also relate to timing and transmittal methodologies for user fees. Again, this information is already in existence and has been pulled together and will be shared with the Committee.

The third recommendation was that the impact of the current CBP fee remittance schedule be assessed by CBP and the various modes of transport and travel. Mr. Pickens stated he feels the impact side of that is needed from the industry's perspective.

The fourth recommendation was for the conduction of an impact study of CBP operations in light of cash flow from reimbursable agreements. According to Mr. Pickens, the Office of Field Operations has done a lot of work related to the reimbursable service authorities, and the Committee will be briefed on that.

Mr. Pickens then spoke on a not-quite-official recommendation from the Committee that a third party conduct the User Fee study to look at several things, including statutes and regulations associated with CBP user fees and reimbursable accounts. He let the Committee know that CBP has found a contractor to do the study, and the contractor has put together a draft report that the Committee would be briefed on.

The draft report includes such things as costs of different activities at ports of entry, evaluation of the concept and intent of cost recovery for each account, and evaluation of how CBP does allocation and reimbursement methodologies and processes related to fees and the appropriated revenue. One final thing Mr. Pickens mentioned in relation to the draft report was review of how collections and costs are driven down to an individual port of entry level.

Mr. Pickens stated this study will allow them to come up with a way of looking at large, medium, and small examples at land borders, airports, and seaports and determine how to calculate what collections would be like

based on traffic through a particular type of port, how to calculate the costs, and how much of those costs are reimbursed.

He suggested the Subcommittee begin looking at revenue impact of CBP not matching cost increases over the years for areas where there are fees reimbursing services. Mr. Pickens also wants to continue looking at the remittance schedule per the Committee recommendation to see if adjustments should be made to the schedule or if it should stay the same. He requested the Subcommittee's assistance with that task.

In closing, Mr. Pickens offered two more suggestions. He asked that the Subcommittee look at the impact of user fee adjustments on CBP operations and industry, and he also asked that it look at the value of possible fee unification.

Mr. McAleenan then highlighted some things. He said the preclearance now allows for advance payment under the reimbursable model. He also agreed with Mr. Pickens that analyzing the impact of failure for fees to increase with inflation would be a good idea.

Public Comment Period

There were no comments from the public.

Process Improvements Subcommittee Next Step Discussion

Ms. Boyce updated meeting attendees on two recommendations under the Revenue Modernization category. One recommendation was that cash collection of fees by CBP officers at the border be eliminated. Ms. Boyce said that is part of the Revenue Modernization effort and that a pilot will be launched on June 2nd. The pilot would involve three locations eliminating cash collection.

Mr. Schied commented on the pilot, saying it was recognized that improvements in efficiency at ports of entry could be made and that appropriations had been enacted for the fiscal year that would provide funding for a variety of Revenue Modernization efforts. He pointed out that though most revenue collection at ports of entry is electronic, there are still many cash transactions made, which disrupts business flow. He said solutions to some of these problems will be piloted.

Mr. Pickens picked up the discussion, stating that conducting cash and check transactions at ports of entry is not what CBP officers should be doing, that their duty is to safeguard the national and economic security of the United States. He reiterated that a number of options are being examined.

He requested of the Subcommittee that they give recommendations on business process reengineering related to fee collection. He offered as examples: suggestions as to best practices to capitalize on and potential workarounds for remote ports of entry with no wireless capability or limited internet.

He also asked that the Subcommittee help prioritize some areas of Revenue Modernization. As there are limitations on how much can be done on an annual basis, he asked to know "pain points" for the general public and the industry so efforts could be prioritized.

Mr. Tanciar spoke next, and his first topic of discussion was radiation portal monitoring upgrades. He spoke of how the second generation radio portal monitors greatly reduce the amount of false alarms, which has had a very positive impact at land borders.

Mr. Phillips pointed out that actual false positives have been reduced by 55 percent. He wanted everyone to understand what an impact this has had, since a false alarm can trigger three or four lanes at the same time, which shuts things down until those lanes are checked. He commended CBP, saying this is a real step forward.

Mr. Owen said the 55 percent reduction was at Buffalo and that Los Angeles had an 84 percent reduction. This reduction has freed up 25 officers to do other work. After Mr. Mullen questioned if this is a software upgrade and whether it has been installed on all systems, Mr. Owen clarified that the RPMs haven't changed, that it is a software upgrade. He also said it hasn't yet been installed on every system but that they're moving forward.

Mr. McAleenan further responded to Mr. Mullen's question by saying software updates have to be tuned to each individual port environment's background radiation. He stated it's "a careful process."

Mr. Tanciar picked back up and moved on to Resource Optimization. He stressed that understanding hiring challenges previously addressed remains the focus. He believes more mission support personnel should be brought on but that the officers are the priority right now.

As for automating back-office work, Mr. Tanciar said automated scheduling is moving forward. He mentioned that there are different processes for I-94, processing and collection at land borders, which will free some people up. Mr. Pickens reiterated the effort to get officers away from administrative duties and back to doing what they should be doing.

Next, Mr. Tanciar spoke about expanding the categories of eligible travelers using APC. He stated most APC airports now have B1/B2 and lawful permanent residency eligibility, along with visa waiver, U.S. citizen and Canadian citizen. He said there is work to be done to get better matching results on names and that they are increasing efficiency of the matching. He also mentioned Mobile Passport Control, which is now at 12 airports, with the 13th upcoming.

Mr. Tanciar then moved on to the Trusted Traveler program and said expanding participation continues to be a focus. According to Mr. Tanciar, about 4.8 million people have access to Trusted Traveler, and about 1.22 million, who have Global Entry benefits, are in NEXUS, which has a larger Canadian population, around 70 percent Canadian and 30 percent American.

As far as wait times for interviews, he said they're putting together surge planning to make sure appointments are available within a reasonable time. He also stated that resources are being added and focused on those efforts.

Passport cards were the next item Mr. Tanciar addressed. He said there has been great success on the Southern land border, especially with bringing on the RFID document and making that part of the protocols. For the Northern border, he said there's work to be done with Canada's government to bring in an RFID document. He said Canada is just now moving into the e-Passport realm.

Mr. McAleenan inserted a statistic at this point. He said in 2013, less than 2 percent of travelers interacted with technology before seeing an officer. In 2015, Mr. McAleenan said, it was around 32 percent, and they're working towards 70 percent interacting with some type of technology.

Mr. Tanciar again mentioned the effort to move CBP officers back to the front line, and Mr. Phillips commented that the biometric breakthroughs should be commended. He said facial recognition is going in the right direction and it was going to make a difference on the front lines.

Next was discussion of the modified egress pilot. Speaking on how the modified egress pilot done in Detroit was resource intensive, he said they looked at different models, mentioning the Miami model and then the model using locked boxes with active RFID technology antennae. Mr. Tanciar said this is a great short-term effort, but what is more exciting are the greater efforts looking at the entire process flow in the airport environment. He said use of biometric technologies plays into the overall effort of making the process more secure and fun.

Ms. Boyce then discussed the recommendation that CBP take steps to mandate that all trucks require e-Manifest. She said approximately 30 percent of trucks not covered in regional legislation arrive for inspection at the border with no notice, using paper manifest documents that require extensive time to process, which causes delayed time of trucks waiting in line. She solicited volunteers for the work group that is looking at the truck e-Manifest subject.

Next, Ms. Boyce spoke on the recommendation from UFAC. She said CBP achieved cross-designation authority with FDA and USDA at 24/7 ports when personnel from those agencies are not present at the port. She said this will eliminate overnight or weekend product holds.

Mr. Mullen questioned whether it is policy that the other PGAs have to be engaged in the process of clearing shipments at the same time as CBP. Ms. Boyce answered that she doesn't feel it's worded that way on the Executive Order.

Mr. Phillips mentioned the single window and said when CBP is operational, shipments aren't held at the border under the new setup. In response, Mr. McAleenan agreed with him and stated that utilizing the single window effectively and aligning those business processes has been a focus of the Border Interagency Executive Council.

Mr. Mullen emphasized CBP's leadership in this area, saying it's going to require a consistent and concerted effort to bring some agencies around to a more modern approach to the U.S. economy. Mr. McAleenan concurred with that thought and said it's got to be fully realized through the BIEC and through the business process side of it, noting that continued White House engagement would be helpful in allowing that to happen.

Mr. Phillips brought up five task forces working on pre-clearance. He said privileges and protections legislation, according to the latest report, would be tabled in Canada and should pass by the fall. In the United States, he said, Senator Leahy is either going to place it or has placed it with the DHS Appropriation Bill. If appropriation for DHS doesn't move, Mr. Phillips mentioned putting a freestanding bill on the floor in the Senate.

Ms. Boyce moved on to Recommendations 13, 15, 16, and 17 and asked for engagement of more of the Committee on those recommendations. She said there are limitations from a budget perspective and that there were no updates on those recommendations.

Ms. Boyce thanked everyone for the provided recommendations. She stated the responses given were going to be put in writing and posted. She asked for questions or comments from the Committee, and there were none.

Public Comment Period

There were no comments or questions from the public. Ms. Boyce again expressed her thanks and then concluded the meeting.