

COAC

**COMMERCIAL CUSTOMS OPERATIONS
ADVISORY COMMITTEE**

**Commercial Customs Operations Advisory
Committee (COAC)
to U.S. Customs and Border Protection**

**U.S. Customs and Border Protection (CBP)
Washington, DC**

**November 14, 2017
1:00 p.m. – 5:00 p.m.**

Committee Welcome and Roll Call

CBP: **Bradley Hayes**, Executive Director
Office of Trade Relations
Office of the Commissioner
U.S. Customs and Border Protection

Opening Remarks

- CBP:** **Kevin McAleenan**, Acting Commissioner,
U.S. Customs and Border Protection
- Treasury:** **Timothy Skud**, Deputy Assistant Secretary
Tax, Trade & Tariff Policy, Department of the Treasury
- DHS:** **Michael Dougherty**, Assistant Secretary,
Border Immigration, and Trade, DHS
- ICE:** **Pete Edge**, Acting Deputy Director, HSI-ICE
- COAC:** **Vincent Iacopella**, Member
Julie Ann Parks, Member



Trade Modernization Subcommittee

CBP: **John Leonard**, Executive Director,
Trade Policy and Programs, Office of Trade

COAC: **Lenny Feldman**, Member
Cindy Allen, Member

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CBP: **Deborah Augustin**, Executive Director,
Trade Transformation Office, Office of Trade

John Leonard, Executive Director, Trade Policy &
Programs, Office of Trade

COAC: **Susie Hoeger**, Member
Amy Magnus, Member

GUEST: **Sheila Einsweiler**, Senior Wildlife Inspector
Fish & Wildlife Service

One U.S. Government Subcommittee

Technical and Operations Outages

- 1) COAC recommends CBP establish nationally coordinated uniform procedures for system disruptions regardless of port or mode of transportation, documented in writing and publically available to the trade. The procedure should include the specific required data elements for release during a system disruption.
- 2) COAC recommends CBP establish a procedure to allow software vendors and or software self-programmers to contact directly OneNet support rather than going through ACE helpdesk when experiencing VPN connectivity issues.



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Technical and Operations Outages

- 3) COAC recommends CBP create a communication procedure to provide an early warning notification to software vendors and software self-programmers of a potential unplanned system disruption.

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Technical and Operations Outages

4) COAC recommends ACE Availability Dashboard be enhanced as follows:

- Provide Real-time, accurate status visibility of the processes including but not limited to - trouble with outbound queues
- Provide an alert when a status changes
- Provide visibility to categories not currently available such as: Manifest – air, sea, rail, truck, FAST; specific PGAs, e214/FTZ; statements; QPWP/Inbond; ACAS; full ISF process
- Reflect CBPs planned outages and retain historical activity

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Technical and Operations Outages

- 5) COAC recommends when systems are recovered after a filer or CBP system disruption, CBP will not manually amend or back date the release date to the date of arrival.

- 6) COAC recommends CBP create a pro-active review process prior to issuing liquidated damage cases for filings that may have been connected to a system disruption.

Public Comment Period

Please send in your comments or questions via the Chat box in the webinar.

Your comments will be read into the public record and CBP will respond during the public comment period noted on the agenda if time permits.



Trusted Trader Subcommittee

CBP: **Liz Schmelzinger**, Director, Customs Trade Partnership Against Terrorism (CTPAT), Cargo and Conveyance Security, Office of Field Operations

COAC: **Alexandra Latham**, Member
Michael Young, Member

Public Comment Period

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Break

We will be taking a ten minute health break and will resume with the COAC meeting shortly.



Export Subcommittee

CBP: **Deborah Augustin**, Executive Director,
Trade Transformation Office, Office of Trade
James Swanson, Director,
Cargo and Conveyance Security, Office of Field Operations

COAC: **Elizabeth Merritt**, Member
Heidi Bray, Member

Export Subcommittee

Recommendation 1: In onboarding new participants into the air, ocean and rail manifest pilots, CBP has chosen to decentralize the connectivity and testing processes to the ACE Client Reps. Unfortunately, this core and dedicated group of professionals has been and remains busy with issues stemming from mandatory ACE implementations, leaving them with insufficient time to dedicate to the voluntary export pilot. We therefore recommend that CBP's Trade Transformation Office identify by December 31, 2017 specific, non-client rep resources to dedicate to the onboarding process for new air, ocean and rail export manifest pilot participants. We further recommend that CBP stand up a dedicated export technical task force to catalog, prioritize and expeditiously resolve technical issues in order to enhance pilot progress no later than Q1/2018 (CY).



Export Subcommittee

Recommendation 2: There is a currently lack of business process, policy and technical documentation regarding pilot processes, in particular those which elaborate timelines, set out response expectations and protocols, and explain how pre-departure targeting and hold resolution policies and procedures will impose minimal negative impact on time-sensitive carrier operations. At the present time, potential participants literally do not know “what they are signing up for” when they join the automated export pilot. We therefore recommend that CBP prioritize the development of written pilot policies and procedures that accord with past and present COAC recommendations and the dissemination thereof in early Q1/2018 (CY) to those who have expressed interest in pilot participation.



Export Subcommittee

Recommendation 3: In order to confirm mutual understanding and allow productive industry-government discussion of any issues requiring resolution, we recommend that CBP promulgate a high-level regulatory “strawman” for each mode of transport that sets forth CBP’s vision of how automation will transform the export manifest regulatory regime and the planned structure of the new regulatory approach no later than the end of Q1/2018 (CY).

Recommendation 4: We recommend that CBP enable the earliest possible transmission of 1) ocean house-level bills of lading by NVOCCs, and 2) house air waybills by Indirect Air Carriers (IACs) (freight forwarders that tender cargo to an air carrier), to facilitate early CBP risk assessment and shipment interception prior to the consolidation of cargo at inland ports / non-gateway airports and/or at ports/airports of export.

Export Subcommittee

Recommendation 5: In the ocean mode, in order to align with CBP's ocean import filing deadline and with the import manifest filing deadlines established by the EU and other jurisdictions to which US export cargo is destined, we recommend that the latest submission time for export ocean bills of lading (including straight, master and house bills) be set at 24 hours prior to vessel loading at the port of exportation.

Recommendation 6: In the air mode, we recommend that the latest possible submission time for 1) house-level air waybills by the IAC, and/or the IAC's agents, and 2) simple bills by shippers, IACs, carriers and/or their agents be harmonized with U.S. Census requirements for AES submission for air shipments.

Export Subcommittee

Recommendation 7: In the air mode, we recommend that CBP facilitate the earliest possible filing of master-level air waybills by IACs and/or air carriers, and that the latest possible submission time for master-level air waybills be established as prior to aircraft departure from the US.

Recommendation 8: In the air mode, as all necessary data for shipment risk assessment will be provided via house, simple and master air waybill transmissions prior to departure, we recommend that the flight-level manifest be utilized by CBP only as a tool for reconciliation and confirmation of the date and port of export, and not as an element of export targeting.

Export Subcommittee

Recommendation 9: Recognizing the multiple variables impacting flight capacity and the last-minute nature of flight loading and manifesting, and therefore the need for air carriers to complete post-departure reconciliation prior to transmitting flight-level data, we recommend that the submission timeline for the flight-level manifest be set at several hours after flight departure. We further recommend that an additional 3 business days be provided during which carriers may amend the flight-level manifest transmission without penalty.

Export Subcommittee

Recommendation 10: – Air – Linking the AES Filing Record to the Export Manifest: For air export shipments that require AES filings, we recommend that CBP and Census link the USPPI’s AES filing to the export manifest filing by requiring the USPPI to provide the ITN, AES Downtime citation, or AES Post Departure citation:

- For consolidations, to the Indirect Air Carrier (IAC) (the forwarder that issues the house bill that will be consolidated under an air carrier’s master bill), and further that the IAC be required by CBP to include the AES ITN or Downtime / Post Departure citation in its house bill filing to ACE;
- For straight (direct) shipments, to the air carrier, and further that the air carrier be required by CBP to include the AES ITN or Downtime / Post Departure citation in its straight air waybill filing to ACE.

Export Subcommittee

Recommendation 11: – Ocean – Reporting AES

exemption/exclusion citations: For ocean export shipments that are exempted or excluded from AES filing requirements, we recommend that CBP and Census require the USPPI to provide the 3-character alpha-numeric code that corresponds to the correct exemption or exclusion legend (per the CBP/CENSUS exemption/exclusion code table) to the carrier that issues the lowest level bill of lading. Furthermore, we recommend that CBP require the carrier that issued the lowest level bill of lading to include this three-character exemption code in its bill of lading filing to ACE.



Export Subcommittee

Recommendation 12: – Air – Reporting AES exemption/exclusion citations: For air export shipments that are exempted or excluded from AES filing requirements, we recommend that CBP and Census require the USPPI to provide the 3-character alpha-numeric code that corresponds to the correct exemption or exclusion legend (per the CBP/CENSUS exemption/exclusion code table):

- For consolidations, to the IAC, and further that the IAC be required by CBP to include the AES exemption/exclusion citation in its house bill filing to ACE;
- For straight (direct) shipments, to the air carrier, and further that the air carrier be required by CBP to include the AES exemption/exclusion citation in its straight air waybill filing to ACE.



Export Subcommittee

Recommendation 13: – Air and Ocean – Linking House Bills to Master Bills): In order to link NVOCC-issued house bills to their corresponding VOCC-issued bills of lading, and IAC-issued house air waybills to their corresponding master air waybill, we recommend that CBP require NVOCC and IAC house bill filers to include the master bill of lading / air waybill number in every house bill filing (as is done today in the ACE M-1 Ocean and Air Import Manifest Systems).

Export Subcommittee

Recommendation 14: – NVOCC visibility: In order to provide NVOCC master loaders with the necessary visibility to ensure that they have met all filing requirements, we recommend that CBP include a new ocean manifest required (conditional) data element for house bills: the master loader reference number. Specifically, when a co-loading non-master loader transmits its house bill(s) of lading to CBP, it would be required to include the master loader's bill reference number. This will allow the master loader to verify that all house bills under a given master bill have been properly filed.

Export Subcommittee

Recommendation 15: Following significant industry discussion with CBP and Census, and a survey of ACE user preferences, the trade has selected a new nomenclature of 3-character codes for AES exemptions/exclusions that are more-rationally derived from the corresponding paragraph citations found in the Foreign Trade Regulations. We recommend that CBP and Census adopt this mutually-agreed upon new nomenclature system as soon as possible, ensure that the ACE export system is expeditiously updated with the new nomenclature, and provide broad notice to pilot participants and the trade community overall about 1) the future requirement to identify AES exemptions/exclusions via 3-character codes instead of FTR paragraph citations, and 2) the change in the 3-character nomenclature from that currently programmed to the new trade-approved codes.



Public Comment Period

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Trade Enforcement and Revenue Collection (TERC) Subcommittee

CBP: **Troy Riley**, Executive Director,
Commercial Targeting & Enforcement,
Office of Trade

COAC: **Lisa Gelsomino**, Member
Kevin Pinel, Member



Trade Enforcement and Revenue Collection (TERC) Subcommittee

Anti Dumping and Countervailing Duty (AD/CVD) and Bond Recommendations

1. To support increased screening, COAC recommends that CBP require live entries for AD/CVD shipments in the following instances:
 - a. An importer with a previous unresolved instance of non-payment of AD/CVD at the time of entry summary.
 - a. An importer does not pay an increased duty bill within 60 days of issuance unless there is a valid protest issue which can be filed within 180 days of issuance.

COAC also recommends that CBP establish and publicize its policy for removing an importer from live entries once they have rectified any payment problems and/or demonstrate the importer was not at fault for any late file or payment (i.e., due to a technical or processing error).

Trade Enforcement and Revenue Collection (TERC) Subcommittee AD/CVD and Bond Recommendations

2. To support increased bonding for AD/CVD shipments, COAC recommends that CBP establish a separate supplemental AD/CVD Bond available as a Single Transaction or Continuous Bond. The supplemental bond should have a separate Activity Code and be required to secure the potential shift in AD/CVD rates for active AD/CVD Orders (estimated 420 active AD/CVD Orders). The TERC Subcommittee will be providing CBP with a white paper that provides recommendations on how the supplemental AD/CVD Bond would be calculated and automated as an eBond in ACE.

Trade Enforcement and Revenue Collection (TERC) Subcommittee AD/CVD and Bond Recommendations

3. COAC recommends that CBP provide additional data and information to sureties to support more robust underwriting of Customs Bonds for AD/CVD, including:
 - a. Expansion of the Automated Surety Interface (ASI) data to include entry summary line item detail and AD/CVD 10-digit case number so sureties can properly manage and underwrite the risk and help counter AD/CVD evasion.
 - b. Visibility to flagging the AD Reimbursement Statement in ACE as required by 19 CFR 341.402(f), or in the alternative immediate notification if the AD Reimbursement Statement is not filed with the Entry Summary. This could be accomplished through having the surety as a Secondary Notification Party (SNP) and/or updating the Bond Sufficiency Notification with additional flagging.
 - c. Improving the functionality and information available in the ACE surety portal, especially as ACE migrates to a paperless environment sureties will need to rely on visible access to data and information via the surety portal account.

The above automation is possible due to the creation of an eBond module in ACE and should not require additional funding. These changes can be made as part of the ASI conversion to ACE scheduled to deploy on February 2018.

Trade Enforcement and Revenue Collection (TERC) Subcommittee AD/CVD and Bond Recommendations

4. COAC further recommends that CBP provide the following notifications to sureties to help manage the potential risk of importer default to CBP:
 - a. Importers placed on sanction by CBP and when they are put on live entry
 - b. Importers who immediately default on payment of Periodic Monthly Statement
 - c. Real time notification of Debit Vouchers
 - d. CBP Form 29-Notice of Action
 - e. CBP Form 4647 Notice to Redeliver Merchandise
 - f. Prior Disclosures related to non-payment of ADD/CVD

All of the above information can be provided to sureties in an automated fashion due to the creation of an eBond module in ACE. The eBond module provides CBP with the ability to include additional data elements electronically via real time messaging, SNP or at a minimum paper copy of notices if not currently automated in ACE.

Trade Enforcement and Revenue Collection (TERC) Subcommittee AD/CVD and Bond Recommendations

5. COAC recommends that CBP provide sureties with the ability to add and maintain current names and addresses of importers, which are often verified through the underwriting process.
6. COAC recommends that CBP monitor accumulation of estimated AD/CVD amounts accruing on unpaid monthly statements against the amount(s) of the bond(s) securing the payment to ensure bond sufficiency.

Trade Enforcement and Revenue Collection (TERC) Subcommittee Forced Labor Recommendations

1. COAC recommends that CBP continue to actively engage with the DHS Interagency Group as a best practice for cross-agency collaboration to improve forced labor enforcement and facilitation. COAC further recommends that CBP continue to include the COAC Trade Co-Chairs for the Forced Labor Working Group (FLWG) to ensure bi-directional feedback from all government agencies and non-government stakeholders.
2. COAC recommends that CBP work with the DHS Interagency Group to co-create a “U.S. Goods Forced Labor Accountability Matrix” that will also outline the different government agencies involved with efforts to combat forced labor overseas to better understand each of their roles, responsibilities, and authorities. This Matrix is a high priority for the trade and should be reviewed with the Forced Labor Working Group prior to the next COAC meeting.

Trade Enforcement and Revenue Collection (TERC) Subcommittee Forced Labor Recommendations

3. COAC appreciates CBPs efforts to implement the Forced Labor Working Group's (FLWG's) prior recommendations, especially the recent issuance of an updated Informed Compliance Publication. As CBP continues to self-initiate and enforce forced labor allegations, COAC recommends that CBP seek additional feedback from the FLWG on how CBP Form 28 Requests for Information (CBPF 28 requests) are being handled uniformly at all centers of excellence and expertise. For example, some requests are more akin to an audit of an importer's entire supply chain and sourcing factors rather than a request for information related to one set of transactions and/or supplier. Instructions must be clear so importers know how to properly and timely respond to CBPF 28 requests.

Trade Enforcement and Revenue Collection (TERC) Subcommittee Forced Labor Recommendations

4. COAC recommends that CBP publicize ongoing work to address and combat forced labor including other metrics besides Exclusions or WROs, such as:
 - a. Number of imports examined for potential forced labor violations
 - b. Number of shipments detained, denied entry, and/or seized due to forced labor
 - c. Number of self-initiated cases and CBPF 28 requests.

Trade Enforcement and Revenue Collection (TERC) Subcommittee Forced Labor Recommendations

5. COAC recommends that CBP conduct additional outreach using a variety of methods, such as:
 - a. **Small and Medium-Sized Businesses Campaigns.** These companies may not have a compliance department, and there is a need to educate owners or transportation managers. CBP can do so by publishing bulletins and blogs, conducting and recording webinars and FAQs, and working with the Small Business Administration and U.S. Chamber of Commerce to expand outreach.
 - b. **C-Level Executive Campaigns.** CBP can do so by implementing campaigns that focus on WRO case studies and enforcement metrics similar in nature to AD/CVD and IPR statistics that are publicized on a regular basis.
 - c. **Public Outreach:** Continue to publicize the ability and process to report forced labor allegations via e-allegations and the personal/financial reward for doing so.

Trade Enforcement and Revenue Collection (TERC) Subcommittee Forced Labor Recommendations

6. COAC recommends that CBP continue to have the Forced Labor Working Group (FLWG) act as a standing forum of subject matter experts that can be called together by CBP when any forced labor issues arise to solicit feedback and advice from the trade and all stakeholders within the FLWG.

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Global Supply Chain Subcommittee

CBP: Elizabeth Schmelzinger, Director, Customs Trade Partnership Against Terrorism (CTPAT), Cargo and Conveyance Security, Office of Field Operations

James Swanson, Director, Cargo Security and Controls, Cargo and Conveyance Security, Office of Field Operations

COAC: Adam Salerno, Member
Brandon Fried, Member
Celeste Catano, Member

Public Comment Period

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Adjourn

COAC

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