

Commercial Customs Operations Advisory Committee

(COAC)

U.S. Customs and Border Protection (CBP)

Executive Summary

COAC Public Quarterly Meeting

May 30, 2019

1:00 p.m. - 4:00 p.m.

OLENDER REPORTING, INC.

1100 Connecticut Avenue NW, #810, Washington, DC 20036

Washington: 202-898-1108 • Baltimore: 410-752-3376

Toll Free: 888-445-3376

### Opening Remarks

Mr. Bradley Hayes welcomed everybody to the second COAC meeting of 2019. He thanked the people of Laredo for all of their hospitality. Mr. Hayes performed a roll call and all Members called were present except for one, Michael Young. He noted that the Acting Commissioner, Sanders, could not attend due to a family commitment made long ago. In his place was the Executive Assistant Commissioner from The Office of Field Operations, Todd Owen.

Mr. Owen thanked the people of Laredo, including J.D. Gonzalez, the Laredo Trade Community, and Stakeholders for hosting the week. Holding sessions outside of Washington, D.C. can provide new perspectives as the members get out into the field and see where the real work is being done and the challenges that both the CBP and the government face, as well as what the stakeholders face. He also thanked DFO, David Hilgerson, and his staff from the Laredo Field Office for all of their

OLENDER REPORTING, INC.

1100 Connecticut Avenue NW, #810, Washington, DC 20036

Washington: 202-898-1108 • Baltimore: 410-752-3376

Toll Free: 888-445-3376

efforts to help make the event happen.

Laredo is one of the largest and most important field office with over 3100 officers, AG specialists, Trade specialists, and support personnel in Laredo. CBP has four primary missions: First, counter-terrorism; second narcotics interdiction; third economic security; and, fourth, facilitating trade and travel. As a national security agency with a mission that cuts across so many different areas, CBP really needs the assistance of trade stakeholders and law enforcement partners.

Ms. Amy Strauss with the Department of Homeland Security (DHS) thanked the Laredo port for the tour the previous day. The partnership with Mexican customs is really significant. She addressed as an area of focus, the Presidential Memorandum on Combatting the Use of Counterfeiting on Third Party Platforms that was signed in April of this year. It requires Department of Homeland Security, in

OLENDER REPORTING, INC.  
1100 Connecticut Avenue NW, #810, Washington, DC 20036  
Washington: 202-898-1108 • Baltimore: 410-752-3376  
Toll Free: 888-445-3376

coordination and collaboration with the Department of Commerce (DOC), to draft a report looking at this issue a little bit more holistically. DOC will be issuing a Federal Register notice to get member's feel on things that not only the DHS can do in this space, but also what the vendors themselves can do.

Mr. Shane Folden, the Special Agent in Charge of Homeland Security Investigations (HSI) in San Antonio spoke next. He noted, on behalf of the Executive Associate Director, Derrick Benner, and Steve Francis, the Director of the IPR Center, that on the presidential memorandum he believes that DHS has been charged to lead the response. It is due back to the White House 210 days from the date of issuance and it's going to address both law enforcement and property rights. The IPR Center is currently holding meetings of the executive steering and working group levels to support the effort and hosting. Last month, HSI welcomed the Department of Veterans Affairs Office of Inspector

OLENDER REPORTING, INC.

1100 Connecticut Avenue NW, #810, Washington, DC 20036

Washington: 202-898-1108 • Baltimore: 410-752-3376

Toll Free: 888-445-3376

General, the 25th partner in the IPR Center. A recent penalty collection at the Court of International Trade (CIT), as a result of a ten-year investigation and cooperative effort, between HSI, CBP and Department of Justice (DOJ) Civil Litigation Division, Univar U.S.A. paid a \$62.5 million penalty under Title 19 USC 1595 and 1592, for the evasion of anti-dumping duties (ADD) due to Chinese origin saccharine imported into the United States. This is the largest penalty collection recovery under the statute at the CIT.

Ms. Gelsomino pointed out that the way they work with the customs brokers and the Centers of Excellence gave some terrific insight into CBP's processes. She noted it was exciting to be here when Laredo was just designated as the number one port throughout the country in terms of transactions and volume. She feels passionate about the immigration issue and current crisis and the children that have been impacted by it. There are many trade issues that will be covered in this

OLENDER REPORTING, INC.

1100 Connecticut Avenue NW, #810, Washington, DC 20036

Washington: 202-898-1108 • Baltimore: 410-752-3376

Toll Free: 888-445-3376

gathering, and they have Intelligence Enforcement updates. The Rapid Response subcommittee has been very active recently.

Mr. Feldman said that the experiences at the Center, witnessing children being reunited with parents and other personal stories was a very poignant message as to the reality of what the groups are facing. He noted four messages that really came forward. One was that we're seeing the growth of cargo at a staggering rate here, a real influx of it coming through Mexico throughout the southwest border, and that's continuing despite the challenges, despite the migration we are seeing from the northern triangle. The dedication and the ingenuity and technology being employed are bringing things together through unified cargo processing, and this is also throughout the southwest border and throughout the entire country. Partnership with the Laredo brokerage community, the import-export community, and the city of Laredo is critical and it's going to continue. Mr. Feldman

OLENDER REPORTING, INC.

1100 Connecticut Avenue NW, #810, Washington, DC 20036

Washington: 202-898-1108 • Baltimore: 410-752-3376

Toll Free: 888-445-3376

said that with China goods coming through Mexico now, as the cargo's going up, the challenge is going to rise in dealing with the volume as well as the humanitarian and national security risks that are there.

**Intelligence Enforcement**  
**Subcommittee Report**

The Intelligence Enforcement Subcommittee was led by Executive Director, John Leonard, from the CBP side, and from the COAC side by Heidi Bray, Kate Weiner, and Amy Magnus.

Since the last COAC meeting in February 2019, they have had three working groups that have been very active: The AD/CVD Working Group, the Intellectual Property Rights (IPR) Working Group, and The Bond Working Group. The working groups consist of COAC and non-COAC members, representing different stakeholders, customs brokers, sureties, attorneys, ABI vendors, carriers, consultants, various trade associations, as well as participants from CBP and

other partner government agencies. The full COAC Intelligence Enforcement Subcommittee met twice, covering the following areas.

Lisa Gelsomino spoke about the AD/CVD Workgroup with over 480 cases discussed. They have discussed how importers really need to be carefully vetting their supply chain and perform due diligence with the example of the Univar case; the complications tariffs are bringing to the process; and managing post summary corrections. The group gets feedback from the trade and brings it back to CBP with ideas about how they can better address the issues and bring them to solutions. For example, DCO now has budget to enhance the AD/CVD Case Management system in ACE, so they have been actively seeking feedback from the Working Group on some of those enhancements.

Kathy Wilkins reported on the In-Bond Working Group which is behind in some areas. They had the new 5106 process rollout on March 16th with an update

OLENDER REPORTING, INC.  
1100 Connecticut Avenue NW, #810, Washington, DC 20036  
Washington: 202-898-1108 • Baltimore: 410-752-3376  
Toll Free: 888-445-3376

patch that went in on March 18th. CBP was very proactive in having pre and post decisional calls which very few of the trade participated in, because very few had any issues. It was a strong rollout and they look forward to getting back to the Foreign Trade Zone (FTZ) and the pipeline. IPR Working Group was reported by Jody Swentik and Amy Smith. Our working group submitted several recommendations at the February 2019 meeting. Our conference calls lately with the Working Group are to discuss priorities and one priority that we all agree with is the manual process for seizures and detentions. They formed a subgroup to focus on recordation and how IPR is recorded within Customs from a patent and trademark with the office. Their objective was improving participation and value of the recordation process. The areas of attention were automation, reimagining the process, visibility and to have communication internally within CBP and externally with the trade. The group had no recommendations for CBP at this time.

OLENDER REPORTING, INC.

1100 Connecticut Avenue NW, #810, Washington, DC 20036

Washington: 202-898-1108 • Baltimore: 410-752-3376

Toll Free: 888-445-3376

Executive Director John Leonard highlighted the Presidential Memorandum that is going to be due at the end of October 2019. The Rapid Response Subcommittee should get COAC feedback. The DOC will be putting out a Federal Register notice for all interested parties to submit comments. He pointed out that the administration is especially interested in the counterfeit issue, focusing on China and Hong Kong. He applauded the DOC ACE enhancements.

Mr. Lenny Feldman commented about the NCBFAA facilitated meeting that was a success in discussing the enforcement issues they are seeing on the border manifests. Heidi Bray made mention of the supply chain successes recently with Laredo.

### **Next Generation Facilitation**

#### **Subcommittee Report**

Executive Director Leonard from CBP and COAC members Cindy Allen, Madeleine Veigel and Barry Baxter were on the subcommittee. Cindy Allen stated

OLENDER REPORTING, INC.  
1100 Connecticut Avenue NW, #810, Washington, DC 20036  
Washington: 202-898-1108 • Baltimore: 410-752-3376  
Toll Free: 888-445-3376

that the Next Generation Subcommittee is really focused on the future for trade, government, processes, policies, procedures, and examining what that might be and what might be possible moving forward. They looked for opportunities and identified challenges that can be addressed in the process. The 21st century customs framework represents how everyone will be doing business in the future. The four working groups included e-commerce which has been put on hold in light of the higher priority work of the task force. The FTZ Regulatory Reform subcommittee continues to discuss items that were not in the previous recommendations and hope to have some recommendations in the future. Ms. Veigel spoke about the Regulatory Reform Workgroup. The significant work was done in the evaluation of Title 19 of the Code of Federal Regulations and it was mostly looking at helping to provide feedback and simplifying and updating outdated regulations. As a result, the Working Group made several recommendations at the last COAC (February 2019). Mr. Baxter spoke about the

OLENDER REPORTING, INC.

1100 Connecticut Avenue NW, #810, Washington, DC 20036

Washington: 202-898-1108 • Baltimore: 410-752-3376

Toll Free: 888-445-3376

Emerging Technology Work Group and said they wrapped up the NAFTA/CAFTA and reviewed the results. They have been conducting ongoing regular calls and meetings to map out the data modeling the engineering plan, the graphical interface and also mapping out some of the IPR Working Group scenarios. NAFTA/CAFTA proof of concept, COAC has three recommendations they would like to move forward with.

First, COAC recommends that CBP continues to conduct proof of concept exercises in a manner that does not encourage one particular technology provider. They want to make sure that the technology is agnostic, so it doesn't matter which provider or company you're aligned with from a block chain service that it will be interoperable with CBP and the technology they're using.

Secondly, COAC recommends that in order to encourage adoption of block chains, CBP should strive for global standards and align these with World Customs Operations (WCO) principles. Using a

OLENDER REPORTING, INC.

1100 Connecticut Avenue NW, #810, Washington, DC 20036

Washington: 202-898-1108 • Baltimore: 410-752-3376

Toll Free: 888-445-3376

global standards provider, such as a GS1, will help ensure consistency among the data requirements for future POCs within the block chain space and will help drive consistency in the adoption by members of the trade. Finally, COAC recommends that CBP provide a web page on cbp.gov that could be used as a "frequently asked questions" and as a repository to show some of the metrics that will demonstrate the benefits of block chain, some of the return on investments that are being demonstrated as these proof of concepts are being rolled out. Bradley Hayes called for a vote on the three recommendations. Brenda Barnes made a motion to accept them, Cindy Allen seconded. The COAC unanimously voted in favor of these recommendations.

Mr. John Leonard made some comments about block chain and e-commerce. They are pleased that the block chain proof of concepts process is up and running and moving.

An audience member (Name not captured) asked if anyone in the committee is keeping track on what is happening in the Trade outside of the government in regard to block chain. What platforms are they using, and are they making progress? Are they setting standards? Which parties to the transaction have they pulled in and how are they structuring the approach? Ms. Kate Weiner responded that there are several efforts going on with a supply chain coalition to look at establishing common standard practices and understanding how that can be utilized across the supply chain. It is one of the issues Cargill is very involved in, as is UPS, as well as DHL, on understanding how that information flows and the access to that regardless of the role that everyone plays in the supply chain. They will be talking about some of that in the meetings that are coming next week.

### **Secure Trade Lanes**

### **Subcommittee Report**

OLENDER REPORTING, INC.

1100 Connecticut Avenue NW, #810, Washington, DC 20036

Washington: 202-898-1108 • Baltimore: 410-752-3376

Toll Free: 888-445-3376

This subcommittee is led by CBP's Executive Director Tom Overacker, Acting Director Garza, and Director Swanson; and from the COAC side it's Alexandra Latham, and J.D. Gonzalez as subcommittee Co-chair. They have three active working groups: The In-Bond Working Group, the Trusted Trader Working Group and the newly formed Export Modernization Working Group. Two of the previous Working Groups, the Pipeline Working Group and the CTPAT's Security Criteria Working Group have been sunset in the wake of the publication of the CTPAT Minimum Security Criteria booklets. The objectives of the Minimum Security Criteria Working Group were completed.

J.D. Gonzalez, presented an update on the work of the In-Bond Working Group. Since the last COAC In-Bond meeting, they had five conference calls and a one-day on site meeting. Their focus is to reconfirm the status of the In-Bond Recommendations, the future releases of the new In-Bond processes, as well as those items still

OLENDER REPORTING, INC.  
1100 Connecticut Avenue NW, #810, Washington, DC 20036  
Washington: 202-898-1108 • Baltimore: 410-752-3376  
Toll Free: 888-445-3376

outstanding, especially specific to the southern border which consists of manipulation, verification of goods and proof of exports. There are some outstanding issues that they still need to address, especially on the regulatory side, for which there'll be further recommendations at our next COAC meeting in August 2019.

Erica Faulkenberry spoke for the Trusted Trader Working Group which has had five conference calls and a very productive on-site meeting in Miami a few weeks ago. They looked first at the prioritization of the current and future benefits under the CTPAT Trade Compliance program. These included the eight benefits that had been identified last year with the Trusted Trader pilot members, as well as five new benefits for the CTPAT Trade Compliance program that were identified in the Miami meeting. The new CTPAT Compliance handbook which is going to be extremely helpful navigating the companies that are going to be getting into the program as transferring from ISA

OLENDER REPORTING, INC.

1100 Connecticut Avenue NW, #810, Washington, DC 20036

Washington: 202-898-1108 • Baltimore: 410-752-3376

Toll Free: 888-445-3376

members as well as, hopefully, new members joining in the program. We tested the Trade Compliance in the CTPAT portal, and how that is going to be working as their repository system for having information and an exchange of communication related to the members and certainly very important for the companies that are currently ISA. They don't have any particular recommendations from these meetings but they are rolling out the CTPAT portal and then we expect to have recommendations for the next public meeting.

Brenda Barnes told the group that since the February announcement that they were going to have an Export Working Group, they have brought together some individuals for the Working Group, and had a leadership call. Their focus will be to assist with the operational requirements for electronic manifests and expand pilots from this. Secondly, they intend to work with CBP to implement mandatory electronic filing, and then they will work towards

OLENDER REPORTING, INC.

1100 Connecticut Avenue NW, #810, Washington, DC 20036

Washington: 202-898-1108 • Baltimore: 410-752-3376

Toll Free: 888-445-3376

the implementation of post departure filing.

Mr. Tom Overacker thanked the subcommittee co-chairs. With respect to the work of the three Working Groups right now, starting first with the In-Bond, recognizing the sort of unique challenges of the southwest border that J.D. keeps us on our toes all the time. We know that work is going to translate beyond just the southern border, but we know we have to crack the nut on those issues. With respect to Trusted Trader, one of the things -- I know you guys had a very productive meeting in Miami. I am challenging the team here with -- and this is where I think we can kind of get wrapped around the axle on a lot of different things -- but when we talk about benefits, particularly benefits to partners who ante up and take on roles and responsibilities or take on internal controls, that it's important that those benefits are meaningful. This effort to define Return on Investment is going to be critical.

Mr. Jim Swanson noted the upcoming goals and work for the In-Bond Working Group and the Export Modernization Working Group. They have now tentatively set a date to move forward for the next round of implementation of that In-Bond regulation no earlier than mid-July, 2019 and no later than the end of July.

Mr. Manny Garza echoed the sentiments about the site meeting in Miami and that it was very, very productive. The biggest things are really the benefits of what they are trying to accomplish with benefits and making sure that not only is it benefits that are just written on paper but benefits that actually have meaning, that can actually be accomplished, because people want lots of benefits but sometimes CBP can't deliver on those benefits so we are really looking to make sure that these are tangible things that we can actually do.

Mr. Tom Overacker made a public announcement that coming up on June 25th and 26th, they are hosting the annual CTPAT conference in San Antonio. Erica Faulkenberry said that they received over 65 benefits that were identified and in that collaboration and realistic expectations working together with CBP the result of those five were based on return on investments and importance from the trade, but also facility and the reality of what can be accomplished for a short and medium term focus. Amy Magnus worked on both the In-Bond and the Trusted Trader Workgroup.

The In-Bond Working Group is an example of something that worked very well. Using the brokers and the other members that you have on the committee, drafting a document that could be used not just for the trade but also, perhaps, for the CBP officers, so that we are all on the same page and we all understand what the rules are and what the requirements are in plain language.

During the public comment period, attendee, Victor Gonzalez, commented that the In-Bond Working Group being that it's in progress and it's developing further to define what's allowed on merchandise that's moving, or transiting, In-Bond will help to be able to verify what the merchandising terms of discounts are and make sure that the documents in the packing list match the goods.

Attendees from various companies thanked CBP for the meeting and the information that had been provided. They discussed which issues can be addressed directly and which are governmentally controlled.

### **Rapid Response**

#### **Subcommittee Report**

This subcommittee is led by CBP's Executive Director, John Leonard, and from the COAC by Brenda Barnes, Kathy Wilkins and Brian White. Brenda Barnes stated that we had a kickoff meeting on April 23rd, and then on the 29th of the same month

OLENDER REPORTING, INC.

1100 Connecticut Avenue NW, #810, Washington, DC 20036

Washington: 202-898-1108 • Baltimore: 410-752-3376

Toll Free: 888-445-3376

we worked closely with CBP on the five pillars of the 21<sup>st</sup> Century Customs Framework (21CCF). Our goal was to fine-tune the areas of concern pertaining to each pillar. Then looked at the objectives of those five pillars to determine if they capture CBP as well as the trade's perspective. The 21CCF is now posted on CBP.gov. There are no recommendations at this time.

Brian White talked about the unprecedented volumes of undocumented immigrants coming through and as reported by EAC Owens, the vast majority now are migrants coming in from the northern triangle region. All the indicators are showing that we're not going to see any decline in those numbers in the near term. During the last COAC meeting, the CBP leadership requested people to establish a northern triangle working group so that we can help to identify and develop recommendations that would be focused on reducing non-tariff trade barriers and improving customs processes that exist in the northern triangle, with the ultimate goal of

OLENDER REPORTING, INC.

1100 Connecticut Avenue NW, #810, Washington, DC 20036

Washington: 202-898-1108 • Baltimore: 410-752-3376

Toll Free: 888-445-3376

helping to reduce the migration that's driven by economic push factors in the region. COAC and CBP brought together over 50 stakeholders to form this Working Group.

Mr. Bradley Hayes made closing remarks, noting that the trade symposium is coming up in Chicago July 23rd and 24th, and they will send a notice out as soon as registration is open. The next COAC meeting will be on August 21<sup>st</sup> in Buffalo, New York.