

**Commercial Customs Operations Advisory
Committee (COAC)
Intelligent Enforcement Subcommittee**

December 2020

COAC

COMMERCIAL CUSTOMS OPERATIONS
ADVISORY COMMITTEE

**Commercial Customs Operations Advisory Committee (COAC)
December 2020**

**Report of the
Work of the COAC
Subcommittee on Intelligent Enforcement**

Co-Chairs

**Heidi Bray – FCA US LLC
Amy Magnus – A.N. Deringer, Inc.
Kate Weiner – Cargill**

Intelligent Enforcement Subcommittee Members:

Heidi Bray, Erika Faulkenberry, Lenny Feldman, Lisa Gelsomino, Amy Magnus, Amy Smith, Jody Swentik, Madeleine Veigel, Kate Weiner, Brian White, and Kathy Wilkins

Background

During the quarterly meeting of the 15th Term of COAC held on October 3, 2018, CBP announced the restructuring of the COAC Subcommittees and underlying Working Groups to align with CBP's Trade Strategy 2020. This strategy focuses on four areas aimed at modernizing import/export processes, improving trade intelligence, and maximizing efficiencies.

The former Trade Enforcement and Revenue Collection (TERC) Subcommittee is now called the Intelligent Enforcement Subcommittee to reflect CBP's initiatives to:

- 1) Execute integrated trade enforcement that includes a proactive IUSG approach and focus on priority trade issues.
- 2) Strengthen targeting efficiencies using predictive analytics and intelligence.
- 3) Drive consequence delivery through importer risk assessment and network investigations.

Under the Intelligent Enforcement Subcommittee, the following Working Groups reside:

- Anti-Dumping and Countervailing Duty (AD/CVD), co-chaired by Alexander Amdur and Lisa Gelsomino.
- Bonds, co-chaired by Randy Mitchell, Lisa Gelsomino and Kathy Wilkins.
- Forced Labor, co-chaired by Therese Randazzo, Erika Faulkenberry and Brian White.
- Intellectual Property Rights 21st Century Customs Framework (IPR21), co-chaired by Laurie Dempsey, Amy Smith and Heidi Bray.

The Working Groups consist of COAC and non-COAC members representing 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, non-governmental organizations (NGOs) as well as participants from CBP and other Partner Government Agencies (PGAs).

Since the last COAC meeting on July 15, 2020, the IE Subcommittee held two (2) calls to review the activity of all the active working groups as outlined below. All subcommittee objectives and scope are consistent with the official charter of COAC.

Summary of Work

The Intelligent Enforcement (IE) Subcommittee has the responsibility of looking at opportunities to enhance the trade and government processes, policies and programs, enabling the trade and CBP to be better positioned for the future.

The Intelligent Enforcement Subcommittee submitted its White Paper on Enforcement Modernization to CBP prior to the July 15 public meeting. This white paper supports CBP's 21st Century Customs Framework, anchored on further improving risk management and the impact of efforts to detect high-risk activity, deter non-compliance and disrupt fraudulent behavior by better utilizing technology, big data and predictive analysis to drive decision-making. We intend to dedicate time during our COAC public meeting to discuss the solutions put forward in the document.

The IE Subcommittee currently consists of four (4) active working groups. Each have had substantial tasks over the last few months and continue to work on recommendations and executing on prior recommendations.

AD/CVD Working Group

The COAC AD/CVD Working Group had one (1) call since the last COAC meeting. During this call, the Working Group was provided with an overview of the Enforcement and Protect Act (EAPA) by CBP's Enforcement Operations Division. We also discussed the Notice of affirmative preliminary CVD determination and alignment of the final CVD determination with the AD investigation of certain walk-behind lawn mowers and parts from the People's Republic of China (C-570-130).

We also prepared for the Protest Webinar being held on Wednesday, December 9, 2020 from 2:00 to 3:15 pm EST per CSMS 44676455. CBP's Office of Trade (OT), Trade Policy and Programs (TPP) Directorate, Commercial Operations, Revenue and Entry (CORE) Division will be hosting this Protest webinar for the trade community. CBP is asking all participants to register in advance at the following link: <https://teregistration.cbp.gov/index.asp?w=215>. For protest questions or additional information, please contact ot-protest@cbp.dhs.gov.

Looking forward, the COAC AD/CVD Working Group will be looking at AD/CVD exposures for new and foreign importers of record.

Bond Working Group

Since the last COAC meeting, the Bond Working Group (BWG) held calls to discuss the following topics:

FTZ Operator Bond Guidance. CBP issued interim guidance to the Ports of Entry regarding the computation and annual sufficiency review of FTZ Operator Bonds; via CSMS #44578062 (Oct 28, 2020). The guidance stipulates that the ports should only require a \$50,000 FTZ Operator bond per location activated.

Pipeline Recommendation. The Bond WG has been reviewing the prior recommendation from the Pipeline Working Group to develop a uniform bond policy for pipeline operators.

CBP has drafted proposed pipeline operator bond requirements guidance for review and discussion.

Forced Labor Working Group

Since the last COAC meeting in October, the Forced Labor Working Group (FLWG) held several calls. Much of the time this quarter was spent identifying existing and emerging forced labor enforcement areas that the US Government and the FLWG should focus on in the upcoming year. The leadership team aligned on several topics and are updating the FLWG statement of work to accurately represent the work to be done in the upcoming year.

The FLWG is planning to share a summary of the updated statement of work during the December public meeting.

Intellectual Property Rights – 21st Century (IPR21WG)

After a brief hiatus, a new COAC IPR Process Modernization Working Group was established. The goal of the IPR Process Modernization WG is to further develop, expand upon, and align three previous recommendations from the April 2020 COAC meetings and will be used as a baseline for a proposed end-to-end business model. The three recommendations the WG will develop include:

10434

Sharing of Detention Information: COAC recommends that CBP automate the sharing of detention information, photographs, images and samples as provided for by current regulations. CBP regulations provide for disclosure of unredacted photographs, images and samples (“images”) to the importer per 19 CFR 133.21(a)(1) and to the IP owner per 19 CFR 133.21(b)(3), (c) and (e) but CBP has not adopted procedures to do the following allowed for under these regulations:

- Generate sharable images at the time of inspection
- Provide images to importers at the outset of the 7-day response period
- Provide images to intellectual property (IP) owners promptly following seizure
- Provide images electronically

10435

Photographic Standards Guide: COAC recommends that CBP partner with brand holders to share and provide “photographic standards guides” to aid CBP Officers in taking the required photographs necessary to streamline and expedite the brand authentication process. This can help authenticate products that are detailed within 24-48 hours.

10436

Data-Driven CBP Seizure Process: COAC recommends that CBP re-evaluate the current 25-point step seizure process to eliminate unnecessary steps and choose an expedited process for small parcels vs. pallets. An innovative, streamlined seizure flow would create more efficient identification, interdictions, and seizures. Particularly, the first six to seven steps could be combined through technology advancements. Expedited seizure should not eliminate ability to share information with the business community or target bad actors.

Looking forward, the WG will schedule five additional meetings with the goal to present the final model at the March 2021 COAC.

Conclusion

While the IE subcommittee will not be presenting recommendations for the December meeting, all the Working Groups in this subcommittee continue to be active. One key activity is prioritizing past recommendations and working through implementation. As always, this Subcommittee continues to consider other priority trade issues and enforcement modernization in general.