

# Commercial Customs Operations Advisory Committee (COAC) Trade Enforcement and Revenue Collection Subcommittee

March 1, 2017



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

**February 2017**

## **Report of the Work of the COAC**

### **Subcommittee on Trade Enforcement and Revenue Collection**

#### **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 (FL) Working Group 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 80 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).

Over the past quarter, the TERC Subcommittee continued to focus its efforts on the various enforcement provisions under the Trade Facilitation and Trade Enforcement Act (TFTEA) that passed in February 2016. In particular, the TERC Subcommittee continues to discuss the following TFTEA provisions to ensure transparency and dialogue with the trade:

- Section 105 which addresses CBP's Joint Strategic Plan on Trade Enforcement and is currently under review by the Department of Homeland Security (DHS).

- Section 114 which involves the Importer of Record Program and is dependent on the new 5106 form currently being discussed with the Office of Management & Budget (OMB).
- Section 115 involving Importer Risk Assessment. CBP continues to rely on its existing targeting system to screen cargo and request increased bonding as necessary in accordance with current bond formulas already defined on CBP.gov and in practice. CBP has established an internal working group to review this provision of TFTEA, and expects to engage in dialogue with the trade once an internal review is complete and available for trade input.
- Section 411 regarding establishment of a Trade Remedy Law Enforcement Directorate (formerly Commercial Targeting & Enforcement) within the Office of Trade. This new division assumes the former Commercial Targeting & Enforcement responsibilities plus the newly established Enforce & Protect Act (EAPA) branch for AD/CVD allegations. CBP has been very transparent with the trade on the EAPA provisions through various CSMS messages and CBP.gov at <https://www.cbp.gov/trade/priority-issues/adcvd>.

The TERC Subcommittee will continue to collaborate with CBP on these sections of TFTEA and others as the need arises. The TERC Subcommittee also continues to have monthly calls for the AD/CVD and IPR Working Groups to review and implement past COAC recommendations and discuss current trends and topics. The Bond Working Group continues to be on hiatus. The Forced Labor Working was established on July 13, 2016, and provided recommendations to CBP at the November 2016 meeting. CBP is currently reviewing these recommendations and expects to kick off new discussions with the FL Working Group after the March 2017 COAC meeting.

### **Anti-Dumping/Countervailing Duty (AD/CVD) Working Group**

The AD/CVD WG consists of a wide range of stakeholders including importers, domestic industry, U.S. manufacturers, customs brokers, sureties, consultants, trade associations, and representatives from CBP, Department of Commerce (DOC), and HSI/ICE to act as a standing forum of subject matter experts that can be called together by CBP when any issue on AD/CVD matters arise to solicit feedback and advice from the trade.

Since the last COAC meeting held in November 2016, the AD/CVD WG held monthly conference calls and completed the ACE Terminology Document on AD/CVD Company Case Status Definitions in ACE. This was a prior COAC recommendation resulting from CBP and DOC collaboration with customs brokers within the AD/CVD Working Group and is expected to be a very useful tool for the trade. The document was published in CSMS message [ACE AD/CVD Company Case Status Definitions](#) dated February 3, 2017, and can also be found on CBP.gov under the AD/CVD web page: <https://www.cbp.gov/trade/priority-issues/adcvd>.

The AD/CVD WG will continue to maintain regular calls to discuss on-going challenges with AD/CVD and brainstorm new initiatives to help with enforcement and revenue collection,

especially in light of the number of new AD/CVD cases and limited resources to manage them effectively both for CBP and the trade.

### **Bond Working Group (BWG)**

The BWG continues to be on hiatus until additional issues arise from CBP or the trade.

### **Forced Labor Working Group (FLWG)**

The FLWG is expected to begin again after the March COAC meeting with a focus on the implementation and communication of Forced Labor recommendations.

### **Intellectual Property Rights (IPR) Working Group**

The IPRWG consists of a wide variety of trade stakeholders including importers, brand holders, customs brokers, express couriers, customs attorneys, various trade associations, and representatives from CBP and HSI/ICE at the National IPR Center. Since presenting several IPR recommendations at the COAC public meeting held in July 2016, the IPRWG continues to hold monthly conference calls to explore additional concerns and potential areas for recommendations in partnership with CBP and the National IPR center to implement them.

The IPRWG has provided clarity, through discussions with CBP and the National IPR Center, on those recommendations that were presented and received a detailed update from CBP on the voluntary abandonment program.

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.

### **Summary**

Looking forward, the TERC Subcommittee will continue to collaborate with CBP and other government partners on the various TFTEA provisions to improve enforcement of U.S. trade laws and protect the revenue with a focus on CBP's Priority Trade Issues (PTIs). The TERC Subcommittee also looks forward to establishing a new Working Group that will formulate recommendations on CBP's Mitigation Guidelines in the near future.