

Commercial Customs Operations Advisory Committee (COAC)

Trade Enforcement and Revenue Collection – Trade Executive Summary

November 1, 2017

COAC

**COMMERCIAL CUSTOMS OPERATIONS
ADVISORY COMMITTEE**

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(COAC)**

November 2017

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

Co-Chairs

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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 13th Term continues to be on hiatus until further notice from U.S. Customs & Border Protection (CBP). In July 2016, a new Forced Labor Working Group (FLWG) was also established. All subcommittee objectives and scope are consistent with the official charter of COAC.

Summary of Work

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

During this quarter, the TERC Subcommittee held three conference calls and continues to focus on all aspects of the enforcement provisions under the Trade Facilitation and Trade Enforcement Act (TFTEA) that passed in February 2016. Updates from each TERC Subcommittee Working Group are provided below.

Bond Working Group

During this quarter, the Bond Working Group held three conference calls and focused on developing more recommendations to address Section 115 of TFTEA regarding Importer Risk Assessment, and the need for CBP to develop a plan for enhanced bonding. An in-person meeting was held in Washington, DC on September 25, 2017, to develop recommendations in preparation for the November 14, 2017, COAC public meeting.

AD/CVD Working Group

During this quarter, the AD/CVD Working Group held two conference calls to review the recommendations to ensure input from all trade stakeholders. Many of the recommendations

developed by the Bond Working Group involve increased bonding for shipments subject to AD/CVD. The AD/CVD Working Group also continues to discuss any matters of concern raised by the trade as new cases continue to develop as well as the success of enforcement efforts, especially due to the implementation of the Enforce and Protect Act (EAPA) under TFTEA. To date, there have been 14 EAPA cases submitted to CBP, a status of which can be found at <https://www.cbp.gov/trade/trade-enforcement/tftea/enforce-and-protect-act-eapa>.

Forced Labor Working Group (FLWG)

In response to TFTEA removing the consumptive demand provision from Forced Labor laws in February 2016, the FLWG was established on July 13, 2016. The FLWG includes over 35 participants from the trade industry including representatives from CBP, ICE, DOL, and various Civil Society Organizations (CSOs). The FLWG provided recommendations to CBP at the November 2016, COAC public meeting. While CBP reviewed the recommendations, the FLWG was on hiatus and started up again on September 12, 2017.

During this quarter, the FLWG held three conference calls. On September 26, 2017, over 25 members of the FLWG attended an all-day meeting in Washington, DC to:

1. Discuss recent CBP forced labor activities and accomplishments;
2. Learn about CBP's engagement efforts and the CBP forced labor allegation review process;
3. Understand the role DHS and the interagency play in forced labor efforts;
4. Discuss the Working Group's current recommendations as they pertained to CBP's recent forced labor activities;
5. Brainstorm recommendations on forced labor metrics; and
6. Discuss alignment of existing statutory and regulatory authorities and forced labor regulations.

As a result of the in person meeting, the FLWG plans to provide additional recommendations at the November 14, 2017, COAC public meeting.

IPR Working Group (IPRWG)

During this quarter, the IPRWG has held three conference calls and received a presentation from CBP on the Donation Acceptance Program. The IPRWG also received from and discussed with CBP the status of the previous recommendations presented during the COAC public meeting held in July 2016.

The IPRWG has provided clarity, through discussions with CBP and the National IPR Center, on further areas to consider in support of IPR efforts:

1. Expansion of abandonment program and partnership in small package areas.
2. Bi-directional conversations with Trade on threats leveraging the Centers of Excellence.
3. Areas of opportunity for automation in the IPR space.
4. Efficiency in the destruction of goods process.
5. Revisit the known importer concept in light of emerging technologies.

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.