



**COMMERCIAL CUSTOMS OPERATIONS
ADVISORY COMMITTEE**

Commercial Customs Operations Advisory Committee

(COAC)

U.S. Customs and Border Protection

Quarterly Meeting

August 23, 2017

San Diego, CA

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

Executive Summary

Opening Remarks

Bradley Hayes, the newly appointed Executive Director of the Office of Trade Relations at U.S. Customs and

Border Protection (CBP), welcomed participants to the second public COAC meeting of 2017. He extended his thanks to the Chula Vista Border Patrol Station and the Otay Mesa Port of Entry for their hospitality and all of the work that they've done up to this point. This meeting was also being presented online as a webinar.

Mr. Hayes then conducted a roll call. Members present: Cynthia Allen, Brenda Barnes, David Barry, Heidi Bray, Celeste Catano, Lenny Feldman, Adam Salerno, Brandon Fried, Lisa Gelsomino, Susie Hoeger, Vincent Iacopella, Alexandra Latham, Amy Magnus, Elizabeth Merritt, Julie Ann Parks, Kevin Pinel, Madeline Veigel, Michael White, and Michael Young. Mr. Hayes then turned the meeting over to CBP Acting Commissioner, Kevin McAleenan, for opening remarks.

Commissioner McAleenan welcomed everyone and recognized some key folks in the interagency partner and Trade communities. He thanked government co-chair Timothy Skud, from the Department of the Treasury and Christa Brzozowski of the Department of Homeland Security (DHS), Office of Policy. He extended his thanks also

to Tatum King of Homeland Security Investigations (HSI) - Immigration and Customs Enforcement (ICE) for his participation, and Trade industry co-chairs, Vince Iacopella of Alba Wheels Up International and Julie Ann Parks of Raytheon. On an interagency note, Mr. McAleenan also welcomed Jill Birchell and Tamesha Woulard of Fish & Wildlife Service who have been very engaged with COAC over past several months and will be giving an update. He welcomed and introduced the new Executive Director of CBP's Office of Trade Relations, Mr. Bradley Hayes.

COAC updates: Over seventy applications for membership have been received for the new term in April 2018. The members have been good ambassadors in attracting more folks to participating in these national and global policy efforts. There will be formation of a new COAC working group, Emerging Technologies. For an ACE update on the system outage last month, he noted that they have completed six of seven of primary deployments for core trade processing and are in the process of delivering the seventh and final deployment. The availability issues of the week of July 31st were determined to be caused by a hardware failure, not

problems with the development of software and coding, not a cyber security event, and not malicious activity. Issues that were identified and improvements that will be applied in the future will guard against potential future outages.

Timothy Skud talked about inviting COAC members and the public to share ideas about regulatory reform and streamlining the regulatory process, reducing the regulatory burden or even eliminating regulations. He had received a detailed list of proposals from one person in the public sector, Mike Mullen, from the Express Association of America. They shared that list with CBP and plan to examine that input closely together. Mr. Skud still hopes to hear from more members with your ideas.

Christa Brzozowski, Deputy Assistant Secretary for Trade and Transport Policy at DHS, spoke about the topic of the recent increase in e-commerce. Strategic discussions with Canada and Mexico with trade issues and national efforts are being had to combat issues that are handled differently with e-commerce, such as

the opioid crisis.

Tatum King, Assistant Director for HSI/ICE, spoke about working with partner agencies at CBP, Treasury, Commerce, Fish and Wildlife, and others with regard to trade investigations. He mentioned that trade enforcement investigations are very important to Homeland Security Investigations, and advised that the agency is working closely with CBP to invigorate HSI's Trade Investigations Program. He also shared the importance to HSI of the National Intellectual Property Rights Center, which is a multi-agency approach to address global IP theft and enforcement of international trade laws. He also referenced the important balance between trade enforcement and facilitation. He stated that HSI is working with partner agencies to address the threat of fentanyl/heroin in the trade stream; and advised that many of the trade issues, including AD/CVD and forced labor, relate to newly issued Executive Orders, for which HSI is focused and is responsible for investigating.

Julie Parks and Vince Iacopella, the COAC co-chairs, welcomed Bradley Hayes to the group. One U.S. Government Trade is currently focused on the availability and functionality of ACE.

Lenny Feldman and Cindy Allen, co-chairs of the Trade Modernization Subcommittee, spoke about international engagement and need to leverage relationships that CBP officials and those in the trade community have developed over the years to enhance international trade facilitation. They will identify best practices and note that those who benefit most from these efforts are owners of small and medium-sized businesses to help them participate in open markets, reduce costs and increase efficiencies.

Trade Modernization Subcommittee Recommendations

Executive Director of Trade Policy and Programs, John Leonard, presented CBP's comments regarding the recommendations from the International Engagement & Trade Facilitation as well as the Section 321/eCommerce working group. Member Lenny Feldman, presented the

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recommendations from the International Engagement & Trade Facilitation working group. He explained that the working group considered practical strategic approaches and suggestions to encourage best practices through CBP's engagement with foreign customs administrations that facilitate trade. The working group's recommendations were in accordance with the WTO Trade Facilitation Agreement (TFA), the WCO Revised Kyoto Convention and the WCO SAFE Framework as well all other U.S. treaty obligations. He read the recommendations that align with the 12 Articles of the TFA for submission (which follow in full after this report) and Brandon Fried made a motion to submit the Trade Modernization Subcommittee Recommendations on International Engagement and Trade Facilitation. Celeste Catano seconded the motion. The discussion was opened for debate. With no discussion being entered into, the recommendations were submitted.

Member Cindy Allen presented the Section 321/eCommerce working group recommendations. She explained that there has been an unanticipated fundamental change in the way consumers buy goods. After robust discussions the group

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has decided to make broad recommendations at this time (A full list of the recommendations is available at the end of the Executive Summary).

Recommendation 1: The first recommendation was read and there was a motion by Julie Parks and seconded by Heidi Bray to submit the recommendation. It was opened for debate and comments. A comment from the web, Abigail Struckness, was read: "The Pacific Coast Council of Customs Brokers and Freight Forward Assoc. strongly advocates for the ten-digit 10 Harmonized Tariff Schedule (HTS) to be part of any automated Section 321 data set and it should be available to filers in Automated Broker Interface (ABI) and ACE. They believe that the current Section 321 process is not sustainable as the eCommerce and de-minimis shipping processing grows. There is currently a data integrity issue with a free text description only including a ten-digit HTS as a data field is part of the solution that allows for re-segmentation and better targeting for shipments, subject

to partner government agency release authority, anti-dumping, countervailing duty laws, forced labor issues, intellectual property rights issues and consumer product safety.”

A question was asked about the language not limiting filing to a certain class or group of service providers, is that intended to be a message to customs to change its rules about what customs business is? Cindy Allen said no, the CBP legal counsel clarified that issue was settled and Section 321 filings do not fall into the terms of customs business. Lenny Feldman reinforced that someone involved in the supply chain should still have the ability to provide a Section 321, with different types of filers. A vote was taken and the recommendation was submitted.

Recommendation 2: Recommendation 2 was read, Julie Parks made a motion to submit the recommendation, and it was seconded by Amy Magnus. There were no comments.

There was a question: Are they not worried about old systems with ACE filers? Cindy said they wanted to ensure it was automated and this specific recommendation, ABI. A vote was taken and the recommendation was submitted.

Recommendation 3: Recommendation 3 was read and Cindy Allen made the motion to submit this recommendation, and Adam Salerno seconded it. There was an objection to it as being premature. The suggestion was made to explore exactly what CBP really needs to adequately target and screen for the health and safety of the American public in addition to compliance with Intellectual Property Rights (IPR), Forced Labor and other concerns and the member lodged a vote against this recommendation. Another comment was given by a representative of the Express industry, they have been clearing Section 321 off of their manifest for many years and they have a very robust partnership with CBP in ensuring the health and welfare and safety of the American public is

addressed with a legitimate flow of traffic. A vote was taken with nine in favor, five opposed and five abstaining. The recommendation was submitted.

Recommendation 4: Recommendation 4 was read and a motion to submit the recommendation was made by Julie Parks and seconded by Celeste Catano. There was a comment from a web participant: Mary Jo Muoio said she objected to the recommendation - this was actually in reference to the previous recommendation and agrees with the comments of Ms. Magnus. She also said "I do not believe that as transport document the manifest is sufficient.

Recommendation 5. Recommendation 5 was read and a motion to submit the recommendation was made by Brenda Barnes and seconded by Susie Hoeger. A comment was made by John Van Wallegan from UPS. He thought it premature to have a discussion about adding a ten-digit HTS number for the 321 filing as they have not yet clearly defined

the problem they're trying to solve. Michael Mullen on the web commented that the Harmonized Tariff System is designed and managed by the World Customs Organization (WCO) as a means of categorizing products to determine the amount of duty each country charges. HTS numbers provide limited value when assessing risk and are more critical to ascertain correct duty rates, accurate descriptions are more critical for CBP and other government agencies to determine risk and review criteria. CBP and OGA targeting for both security and compliance should rely on an analysis of the shipper code and description of goods; HTS numbers do not add value to the process and could subtract value.

There was a comment from Christopher Smith. If participating government agencies (PGAs) cannot fully flag or advise on HTS or enforcement and admissibility today for type 01 entries, how can they advise for informal entry enforcement? After discussion, the vote was taken and the recommendation was submitted.

Public Comments

Comments from the COAC members were invited and Adam Salerno from the U.S. Chamber offered that though there is not yet a consensus on this issue it is still a goal for further communication. He warned of the danger of adding complexity to a process rather than improving it and negatively impacting importers' businesses and also the effect on small and medium size enterprises is and the growing eCommerce market.

Ms. Hoeger commented for the healthcare industry that neither HTS nor the description are bullet proof in terms of targeting, but HTS allows for more automated targeting. More resources will be needed to look into it.

Vince Iacopella said that they didn't think that HTS was a complete and final solution and that ACE is the system we have, it's a system we built, and part of the discussion was how to connect into that system and

that's where this recommendation came. In the short term the group thought there was value to including this data element at this time and then discussing it further.

Ms. Magnus commented further in favor of the HTS number, that she is not against eCommerce at all, but doesn't think we are accurately capturing the statistical information about what's being brought into the United States and that's another reason why she is in favor of the HTS.

Ms. Allen added a couple of comments. One, being the need to be cognizant of the cost of adding additional data elements and understanding what the return on investment is. HTS is not going to address some of the concerns but from an overall perspective there's a need to understand the impacts before rushing to recommend an HTS number is required.

Ms. Barnes said she is in favor of the HTS code number and cited several reasons. Barnes said the HTS code is required along with a description when exporting as it helps clarify what the cargo really is. For instance if someone said they were shipping a bag, one does not know if it is a plastic bag, a hand bag, or a colostomy bag. Given we are dealing with countries whose native language is not English it also helps clarify what the item is and helps the language barriers. Mr. Feldman suggested perhaps launching a pilot first making some of the data elements, such as HTSUS and importer of record optional, and see where that leads us. Mike Young from OOCL offered that the postal service which is not subject to filing has increased substantially in terms of the volume of eCommerce packages that move through its facilities. Even with more data required for submission in AMS is not going to prevent anybody that wants to undermine the regulation, it just means they'll find a different way around it, There should be some additional discussion with COAC before deciding on

whether we move forward with this decision.

Ms. Hoeger said that the HTS number is the vehicle that currently in use today and is an important data element that provides a lot of information.

Julie Parks from Raytheon commented back to some of the opening remarks about identifying issues with the short run and the long run. Liz Merritt, Airlines for America commented on the mandatory nature of an HTS code. If going down the path of depending too much on the HTS code and not being sure that they're accurate, it actually is deleterious to risk assessment.

Comments from the Webinar: Mary Jo Muoio: "I believe that a 10-digit HTS is essential in addition to product description. I believe that utilization of the 10-digit HTS is critical to achieve global uniformity, to accurately track trade statistics and determine PGA needs and the use of the 10-digit HTS helps overcome

language differences, etc., and supports movement towards a global solution.”

Christopher Smith commented that he agrees in ACE the HTS numbers are the best way to program system review logic and that the higher dollar value adds complexity to the subject of eCommerce and Section 321 entries. The recommendation was submitted for a vote and passed.

Recommendation 6: The recommendation was read and Amy Magnus made a motion to submit. Kevin Pinel seconded. Comments from the web: Mike Mullen: “The HTS number is someone’s highly subjective interpretation of the description of the goods.” With no other comments from COAC members the vote was taken and the recommendation submitted.

Recommendation 7: The recommendation was read, Mike Young makes a motion to submit, with Celeste Catano with a second. It was opened for debate. No comments were

made by those in attendance, the web or COAC members.
With no opposition, the recommendation was submitted.

Recommendation 8: Recommendation was read and Heidi
Bray made a motion and Brandon Fried seconded to submit.
It was opened for debate.

Comment from the web: Liz Connell: "On point 7, could
we get clarification for other entry types as well as
not just being limited to types 01 and 11?" Ms. Allen
commented that these recommendations were intended for
the Section 321 process, but definitely they'll take
that back under the possible One U.S. Government
subcommittee to look at that.

A comment from the table, Cindy Allen, FedEx Trade
Networks said they do appreciate the clarification that
some of the agencies have made, specifically working
with Free Trade Agreements (FTA) in outlining some of

the requirements that they have for Section 321. We look forward to working with the other government agencies to clarify the need specifically in writing because that drives our business. They have heard comments and statements, but haven't seen official policy or anything in writing that allows our businesses to really make a determination on the path forward with regard to these other government agencies and some of the fees that are associated and really are paid in the normal environment so that we can assist our importers and clients and knowing what's required moving forward. The recommendation was submitted by vote.

Recommendation 9: Recommendation was read and motion made by Brenda Barnes, seconded by Brandon Fried and no comments were offered. This recommendation was submitted.

Recommendation 10: Recommendation was read and Mike Young made a motion to submit seconded by Heidi Bray.

No comments were offered and vote was taken. With no opposition it was submitted.

Recommendation 11: Recommendation was read. Celeste Catano moved to submit, seconded by Cindy Allen. There were no comments, and no opposition. This recommendation was submitted.

Recommendation 12: Recommendation was read with a motion to submit by Julie Parks seconded by Susie Hoeger. There were no comments, and no opposition. The recommendation was submitted.

Recommendation 13: The recommendation was read and a motion to submit made by Vince Iacopella with a second by Mike White.

A comment from the web: Mary Jo Muoio: "I believe the determination of the responsible party is critical and urgently needed."

With no further comments and no opposition the recommendation was submitted.

Susie Hoeger and Amy Magnus were next up. They are the co-chairs for our One U.S. Government at the Border subcommittee. The One U.S. Government subcommittee has continued to collect trade feedback on ACE implementation both from the industry and things are going pretty smoothly. They continue to see faster average release times from the Food and Drug Administration (FDA), although shipments going to manual review are taking a bit longer than expected. They look forward to the remaining agencies coming fully on line and the healthcare industry also has a very keen eye on the eCommerce and Section 321 issue. They feel that a full PGA data set should be collected and required, regardless of entry type, to ensure the safety and admissibility of the goods.

They also look forward to working on a new One U.S. Government master principles document for the CBP and the PGAs that encourages improved border coordination, additional automation where needed, and ongoing monitoring of progress and performance metrics. They will take on the challenge to identify where they can reduce or improve regulations to streamline trade.

Debbie Augustin thanked the COAC for the thoughtful recommendations they were putting forward today. They are looking forward now to the opportunities for enhanced border coordination from a One U.S. Government perspective that are now enabled through the implementation of the core ACE single window capability. This has been a tremendous partnership effort with the trade community and with government agencies and the input of the COAC has been considered throughout the process. To update they are preparing now for the final deployment of the remaining core ACE post-release capabilities and this is with the exception of ACE

collections which remains under a re-plan at this time. and they are then moving forward with a phased deployment schedule which is as follows: So, ACE deployment G, the seventh remaining of final core ACE deployment, the first deployment in this phased approach is going to be September 16th and they will have another deployment that is targeted for December 16th and then on February of 2018 deploy the reconciliation ACE core drawback along with the drawback under the Trade Facilitation and Trade Enforcement Act (TFTEA) capabilities, liquidation and the automated surety interface. They are going to be continuing efforts to make sure the system is highly reliable and available.

Ms. Augustin made a few points specifically on the Fish & Wildlife subcommittee, and feels that the work that was done in the subcommittee can actually be a model for engagement between PGAs and private stakeholders in future efforts and could be included in the Border Interagency Executive Council (BIEC) External Engagement

Committee.

Jill **Birchell** thanked the working groups saying this has been a rather productive seven-month period that they've had working with them on some of the issues that directly impact them regarding Fish & Wildlife requirements. The interim solution is being discontinued moving to a possible solution. She highlighted the differences between wildlife and animal products and other commerce goods. Updates will be posted in the Fish & Wildlife service implementation guide (IG), and the Fish & Wildlife PGA message set samples were posted on CBP's website on August 14th. The cert testing will begin on January 10, 2018, and that the pilot will be implemented on March 1st of 2018. Once the Service has fully evaluated the recommendations put forth by the COAC, they will proceed with the development of an in-state solution for ACE.

They are working on an overall evaluation of their

wildlife inspection program as well as the ports that have been designated as wildlife ports. Expect a final report in October. There is an e-licensing system for importers and exporters of wildlife products and they do anticipate that that will be released and available to the community in October of this year

One U.S. Government Recommendations

The One U.S. Government subcommittee puts forward the following recommendations: **(The full list of recommendations is available at the end of the Executive Summary.)**

Recommendations 1 through 4 were read and Brandon Fried made a motion to submit with a second by Madeline Veigel makes the second. The discussion was opened up and a comment was made on recommendation #2 about visibility and confidentiality issues. The vote was taken in favor of submitting the recommendations related to ACE, met

with no opposition and the recommendations were submitted.

Ms. Veigel explained that in January there was a working group set up together with Fish & Wildlife, CBP, several members of the trade, importers, brokers, software providers, and they've been working very hard since January. They also had a face to face meeting in March 2017 and the recommendations that are going to be put forward here are a result of especially that in-person meeting. She thanked Fish & Wildlife for their work as they partnered with them. The recommendations are broken out as short-term recommendations and long-term recommendations and there is also a white paper that goes with one of the recommendations. The recommendations 1 through 9 were read followed by an explanation of the white paper. Debate was sought, but there were no comments. The vote was taken with all of the recommendations being submitted.

Global Supply Chain Subcommittee

The Global Supply Chain Subcommittee Customs-Trade Partnership Against Terrorism (C-TPAT) best practice framework was discussed by Mr. DiNucci and Ms. Schmelzinger. They did not have any specific recommendations at this time. Lisa Gelsomino read the Pipeline Working Group recommendations and they were moved to be submitted by Adam Salerno and seconded by Brandon Fried and with no opposition the recommendation was submitted.

With the floor being opened for public comments, there were brief comments on ACAS from Brandon Fried speaking about the Air Cargo Advanced Screening Initiative pilot and recently testified at the House Committee on Homeland Security's Aviation subcommittee on July 27th hoping that this regulation comes to fruition soon.

Trusted Trader Subcommittee

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Trusted Trader Subcommittee co-chairs, Alexandra Latham and Michael Young discussed the objectives of the subcommittee to develop an enhanced Trusted Trader Program and provide advice on C-TPAT issues. The draft of the Trusted Trader strategy document was released at the July 2016 COAC meeting in Boston, were on hiatus in August and going forward they are evaluating and developing the program with incentives and partnering with the PGAs, etc. Ms. Schmelzinger shared her thoughts on the process and reinforced that they will focus on a process that works for everyone in the Trade. There were no recommendations submitted.

**Trade Enforcement & Revenue Collection (TERC)
Subcommittee**

COAC members, Lisa Gelsomino and Kevin Pinel discussed. Two recommendations were read. A motion to submit the recommendations was made by Alexandra Latham and seconded by Mike Young. It was opened for comments.

There were none and the vote was taken. With no opposition these recommendations were submitted.

The Exports Subcommittee

COAC members, Elizabeth Merritt and Heidi Bray talked about the commodity and manifest sides of the export. The issue of port-level targeting of shipments by the port of export is a complex one and the level of data being generated currently will provide substantive help to determine the most efficient and effective means of export targeting. They thanked Bradley Hayes and the Office of Trade Relations team for their help and careful listening to their needs A Post Departure Filing Implementation Plan has been created and is being reviewed by CBP. The Subcommittee is working to implement a test for the Post Departure Filing proposal once CBP has completed their review of the Implementation Plan. Mr. DiNucci reiterated that there is risk with export eligibility requirements but seeking the input and cooperation from the foreign importers (US

Exporters) is key. The subcommittee did not have any specific recommendations at this time but do expect to have some at the next meeting.

Public Comments

A final public comment period was opened up. Julie Ann Parks commented that the help from CBP in understanding timelines of cooperative components will expedite resolutions.

From the web, Liz Gant asked "what is the projected time frames for the C-TPAT changes to be implemented?" Mr. DiNucci said that if she's referring to the changeover to Trusted Trader, that is under way but that will be a long term project.

The second comment was from Kate Weiner: "Speaking for the agri-business exporters, thank you very much for your attention to the commodity side of the export subcommittee. I think we saw recently how important

post-departure filing is when data was moved from census to customs, Cargill looks forward to continued work with the subcommittee.”

Mr. Hayes made some final remarks thanking everyone for their hard work and a great meeting.

Acting Commissioner McAleenan concluded with thanks to everyone, that he could see a lot of work had been done and is looking forward to future recommendations and progress.

Mr. Hayes adjourned the meeting at 1:00 p.m.

AUGUST 23, 2017

FINAL RECOMMENDATIONS

Trade Facilitation Agreement (TFA)

Article 1: The first group involves publication and availability of information: COAC recommends that CBP work to implement publication, access, availability of information to provide transparency. We spoke about the HGS being available and relevant customs and Trade law online as well as to ensure there are updates with current laws and regulations such as the CBP best practices Informed Compliance publications, the Cargo Systems Message Service.

Article 2: The opportunity to comment on new laws and regulations impacting trade in various jurisdictions using a consultative process. To have a minimum of a 60-day comment period

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especially if there were going to be significant regulatory changes or if systematic changes would be required. There has been work on establishing commercial advisory committees with CBP taking the lead.

Article 3: TFA advanced rulings. COAC recommended to prioritize the implementation of an advanced ruling system. They received input from the Office of Regulations and Rulings who represent a best practices process.

Article 4: Procedures for Appeal or Review. Cited to best practices of administrative review, judicial appeals which are clear and transparent with stipulated time frames for advice and review of decisions. CBP should share its best practices before the WTO Trade Facilitation Committee with the goal of a global model.

Article 5: Other Measures to Enhance Impartiality, Non-discrimination and Transparency: COAC recommended that it should work with foreign customs administrations to minimize risk, promote transparency in the process for the release of detained goods, encourage advanced data and cross reference with results from private, accredited labs in addition to government labs when needed.

Article 6: Disciplines on Fees and Charges Imposed During Connection with Importation and Exportation. COAC recommends that CBP encourage customs administrations to improve transparency and consistency in fees and other charges, liquidated damages and penalties. An important concept is the proportionate response to and consequences of the violation's level. COAC also felt that CBP should encourage customs administrations not to require the consularization of documents and certificates establishing articles of free sale but encourage the use of commercial documents kept in the ordinary course of business.

Article 7: Article 7: Involves the release and clearance of goods and COAC recommended – there are quite a few recommendations in this area, that CBP work with administrations to simplify procedures, to reduce average clearance time, predictable time frames for cargo release decisions, prearrival processing of import documentation, to accept electronic payments for duties and taxes and fees and promote release of goods prior to final determination and payment of customs duties. Here we felt that COAC was indicating that CBP could share best practices with other customs administrations on pre-arrival processing, e-payment, clearance and release and simplified procedures as well as risk management techniques and to leverage a risk management methodology not only for inspection but also post clearance as well. We also recommended that CBP encourage customs administrations to establish guarantees, customs bonds to secure entry – a lot of countries still don't do this – and we think this is a real critical piece consistent with the TFA for in-bond, for transit, for warehousing as well and to allow for the immediate release of cargo prior to final duty payment and other product conformity determinations. And I'd probably say this was a top priority for the group to try to establish this bonding system that we have and a lot of our partners have but some do not, and especially the e-Bond system. We clearly thought that that was a best practice and something that we would hope that other customs administrations would aspire to as well. We had an interesting discussion, as you've started to hear, on de-minimis and those types of entry or manifest processing as well and we thought at least that CBP should advocate for a consistent de-minimis threshold with reduced documentary requirements globally as well to enhance our export flow. We mentioned Single Window, that we see that as a

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best practice when it comes to these barriers. The AEO programs and the Mutual Recognition agreements are really a way not only for purposes of security but for trade facilitation, for trade compliance, and a Trusted Trader type concept to really implement and execute the provisions of the TFA.

Article 8: The recommendation was to establish a national interagency entity that encourages cooperation and coordination. Here we pointed to the BIC, the Border Inter-Agency Executive Council, as a best practice, which we hope other customs administrations would emulate as well. We also suggested that CBP work through the WCO to promote a concept of a coordinated border management to be built on the partnerships with other government agencies as outlined in the WCO framework of standards to secure and facilitate global trade.

Article 9: Movement of goods intended for import under customs control. The establishment of an in-bond process, that it should be multi-modal.

Article 10: Formalities connected with importation, exportation and transit. Recommendation of the ATA Carnet system – that a lot of countries still have not adopted the Carnet system. Aspirationally we'd like to see it automated, for it to be electronic, but we think it's necessary to take one step at a time with these so-called merchandise passports for the temporary importation or admission of goods. In addition, the recommendation to reduce, simplify and standardize the data elements required for import and export to avoid the practice of duplication of electronic documents and paper copy documents and to accept electronic transmissions -- still not the case with a lot of our trade partners -- to achieve a uniform data collection process. We also recommended that CBP work with customs administrations to reduce the incidence of signatures on import and export and transit documents and when they are required, to accept copies of the document along with the signature. Further, to adopt in a uniform manner an informal consolidated entry process for lower shipments in the Express environment as well as to diminish and, where practicable, eliminate reliance on pre-shipment inspection or third party verification practices that cause unnecessary cargo delays. In addition we felt that CBP should share its best practices for bringing goods into compliance in order to secure bonded areas, bonded warehouses, free trade zones, to bring merchandise in conformity with product labeling requirements and where we found, and CBP found, in some countries had an international labeling standard to make sure it wasn't overly specialized, that there wasn't a separate process after product manufacture that would create extra cost which would involve unnecessary labeling which some of our working group members cited as a problem. Further, we also recommended that CBP work with administrations to achieve a more uniform and transparent process among various ports and districts, because the different port-specific practices hinder the flow and clearance of lawful commerce. In fact, some of our working group members indicated that in some countries they don't even use the same automatic system from port to port, which we thought, as we go to Single Window, well at least start by using a single system from port to port and we won't call out names, I think we know who some of these countries are, but we figured that's a very important point to work towards, and also to the extent possible to encourage customs administrations not to restrict clearance or inspection of certain merchandise to certain ports or geographic locations which cause delay and additional cost. We, of course, mentioned as a best practice the centralized post-release procedures under CBP Centers for Excellence and Expertise. We mentioned remote location filing to allow for electronic remote filing at all ports of entry as best practices.

Article 11: Freedom of transit. To encourage countries not to impose unnecessary fees for the movement of in-transit goods including those relating specifically to instruments of international trade.

Article 12: Customs cooperation. Promote compliance through outreach such as webinars, symposiums, and form compliance publications and for administrations to share information about organizational structure and to the extent possible provide contact information for government officials so you know who to reach out to and to also share importer entry information in a way that achieves effective customs control but does not release proprietary information of companies.

Separate recommendations: We went to our 13th area and this was other trade facilitation recommendations. These don't tie into a particular TFA article but the group felt it was important to provide these, if you will, separate recommendations that there should be an expansion of a public/private partnership with national trade facilitation committees including the Global Alliance for Trade Facilitation and others. As well specifically it was noted in the APEC region to encourage more transparent and streamlined processes involving phyto-sanitary certificates that can delay clearance. Also to recommend standardized customs data, and expanded hours of full operation at border crossings to expand intra-Africa trade which is beneficial in attracting new businesses. There was also a recommendation on ADCVD to identify and share best practices on enforcing anti-dumping and countervailing duties and to look at the prospective basis regarding margins, something that we handle a little bit different in the United States and we thought there might be some good practices that we could share and consider globally. And also to share best practices concerning heightened levels of IPR enforcement and to implement IPR reforms with best practice being the National IPR Center that we have here in the United States.

Finally, a trade policy recommendation that in light of the U.S. withdrawal from the Trans-Pacific Partnership to maintain continued engagement with Asian customs administrations.

COAC:

Recommendation 1: In order to promote a level playing field and not impair the flow of legitimate commerce, COAC recommends that CBP in conjunction with the PGAs should adopt policies or requirements that generally would not limit, encourage or require Section 321 filings to a certain class or group of service providers.

Recommendation 2: The COAC recommends CBP provide Section 321 filing capability in ACE for ACE filers and the automated solutions, including the ability to file, PGA data should be available in ABI.

Recommendation 3: The COAC recommends CBP provide Section 321 filing capabilities in ACE for ACE filers and the automated solutions, including the ability to file PGA data, should be available in AMS.

Recommendation 4: COAC recommends that CBP should collaborate with the trade to ensure that shipments released using Section 321 subject to PGA review have the necessary data

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elements, data sets, required for CBP and the PGA to release the cargo consistent with the risk and targeting standards aligned with the agency's missions and to safeguard public health safety of the American consumer.

Recommendation 5. COAC recommends that CBP in conjunction with the PGAs clarify publicly to the trade whether a merchandise description only or alternatively an HTS number is recommended or required for Section 321 importations. Additionally, should CBP and the PGAs recommend or require an HTS number, it should clarify the circumstances where an HTS is recommended or required. for example in all cases, in cases of revenue or fees or when required by PGA for admissibility determinations and prior to arriving at the determinations consult with COAC.

Recommendation 6: COAC recommends that the CBP should collaborate with the trade to ensure that they have an adequate process in place and/or an automated solution determined if the shipment is subject to PGA admissibility requirements or not, and if it is, in fact, eligible for Section 321 clearance.

Recommendation 7: COAC recommends that CBP work with the partner government agencies to encourage each PGA who has not yet done so at the time of these recommendations to clarify publicly to the trade whether Section 321 imports require a data set as they do for entry types 01 or 11 for cargo release. If the PGA will not require the submission of PGA data for such shipments, exempting Section 321 importations from PGA review then the COAC recommends that they state this policy in writing. CBP recommends that CBP engage the BIC for additional outreach and coordination efforts to attain such clarification.

Recommendation 8: COAC recommends that CBP and the government agencies that currently require the payment of duties or fees, for example anti-dumping duty, or countervailing duty, or fees on entries, clarify publicly to the trade whether for Section 321 imports they will require such duties and fees or consider them exempt on Section 321 importations.

Recommendation 9: COAC recommends further if CBP and/or the PGA determine certain data elements for admissibility or revenue fees are required for Section 321 importations. CBP should establish filing requirements. In such case, CBP should arrive at these requirements, including data elements, in collaboration with the trade including COAC and the TSN to ensure minimal effect in costs and efficiencies to processing 321 importations.

Recommendation 10: COAC recommends that CBP and the trade continue to work on ways to better educate and inform the trade community to improve descriptions of merchandise provided on commercial and shipping documents including manifests to the filers of Section 321 transactions.

Recommendation 11: COAC recommends that the work load staffing model the CBP currently utilizes to identify the levels of officials needed to facilitate and manage the flow of legitimate cargo include a review and determination of the additional volume of shipments that are being imported under the Section 321 limit of \$800 currently in the statute. This will ensure that CBP addresses the new and different flows of commerce enabled under the statute in an efficient and comprehensive manner.

Recommendation 12: Rather than identifying a particular party that categorically should be liable or responsible for the appropriate and accurate filing of a Section 321 imports, CBP should clarify publicly to the trade existing laws and regulations such as those relating to risk-based cargo release, product admissibility, manifesting cargo, intellectual property, commercial negligence or fraud, etc., that the CBP with the ability to hold various parties responsible for the accuracy of such transactions. The COAC recommends that CBP should also consider those parties who have the primary financial gain due to the sale of the goods and/or knowledge about the nature of manufacture, country of origin or admissibility of the product or goods. Further, the COAC recommends that a continued dialogue on this issue with CBP and the trade including this COAC working group.

Recommendation 13: CBP should consider in conjunction with the PGAs providing benefits to trusted partners involved with Section 321 importations as already is the case for cargo release or entry. In particular, CBP should consider expedited processing and less targeting due to minimal risk associated with such transactions when there is additional processing or screening performed. CBP should leverage COAC as a resource in future discussions on this topic.

One U.S. Government Recommendations

Recommendation 1: The COAC recommends expanding reporting capabilities in ACE to accommodate and include the PGA data elements transmitted and the corresponding PGA message set.

Recommendation 2: COAC recommends modifying the ACE account structure to provide ACE participants with visibility to, and reporting on, all transactions where they are listed as an entity to the transaction including a foreign supplier verification program, importer consignee, etc. So, traditionally an ACE account structure only has those EIN or IOR numbers for which we're acting as import of record but under things like the FSV Food Safety Program for FDA, other people acting as importer of record can assign us the responsibility as the FSVP importer which creates some liability for us, so giving the trade the ability to see these transactions where they have been named a party to the transaction is important.

Recommendation 3: To ensure uniformity and accuracy of foreign currency conversions, the COAC recommends that CBP provide currency tables in ACE ABI consistent with the objective to transition all Legacy ACE functionality into ACE ABI. We can continue to use the currency conversion tables that were in ACS until ACS is finally unplugged, I guess is the word, sunset-ed, but we want to see that continue into ACE in the future.

Recommendation 4: COAC recommends that CBP should collaborate with the trade to ensure that shipments released using section 321 subject to PGA work with One U.S. Government subcommittee to review, develop and draft ACE Disaster Recovery and National Downtime procedures.

Recommendation 1: COAC recommends that CBP work with Fish & Wildlife to include small, medium and large importers as part of the pilot, exclude type 06 entries-- these are the FTZ, foreign trade zone, weekly withdrawals from the interim pilot, mostly due to their complexity,

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engage the COAC and trade the opportunity to provide recommendations as needed in regards to policies and procedures prior to the publication of the revised implementation guide and once the pilot begins engage the COAC in trade to evaluate the pilot and provide feedback for long-term solutions.

Recommendation 2: Regarding outreach and education: The COAC recommends that CBP partner with Fish & Wildlife to increase its overall outreach and education with the trade by further integrating Fish & Wildlife into the centers of excellence and expertise. The centers have much knowledge about the importers that are managed within the C, increased collaboration between the C's and Fish & Wildlife could allow better targeting and resolution by Fish & Wildlife. Requesting Fish & Wildlife host additional webinars to the trade on the upcoming interim pilot and other information pertinent to the trade. Inviting Fish & Wildlife to attend other industry conferences and provide updates as part of the actual sessions at these conferences. Inviting Fish & Wildlife to participate in trade days at the ports of entry to disseminate information, requesting Fish & Wildlife host webinar and training sessions communicating requirements to overseas companies that export to the United States and requesting Fish & Wildlife to further enhance and simplify their website, adding links to provide key information to importers, custom brokers and any trading partners who bring goods subject to Fish & Wildlife into the United States, for example adding fact sheets and FAQs to the website.

Lastly, requesting Fish & Wildlife work together with the trade to further develop a Fish & Wildlife online tool that will enable traders to understand whether a product is subject to Fish & Wildlife. And these first two recommendations were immediate and especially for the interim pilot.

Long-Term Recommendations

Recommendation 3: The COAC recommends CBP work with the Fish & Wildlife Service to adopt the same hold intact concept used by the Food and Drug Administration, FDA and as outlined by CBP under 19 CFR 141.113 CD. This would allow importers to obtain a conditional release from CBP to move cargo from the port of entry to another location of the importer's choosing and hold the cargo intact until it is fully released by Fish & Wildlife or hold only those items designated by Fish & Wildlife that need to be held.

Recommendation 4: The COAC understands that Fish & Wildlife is part of the Convention on International Trade and Endangered Species and Wild Fauna and Flora Cites Committee. As such, the COAC recommends that CBP encourage the Fish & Wildlife to participate in the CITES electronic permitting exchange and requests a report, when able, on its efforts to implement this electronic process in the U.S. This would include implementing electronic permit standards and norms in order to issue and receive CITES permits generated through an electronic permit information exchange with participating countries.

Recommendation 5: COAC understands that Fish & Wildlife is currently conducting a port study in relation to the designated port exception permit process. The COAC recommends that Fish & Wildlife provide updates to the Fish & Wildlife working group as they are able on the status results and next steps of the port study. COAC recommends that CBP work with Fish & Wildlife to continue to look for options to support the current designated port exception permit

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process.

Recommendation 6: The current harmonized tariff system is not clear enough to determine whether a commodity meets Fish & Wildlife exemptions. Currently a large number of the HTS numbers flag Fish & Wildlife. The purpose of this recommendation is to have fewer tariff numbers flagged for Fish & Wildlife and still allow Fish & Wildlife to collect necessary information. The COAC recommends partnering with Fish & Wildlife to request further tariff number breakouts from the appropriate parties at the International Trade Commission and CBP to address the following areas in particular:

- 1) Separating domesticated specimens from non-domesticated specimens,
- 2) Determining shellfish fishery product for human or animal consumption and separating animal from non-animal product. So the Fish & Wildlife working group has put together a white paper with further recommendations on tariff number breakouts

Recommendation 7: The COAC has a concern surrounding the number of HTS numbers flagged for Fish & Wildlife. A recommendation to further break out HTS numbers is an effort to partner with Fish & Wildlife to find ways to comply with the Fish & Wildlife Service requirements but to also reduce the number of HTS numbers flagged for Fish & Wildlife. The COAC recommends that in the interim, until such time as the previous recommendation is adopted, CBP work with Fish & Wildlife to explore flagging only those HTS numbers which require a response and are in direct proportion to Fish & Wildlife Service's high-risk HTS numbers.

Recommendation 8: The COAC recommends that CBP work with Fish & Wildlife to create a compliant trader program for importers. Fish & Wildlife together with the Trade would determine the conditions for entering and remaining in the program. This program would allow Fish & Wildlife to focus on importers and commodities that truly pose a risk versus those parties who have demonstrated they are a compliant trader. One of the reasons for this program would be for the Trade to work with Fish & Wildlife on how the Trade can provide proof under the YN scenarios without providing additional data elements when disclaiming a product from filing the form 3-177. And the COAC recommends that the current Fish & Wildlife working group scope out this process with Fish & Wildlife during the pilot and this process could possibly be utilized by other PGAs. In addition, the COAC recommends that Fish & Wildlife work together with CBP to align the compliant trader program with other trusted trader programs

Recommendation 9: The COAC has concerns surrounding the burden of proof for an exemption specifically in relation to animal species and the requirement of additional data elements under the N scenario where the importer claims the product is exempt from the 3-177 form. As a result, the COAC recommends CBP partner with Fish & Wildlife to utilize the one-letter disclaimer code that indicates the product contains certain domesticated species as provided for in 50-CFR-14.4. The COAC encourages Fish & Wildlife to adopt the one letter disclaimer code to be used in the interim pilot as part of the final implementation and, if Fish & Wildlife determines that the domesticated disclaimer code will not be part of the final implementation, the COAC recommends Fish & Wildlife support its need to obtain genus and species information on certain domesticated species by issuing a Notice of Proposed Rulemaking to Amend 50-CFR.

Pipeline Working Group Recommendation

COAC recommends CBP begin a proof of concept Pipeline pilot to allow Pipeline operators to utilize a monthly 7512 batch reporting process. CBP to consult with the Pipeline Working Group to develop the parameters of the pilot and bonding requirements of potential expansion. And that is to nail down the parameters of moving forward with the pilot and really doing some outreach with the Pipeline operator community as well about the pilot.

The Trade Enforcement & Revenue Collection (TERC) Subcommittee Recommendations

Recommendation 1: COAC recommends that CBP continue to engage with the Trade Enforcement & Revenue Collection subcommittee and underlying working groups to collaborate prior to implementing any policy and/or statutory changes required by the presidential executive order, especially in the areas of heightened enforcement and increased bonding that could have a substantial impact on the Trade.

Recommendation 2: COAC recommends that CBP work with the Department of Commerce to develop educational papers and best practices for handling critical circumstances and ADCVD entries that have a zero percent deposit rate at the time of entry. The ADCVD working group also provided various updates to CBP's FAQ document and recommends incorporating some of these newer educational tools into the FAQ.