

**COMMERCIAL CUSTOMS OPERATIONS ADVISORY COMMITTEE
(COAC)**

U.S. Customs and Border Protections

Virtual Quarterly Public Meeting

Wednesday, April 15, 2019

1:00 p.m. - 5:55 p.m.

OPENING REMARKS

U.S. Customs & Border Protection (CBP) Acting Executive Director Valerie Neuhart called the COAC public meeting to order. She thanked the attendees for their flexibility and willingness to attend virtually. Now, more than ever is a critical time to share with the public the incredible work the CBP, Department of Homeland Security (DHS), Department of the Treasury (Treasury), Homeland Security Investigations/Immigration and Customs Enforcement (HSI/ICE) leadership teams, and COAC partners are doing as industry representatives.

DHS Acting Secretary Chad Wolf gave his appreciation to the strong leadership at CBP during the current situation. He also stressed the importance of reaching out to supportive departmental staff to aid in the country's protection. An overview was then given on what the department is doing across the board in response to the COVID-19 pandemic. The top three priorities have been to respond, recover, and restore trade, travel, and commerce as soon as possible. He also stressed the importance of mitigation as every American is mitigating

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as much as possible. Additionally, he emphasized the importance of basic practices: washing your hands, not touching your face, social distancing, and covering your face.

All fifty-six states and territories are under major disaster declarations. FEMA has obligated \$5.3 billion to date to those states and territories with another \$100 million from outside of their major disaster fund and additional funds available for states by the CARES Act. In response, there are twenty-seven thousand active national guards, twenty-seven hundred FEMA professionals, and two thousand deployed within the Army Corp of Engineers. There are four lines of effort concerning personal protective equipment (PPE): preservation of supplies, accelerating supplies to meet demand, expansion of production of PPEs, and allocation.

He went on to explain that currently, we are under a Center of Disease Control (CDC) level three travel warning. Meaning, any individuals entering the U.S. are going to get a visual medical screen and are asked to be in self-imposed fourteen-day quarantine. Thirty

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countries have specific restrictions from their foreign nationals traveling to the U.S. and we will continue to keep those in place until medical professionals tell us the threat has been significantly reduced.

There has been a 60% to 70% drop in non-essential trade, however, legitimate trade and travel continue to stay steady or has increased. CBP and the Coast Guard have done a great job in tackling the issues concerning the cruise line industry. On March 14, when cruise lines suspended operations, there were four hundred thousand individuals that had to come into the U.S. and had to be appropriately screened.

Acting Secretary Wolf then outlined what some other departments are doing. For example, the Cybersecurity and Infrastructure Security Agency (CISA) has been working to identify critical, essential infrastructure workers and provide guidance to states and governors. They also worked with the CDC on developing sixteen critical infrastructure sectors. FEMA and the CDC are implementing the president's April 3rd memorandum which directs the allocation of certain PPE for domestic use.

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Lastly, ICE is working with the State Department to repatriate U.S. citizens unable to secure commercial flights and bring them back to the U.S. So far, over one thousand American individuals were repatriated home.

CBP Acting Commissioner, Mark Morgan, echoed the Secretary's appreciation. He also applauded the creative and innovative ideas being put forth during this challenging time, with this virtual meeting being a great example. Acting Commissioner Morgan went on to recognize a few individuals for their work.

Acting Commissioner Morgan announced Valerie Neuhart as the permanent Deputy Executive Director for the Office of Trade Relations and will continue to be the Acting Executive Director. It was then explained how vital the role of trade has been highlighted through this global pandemic. He believes economic security goes hand in hand with national security.

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CBP leadership met with the COAC to discuss the COAC White Paper, "CBP & PGA Regulatory Discretion During COVID-19 Pandemic". This document provides suggestions on how to exercise regulatory discretion and safeguard the health and integrity of the trade ecosystem and has four lines of effort: duty and revenue collection, communication and notification, implementation of one U.S. government approach, and effort inspection and enforcement discretion. It is extremely important to keep trade lanes open and we will continue to process cargo, international mail, and international packages.

There has been an establishment of a COVID-19 Cargo Resolution Team to expedite the importation of critical medical supplies. Business continuity plans are in place to address the impacts of pandemics, national disasters, attacks, and other such events. CBP is assessing the implications and changes to trade as a result of the United States-Mexico-Canada Agreement (USMCA).

Acting Commissioner Morgan provided an example of the efforts being made to facilitate lawful trade and travel.

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There is unprecedented immigration from the northern triangle of the country, so regional engagement and participation in the United States Agency for International Development (USAID) Trade Facilitation Academy Programs and Implementation of the Trade Facilitation Agreement is vital. COACs Northern Triangle Working Group has done tremendous, collaborative work to achieve this. Lastly, Commissioner Morgan gave his gratitude for everything the COAC members are doing at this time.

Treasury Deputy Assistant Secretary, Timothy Skud, discussed the mitigation efforts for the economic crisis. There is work across a vast number of agencies involved in international trade, Commerce, the National Economic Council staff, Office of Management & Budget, and members of Congress.

DHS Assistant Secretary Scott Glabe highlighted just a few things. The entire COVID response is a whole DHS effort that includes multiple agencies including CBP, ICE, Treasury, Food and Drug Administration (FDA), to

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name a few. The private sector has also played a critical role in the crisis response.

ICE Acting Deputy Director, Derek Benner, stressed the challenges faced concerning the protection of legitimate supply chains. Criminal organizations are now manipulating and defrauding vulnerable people by introducing counterfeit products or products that are mainly therapeutics as pharmaceuticals. In response, Operation Stolen Promise was launched. Working in partnership with the Internal Revenue Service (IRS) and Small Business Administration (SBA), targeting capabilities are being developed to get ahead of these fraudulent schemes. There was a deep look into the vulnerabilities and that information has been shared. So far, over \$3 million of illicit proceeds have been seized, 130 criminal investigations opened nationwide, 11,000 domain names shut down, and over 225 mislabeled, fraudulent, or otherwise prohibited COVID-19 related products have been seized.

COAC Trade Co-Chair, Lenny Feldman, explained that as soon as the pandemic broke, it was quickly realized that

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COAC needed to act decisively and quickly. *CBP and PGA Regulatory Discretion During COVID-19* was developed and is being reviewed for public release.

COAC Co-Chair Lisa Gelsomino highlighted partners within the trade community. She encourages everyone to work together to help small businesses, not only through the stimulus but with any flexibility available.

Ms. Neuhart then thanked the COAC for their responsiveness and their contributions to the COVID white paper. She then proceeded with the COAC roll call and all members were present. She then noted that there will be public comment periods after the presentations.

INTELLIGENT ENFORCEMENT SUBCOMMITTEE

Subcommittee Co-Chair Heidi Bray stated that the four working groups will be providing updates and two of the working groups will be presenting 38 recommendations. The Anti-Dumping and Countervailing Working Group will provide updates on policies concerning pipe rules.

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The Bond Working Group will provide updates relating to risk-based bonding for Anti-Dumping and Countervailing Duty (AD/CVD), FTZ bonds, and the development of uniformed bond policy and requirements to support challenges brought on by COVID-19. Lastly, the Forced Labor Working Group will present nine recommendations and the Intellectual Property Rights Working Group will be presenting 29 recommendations.

ANTI-DUMPING AND COUNTERVAILING DUTY WORKING GROUP

Working Group Lead Lisa Gelsomino stated that there have been six conference calls within the past quarter to discuss pipe spools. With over five hundred AD/CVD cases, with half concerning steel complexities, pipe spools, quotas, and other issues. Furthermore, Cargo System Messaging Service (CSMS) Message 42133823 was issued on pipe spools, it provides guidance on the proper entry summary declarations and related complexities. There have been additional discussions concerning AD/CVD policy changes, critical circumstances, scope rulings, and trade remedies. Regarding trade remedies, there have

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been discussions with leadership to process refunds quicker and discussions with the Department of Commerce to remedy the delays concerning exclusion order applications.

Trade Remedy Law Enforcement Executive Director Ana Hinojosa briefly mentioned on behalf of the working group, CBP colleagues, and all other participants, how excited everyone is to continue discussions and dialogues with industry partners. There have been productive conversations relating directly to the progress being made.

BOND WORKING GROUP

Working Group Co-Lead Lisa Gelsomino provided details on a COAC Working Call between the Bond and AD/CVD Working Group on January 28th to discuss risk-based bonding. As both groups have been addressing Section 115 from the Trade Facilitation and Trade Enforcement Act, the Presidential Executive Orders, and various audit reports. The challenges facing CBP concerning AD/CVD were discussed with the decision to explore single transaction bonds for new or high-risk importers. During this call,

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we were advised that CBP was going to be looking into issuing a Notice of Proposed Rulemaking this year.

The Bond Working Group will be looking at continuous bond formula with CBP issuing an Advanced Notice of Proposed Rulemaking, however that will not be until next year.

Presently, CBP is offering a 15-day grace period for the last batch of continuous bond insufficiencies. She encouraged CBP to continue updating the 1991 monetary guidelines for determining bond amounts and the trade community requires increased guidance, specifically with all Partner Government Agencies (PGAs) now feeding into the single window Automated Commercial Environment (ACE).

Working Group Co-Lead Kathy Wilkins then elaborated on the bond formula for foreign Trade Zone Bonds. In addition to the formula, active projects are being assessed to determine the number of bonds required and what the potential risk in lost revenue to Customs would be should there be a catastrophic event. We are looking at one specific product, but the total catastrophic loss and it has been determined that our FTZ Operator Bonds value more than the lost amount. Customs is taking a

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step back and utilizing the current situation to assess and validate case studies that we have provided them.

Ms. Gelsomino added that, as the pandemic hit, there were discussions on CBP's considerations of duty deferral. Of course, airlines have been hit hard due to passenger fee reductions and leniency has been given on those bonds increases and hopes it can be reassessed in August.

Bringing up the previously mentioned COAC white paper, CBP should consider any manner of duty deferral or forgiveness. She encourages CBP to be flexible on how duties are paid by forgiving late payments or liquidated damages.

Ms. Hinojosa took a brief moment to recognize the private sector representatives within the working group. Moving on, she explained that the working group was identified as the Risk-Based Bonding Working Group. During this quarter, it was realized that the working group has a broader scope and has been appropriately renamed to just the Bond Working Group. Specifically, the group has been dealing with issues relating to bonding sufficiency for

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Foreign Trade Zones and hope to improve the transparency within the process.

FORCED LABOR WORKING GROUP

Working Group Co-Lead Brian White summarized what was discussed during the December COAC meeting, the group took a step back from the objectives and diversified itself. There has been the inclusion of industry experts in complementary subject matter and non-government organizational representatives. The group has also been reorganized into three subgroups: Meaningful CBP Form 28; Industry Collaboration and Leadership Group; and Statutory Guidance Group.

Over the last quarter, each subgroup held biweekly calls to develop the work products and their supporting recommendations. Additionally, the entire working group attended four calls to review each subgroup's progress and provide feedback for further development. The Forced Labor Working Group is presenting nine recommendations to address the credible high-quality forced labor allegation, CBP Form 28 questions, and statutory guidance related to a forced labor prior disclosure.

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Mr. White stated that the Industry Collaboration and Leadership Subgroup will not be presenting recommendations at this time. However, they are working diligently and are making incredible progress. Over the next quarter, the subgroup will be focusing their efforts to finalize their work product. They are working to organize various industry organizations with efforts addressing forced labor initiatives and organizing them by a Centers of Excellence & Expertise. The aim is to summarize their findings to deliver a white paper relating to their objectives, finalize the recommendations for their work product, and present them at the public meeting in July.

Ms. Hinojosa commended the working group on their innovative approach to diversify and break up the group to facilitate discussion and dive deeper into the subject matter. The recommendations will reflect the hard work the group has put in and look at what is still needed moving forward. It was briefly mentioned that the majority of the work was done with Johanna Estes and

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moving forward, the new CBP Lead will be Trade Remedy Law Enforcement Deputy Executive Director Eric Choy.

Co-Lead Brian White then presented the first recommendation, which concerns defining the elements of a credible high-quality forced labor allegation. It is recommended that CBP develop a list of criteria to help identify what information is needed to make an allegation. The recommended criteria are included in Appendix A. The criteria are commonsense information related to the context of a potential allegation and outline what is specifically needed in support of those investigations.

The next set of recommendations presented by Mr. White focuses on defining what the specific CBP Form 28 elements are for entries subject to a Withhold Release Orders (WRO) and questions whether the CBP Form 28 is the right vehicle to obtain the proof of Admissibility. It is important for the criteria used to develop these questions and the questions themselves to be characteristically broad and left open-ended. This approach allows companies of any size to demonstrate

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their processes and methods used to deploy due diligence for human rights.

The second recommendation is two-fold by recommending modernization of the current forced labor regulations in 19 CFR § 12.43 and to provide a period for public comment on the modernization of those regulations. Subsection A of this recommendation is to rely less on documentation that has or may become obsolete and to instead incorporate the Forced Labor CBP Form 28 to determine Proof of Admissibility. Subsection B of the second recommendation is to update the current regulations in similarity to existing procedures related to merchandise detention. Additionally, it is recommended that CBP establish a response timeline resulting from a WRO which is to be incorporated into the revised regulations.

Mr. White presented the third recommendation which is for CBP to update and develop questions used on CBP Form 28. Specifically, to use Form 28 to solicit information that confirms forced labor admissibility in place of a detention notice. The suggested questions are included as Appendix B should be entry specific and not intended

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to be used in place of an audit to gather broad information over the importer's entire supply chain.

Working Group Co-Lead Erika Faulkenberry was then introduced to present the six remaining recommendations that focus on the statutory guidance concerning the disclosure process and benefits. The intention is to develop the guidelines for the disclosure procedure and reporting requirements for importers to follow for potential violations of 19 USC § 1307. It is also our intention to identify reasonable factors that CBP can consider for voluntary self-disclosure, full cooperation, and the timely and appropriate remediation relating to violations.

The first recommendation Ms. Faulkenberry presents concerns regulatory framework. Specifically, the creation of a framework that can be applied under existing prior disclosure regulations that comprise of forced labor. COAC recommends that CBP update 19 CFR § 162.74 to include violations of 19 USC § 1307 and 19 USC § 1595(a). Recommended language is provided in Appendix

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C. The Appendixes mentioned will be part of the public record as well.

COAC also recommends that CBP designs a disclosure process, which details disclosure eligibility through six specific elements. Recommendation 5a and 5b are the disclosures for violations of 19 USC § 1307 and 19 USC § 1595(a) and the allowance of disclosures for the importation of which is being or has been introduced in the U.S. commerce. The inclusion of disclosures applying to goods made in whole or in part of forced labor in the forced labor incidents with the eligibility of disclosure where forced labor incidents were or could be discovered at the direct supply and upstream supply levels is COAC recommendation 5c.

Continuing, 5d recommends that a WRO should not be considered an ongoing investigation that limits the disclosure eligibility if they are not named in the investigation. 5e is a timeline to submit to a disclosure be consistent with the existing prior disclosure procedures. Being that an importer can file notification and be granted 90 days to conduct an

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internal investigation; allowing for them to conduct a thorough review and take remedial action if necessary.

The final part, 5f, relates to CTPAT partners; COAC recommends the existing benefit that allows for a disclosure to be made within 30 days of notification from CBP, as long as there is not an ongoing investigation. This should also be extended to violations of 19 USC § 1307 and 19 USC § 1595(a).

Ms. Faulkenberry then presented the sixth recommendation, which directly relates to the disclosure benefits. COAC recommends that CBP design a disclosure process that offers the following in exchange for voluntary disclosure: exempt from all penalties, the option of the destruction of subjective goods, and not be subject to liquidated damage claims for failure to redeliver.

The next recommendation pertains to disclosure factors. It is recommended that CBP consider the following factors when evaluating and determining disclosure outcomes: the company's level of cooperation with the investigation, the company's demonstrated efforts to remediate issues,

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and the company's overall commitment and established social responsibility compliance program.

In terms of agency alignment, the recommendation is for CBP to coordinate with ICE to have similar disclosure processes for potential violations or other criminal matters. Concluding with the last recommendation, COAC recommends CBP publish a dedicated Informed Compliance Publication on forced labor to include guidance on mechanisms to report forced labor allegations, WROs, due diligence, enforcement, prior disclosure, and mitigating factors.

Ms. Hinojosa thanked Ms. Faulkenberry and Mr. White for the quality and quantity of the recommendations. She provided feedback for the different groupings of recommendations. The recommendations put forth on the guidance of what a good allegation is, and the specific items will be very helpful. Concerning quality admissibility packets, she noted that forced labor cases are very diverse and that it is important to recognize evidence for one may not be for another. Further, she believes the recommendation should not be pointed towards

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CBP Form 28. As well as with prior disclosures, the regulatory framework already in place is broad enough.

In response, Mr. White discussed the CBP Form 28 questions should be the starting point for engaging on proof of admissibility with the importer. He also states that it is important to have the right legal framework and the mechanisms to engage with the governing agencies to disclose what the issues are or what they may be. Ms. Faulkenberry added that the feedback is welcomed so that there is more certainty for the trade community.

COAC Trade Co-Chair Lenny Feldman added that, from his experience, section 16274 has language that restricts disclosure to 1592 and 1593(a) claims. However, he is hopeful that there may be a regulatory change or prior disclosure section concerning forced labor.

Mr. Feldman continued by stating that Form 28 is a good vehicle of communication and he hopes to see further exploration for its usage. Ms. Hinojosa briefly responded that the benefit of the CBP Form 28 is recognized. However, she believes that instead of

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creating a standard questionnaire, there needs to be a further look into informed compliance.

A motion was made to submit the forced labor recommendations, which was then voted on. It was unanimously agreed to adopt the recommendations. See Appendix for a full list of the recommendations.

INTELLECTUAL PROPERTY RIGHTS (IPR) WORKING GROUP

COAC Co-Lead Amy Smith explained that the working group was broken up into two teams. Leading team one, the team's focus was on matters relating to E-Recordation portal and procedures for the trademarks; Team two was led by Lisa Gelsomino and focused on recommendations relating to data sharing, the DHS Report on Trafficking and Pirated Goods, and the Presidential Order on E-Commerce.

Ms. Hinojosa commented that there is a lot of interest in the area of intellectual property rights. There has been a lot of work already been done but this group had led into areas that are valuable moving forward.

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COAC Co-Lead Heidi Bray introduced the first recommendation concerns the E-Recordation System and is broken down into four sections. This recommendation is in support of previous recommendation #010374 which provides CBP with an additional budget and resources. The recommendation to COAC is to redesign of the enforcement system for IPR to be more effective and efficient.

The four specific parts of this are: allowing data to flow automatically from the registration of the IPR; make it a hub for data that CBP can rely on to target IPR violations; allow for the system to be the hub for data from CBP; and for it to be interactive so that information can be shared in real-time. The second recommendation is on data flow automation. It is recommended that CBP work with the U.S. Patent and Trademark Office (USPTO) for registration numbers to flow directly into the CBP portal.

The next three recommendations concern a hub for enforcement. COAC recommends the new system be multi-functional for enforcement targeting. They also

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recommend brand identification guides to make it easier for CBP to research and locate information filed by IPR owners. The final recommendation in this group is for data to be linked to keys that may be shared with brokers and then transmitted to CBP in the entry filing process in ACE. The key could link directly to the appropriate locations in the database that could automate release or allow officers to very quickly make determinations.

Ms. Bray continues with the next group of recommendations concerning a hub for data from CBP. It is COACs recommendation that CBP reports the results of assistance rendered by IPR holders so that the latter can track and trace on a transaction basis. Additionally, data sharing is recommended. Specifically, Customs brokers to have access to information about rights holders' recorded goods to help facilitate legitimate trade and automate the vetting processes.

The eighth recommendation is in support of prior recommendation #010356 and the vehicle for real-time communication with IPR owners of record and between CBP offices. It is recommended that the electronic system be

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used to send and receive e-messages for authentication purposes of detained goods or for issuing notices of seizure to IPR holders. IPR bond information can also reside in the system. IPR owners who have recorded contact information can indicate e-mail addresses and mobile device IDs for purposes of automatic distribution of the above-mentioned messages from CBP.

The next three recommendations are the working group's attempt to come up with something in the interim as a system for rights holders, brokers, and CBP to use that could enhance the process while we continue to develop a new system for E-Recordation. It is recommended by COAC to eliminate trademark-by-trademark recordation, that ACE is updated to have the capability of recording IPR, and for CBP to look at existing systems to use to automatically notify rights holders of seizures.

COAC Trade Co-Chair Lisa Gelsomino presented the recommendations that are associated with data sharing, the first focused on utilizing blockchain technology. The recommendation is for CBP to pursue blockchain encryption technology based on the work that was done

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during the IPR Proof of Concept from the COAC Emerging Technologies Working Group. This would be a great way to accomplish data sharing between CBP, rights holders, and importers through a secure and confidential system. Specifically, the rights holder would provide a database of identifiers for a legitimate product.

The following recommendation addresses the sharing of detention information for which no regulatory revision is needed if CBP follow the current regulations to comply. This would improve the sharing of detention information, through photographs or images allowed by law, and samples that are provided for within the current regulations. The third recommendation focused on partnering with brand holders to share and provide a "photographic standards guide" for capturing the required photographs for the authentication process. The next recommendation in this set, number fifteen, focuses on re-evaluating the 25-point step seizure process CBP currently uses to eliminate unnecessary steps and streamline the process, especially for small package shipment in the E-Commerce sector.

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Next was a recommendation involving trusted IPR vendors where authorization is given to all Centers of Excellence and Expertise Centers to establish pilot programs for a "Trusted IPR Vendor" list and identified in ACE similarly to The Broker Known Importer Program (BKIP). A Trusted IPR Vendor is defined as a company authorized to import on behalf of a brand owner or, a company that has been identified directly by the Center as a Trusted IPR Vendor as outlined in the recommendation.

Recommendation 17 is in support of COACs prior recommendation #010355 concerning CBPs current donation acceptance program and suggests an increased outreach to brand holders to discuss practices or tools to help improve the donation process by the trade community. By sharing best practices to decrease the time CBP spends on violative goods, this could help to streamline the process.

On January 24, 2020 the DHS Report on Combatting Trafficking in Counterfeit and Pirated Goods was issued in response to the Presidential Memo. It was explained

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that the group has reviewed and discussed this report, however, the IPR Working Group in-person meetings scheduled for March 18th and 19th were canceled due to COVID-19 restrictions. This has caused a delay in group discussions concerning related recommendations.

Recommendation number 18 stressed the need for additional time to discuss the DHS Report's impact on trade, policy, regulation, and technology changes and address any potential questions it presents. There is a slight concern with the report reflecting changes being implemented by CBP by July 24th. Hopefully, by the next COAC public meeting, there will be further recommendations addressing those concerns.

COAC applauds CBP on the success of implementing the Entry Type 86 Pilot which will process Section 321 entries and COAC has two recommendations as a result. It is recommended that CBP resolve any ongoing policy issues or unanswered questions since issuing the Notice of Proposed Rulemaking for Entry Type 86; it is also recommended that the Entry Type 86 pilot continue as the data that has been collected and provided has been and can be incredibly beneficial. The next recommendation

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supports continuation of the Section 321 Data Pilot since that pilot also provides meaningful information and requires more discussion with the pilot participants. Building on these recommendations, the next one deals with Section 321 enforcement by triangulating data collected from both pilot programs to identify and flag potential bad actors shipping goods into the United States.

A common concern of E-Commerce platforms is co-mingling, which is where the consumer not knowing what they are buying or what they think they are buying. To address this, recommendation 22 is to work with the Federal Trade Commission (FTC) to develop new policies or regulations that provide benefits for including the country of origin and a "verified source" tag for the consumer when purchasing on-line.

The recommendation presented next revolves around the Foreign-Trade Zone (FTZ), and it was developed with Kathy Wilkins as our COAC member with the most FTZ expertise. Supportive of recommendation #010309, COAC recommends that CBP allow FTZs to be used for Section 321 shipments

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so visibility can be increased. This eases the process of differentiating potential infractions coming through that could be intellectual property and other sorts of violations.

COACs public outreach recommendation is for CBP to take the following actions to increase consumer awareness of counterfeit merchandise: (1) share photos from raids globally that highlight some of the manufacturing and marketing conditions; (2) educate consumers on the best working practices; (3) increase consumer outreach of potential dangers when making online purchases through joint industry and government campaigns. Further, it is recommended that ACE rejects entries for any importers that are suspended or debarred from doing business with CBP.

The topic of the next recommendation also involves the DHS Report and to ensure entities with financial interests in imports bear responsibility. The development of regulations and policy guidance to define "high risk" shipments and define when additional bonding is required for the financially interested party be

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automated in ACE. This is something that cannot be done manually. It is further recommended that CBP have more in-depth conversations on requirements within the DHS Report since they have far-reaching implications on the trade to effectively manage and identify the roles of the transacting parties to ensure compliance. Again, a lot more work needs to be done to assess the DHS Report.

Recommendation 27 focuses on the action against non-compliant international posts. IPR brand holders should have the ability to identify in ACE if they provide any approval for their imports to arrive via post or courier. Many brand holders do not ship this way and it is a clear sign that it is not their product. Another recommendation is for CBP to conduct regular inter-agency meetings with U.S. Postal Service as part of the Border Interagency Executive Committee (BIEC).

Concluding with the 29th recommendation, Ms. Gelsomino discusses the evaluation of the Presidential Executive Order on ensuring safe and lawful E-Commerce. In response, it is recommended that CBP consider that it already has authority under 19 CFR § 111.5 and 19 CFR §

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111.74 to begin proceedings to suspend or revoke a customs broker license or issue penalties for violations.

Ms. Hinojosa wanted to highlight the incredible work that this group has done. She does point out that some of the recommendations are aspirational as the means to execute them are not currently available or need to be reassessed. The next session could be an opportunity to take a closer look at the group with COAC and prioritize the recommendations and prioritize how they are addressed. It is noted that the suggestions that speak to automation and innovation may want to be reevaluated if they can be grouped into the upcoming IPR Blockchain Project.

A motion was made and then seconded to submit the IPR recommendations. COAC voted and unanimously agreed. See Appendix for the full list of recommendations.

NEXT GENERATION FACILITATION SUBCOMMITTEE

Subcommittee Co-Chair Cindy Allen thanked CBP and DHS for their partnership in getting protective equipment for

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their staff, but for a critical partner as well. The ability to provide PPE to hospitals and frontline workers has been critical over the last several weeks.

The E-Commerce working group is still on hiatus but would like to reengage with CBP as a group to provide feedback on the Type 86 pilot, the Section 321 pilot, and provide further input on the IPR report with the IPR workgroup. The IPR report refers to E-Commerce as a critical focus and as the pandemic has progressed, the facilitation of E-Commerce has become even more critical. Concluding, she states that no recommendations are being presented today.

Trade Policy and Programs Executive Director John Leonard stated that there is a pointed effort to ensure communication between the IPR working group and the E-Commerce task force so they can comment on the Presidential memorandum and the executive order.

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EMERGING TECHNOLOGIES WORKING GROUP

Working Group Co-Lead Barry Baxter explained that the group is tasked with offering practical strategic approaches in innovative technology that can be used in the future to enhance trade compliance and trade facilitation. Last quarter, the group has been examining results from the Intellectual Property Rights Proof of Concept which proved to be successful. It demonstrated several key benefits, such as an increased sufficiency and evaluation of import products based on licensed intellectual property. It also established the ability to facilitate real-time messaging between CBP and trade participants and it enabled users to perform Blockchain to Blockchain communication without standard application program interfaces. Moving forward, the group will explore other new and innovative methods to enhance trade facilitation and compliance as well as how to reduce issues within the overall supply chain.

UNIFIED ENTRY PROCESS (UEP) WORKING GROUP

Working Group Co-Lead Jose "JD" Gonzalez elaborated that the UEP is contributing to the work being done on the

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21st Century Framework. The current entry process is being reimagined to approve data collection in the line authorities across the participating government agencies (PGAs) to streamline business processes. The group has had several meetings so far, with two five-hour meetings on April 8th and 9th to take a deep assessment of the comprehensive set of issues within the current entry processes and identify opportunities to improve data exercises. UEP is developing a set of recommendations to present at the next COAC public meeting.

ONE U.S. GOVERNMENT (1-USG) WORKING GROUP

Working Group Co-Lead Madeleine Veigel stated that the group was formed to collaborate with CBP on efforts between all the government agencies and industry stakeholders. Several recommendations were made involving the Global Business Identifier (GBI) at the last meeting. Recently, the group had a call with U.S. Fish and Wildlife to discuss PGA message sets concerning what information is needed to be submitted to ACE. Additionally, the pilot for Fish and Wildlife was launched on April 6th. Discussions were also conducted

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with APHIS USDA on their new message set, which is extremely detailed and elaborate.

Working Group Co-Lead Warren Hastings explained that the PGA Trusted Trade programs and the effective integration of PGAs into the 21st Century Customs framework are the highest priorities. Work that is being done includes how to facilitate and improve targeting effectiveness or to enhance proactive use of data analytics relating to the shipper data and potentially leveraging data. The working group believes an in-depth review of current data requirements for several agencies is the group's next step.

John Leonard wanted to give a brief highlight of the workgroups from the CBP standpoint. On the 21st Century project, Travis Skinner has been selected as CBP Director for Trade and Modernization Division within the Office of Trade and will be overseeing the project moving forward. The Emerging Technology group had a successful proof of concept and is looking at other challenging commodities now. Concerning the 1-USG, there are currently seven

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participants on the Fish and Wildlife pilot with the hope of a permanent stake in September 2020. Lastly, he provides appreciation to the work being done on the GBI project as it is a wide-ranging effort to replace manufacturer identification numbers.

RAPID RESPONSE SUBCOMMITTEE

BROKER CONTINUING EDUCATION TASK FORCE

Task Force Co-Lead Amy Magnus briefly explained that they are currently waiting on a draft notice which will outline the proposed framework for continuing education for brokers. The group has not been active aside from two days of in-person meetings in November to outline what is expected to be included within the framework.

Regulations and Rulings Special Advisor Elena Ryan elaborated that the task force reviewed questions in February and provided helpful feedback. The first draft is being finalized for internal review and she is very pleased with the progress being made on this project.

Regulations and Rulings Executive Director Alice Kipel stated that she has reviewed a draft of the notice, but

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it is not quite ready to be submitted for further review. However, she is hopeful that the drafted notice will be published so that more robust comments can be made to move the project further.

UNITED STATES-MEXICO-CANADA AGREEMENT (USMCA)

WORKING GROUP

Working Group Lead Kathy Wilkins began by elaborating that the working group, under the Rapid Response Subcommittee, prepared a COVID white paper based on the comments provided by the whole COAC as to the dangerous times ahead for business, importers, and the trade environment as a whole.

She presents the recommendation that CBP, United States Trade Representative (USTR), and the USCMA partners delay entry into force until after January 1st, 2021, and provide an implementation period for one year. It is also recommended that if entry is done as scheduled, there should be enforcement discretion until a reasonable amount of time has passed.

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Mr. Leonard stated that the CBP is still on track to a June 1st entry into force with the USTR being the entity to announce any change to that date.

Textile and Trade Agreement Director Maya Kamar further emphasized that preparations are being done for the implementation date. As of right now, the task is to get as much guidance as possible to the importing community. So far, there are a few documents and FAQs posted on the website with the FAQs being updated almost daily. The idea of a help desk has been presented and thus, a USMCA coordination center in the Office of Trade has been created. This coordination center is tasked with ensuring a smooth implementation.

(Public Comment) Mary Jo White asked for clarification on the effective date for USMCA. Mr. Leonard replied that currently, the official date from USTR is June 1st.

(Public Comment) Lee Marino representing the Motor and Equipment Manufacturer's Association wanted to emphasize the recommendation for delayed entry into force data. There are a variety of challenges to a mid-year entry by

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itself, but that challenge is amplified when considering everything that is currently happening.

(Public Comment) Marianne Rowden with the American Association of Exporters and Importers (AAEI) commented that they will also be requesting an extended informed compliance period for implementation. This request includes an implementation delay to January 1st, 2021 as it will be difficult for trade directors to proceed with the certificate of origin process while still waiting for regulations to be issued.

(Public Comment) Michael Mullen from Express Association of America asked if CBP keep working with USTR to develop and publish uniform regulations for Customs as soon as possible, even if the entry into force is extended to January 2021. This is so traders could be ready for the entry into force data, whenever that would be. Mr. Leonard responded that they will do everything possible to get as much information to the trade community as possible.

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A motion is made to submit the USMCA recommendations. After a unanimous vote, COAC agreed to submit the recommendations from the COAC. See Appendix for a full list of recommendations.

COVID-19: CBP & PGA REGULATORY DISCRETION

Working Group Lead Kathy Wilkins began by elaborating that the working group, under the Rapid Response Subcommittee, prepared a COVID white paper based on the comments provided by the whole COAC as to the dangerous times ahead for business, importers, and the trade environment as a whole. The white paper was categorized into four areas as presented by Acting Commissioner Morgan at the beginning of the meeting and will be further defined.

Lisa Gelsomino then presented the first recommendation under Duty and Revenue Collections. This is for CBP to have flexibility in the collection of duties, fees, and taxes to the greatest extent to assure the economic health and stability of the trade and logistics industry. She explained that there will be at least a 25% increase

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in importer insolvencies from last year. With many small businesses being closed for at least thirty days, they will not have the ability to pay as the shutdown continues.

Cindy Allen presented the Communication and Notification recommendation, which is for CBP and the PGAs to adopt a consistent, clear, and transparent communication process virtually whenever possible. This understanding and notification between agencies is critical for trade to move forward with a thorough response.

Warren Hastings then spoke regarding the next recommendation. He stressed that government agencies impacting trade and logistics must adopt a 1-USG approach, incorporating the Border Interagency Executive Council (BIEC), and ensure that the trade flow continues despite multi-jurisdictional admissibility or revenue collection requirements. This includes a communication method as presented in recommendation number two.

Madeline Veigel added that the recommendation specifically requests that where an original certificate

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is required, alternate methods should be adopted. For example, providing the certificates electronically via the document imaging system (DIS).

Michael Young then presented the Inspection and Enforcement Discretion recommendation. As the flow of cargo is determined to eliminate port congestion, it is recommended by COAC that CBP use discretion to inspect cargo to expedite the flow. Due to the situation, a lot of importers are having difficulties concerning paperwork, so it is further recommended that potential penalties from enforced compliance be mitigated or canceled altogether when it does not pose a threat to consumer health, safety, or welfare. JD Gonzalez reiterated that the outreach CBP has gone through to make sure trade is the priority is greatly appreciated. However, there are extensions and regulatory procedures that need to be placed as a form of guidance for the trade stakeholders.

Kate Weiner then added comments on the 1-USG approach. Many manufacturers are not receiving a domestic supply of Personal Protective Equipment (PPE) and it needs to be

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imported. Unfortunately, if they are not registered medical device importers, PPE could not be imported into the country. It is extremely critical to work with BIEC on this.

Lenny Feldman urged CBP to make the COAC white paper public and to post it on the COAC CBP.gov website as soon as possible. There are a lot of requests and interest from the trade community to see the white paper as a whole.

(Public Comment) Michael Mullen asked when will CBP extend the deadlines from completing paper-based processes, such as penalties, regulations, and 301 tariff exclusion refunds that are sent by mail. Ms. Neuhart stated that she will ask for specific information to provide an answer to his questions. Mr. Thomas Overacker responded that maximum flexibility is given for certain processes, however, some statutory things requirements cannot be changed.

Additionally, Mr. Mullen asked when will CBP issue public guidance on the implementation of the April 3rd

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presidential memorandum on the export of scarce medical resources. Mr. Overacker explained that it is a FEMA responsibility, however, it is believed that it will be published soon.

(Public Comment) David Newman commented on recommendation number four. He commented that much of the work needed to timely address the over 140 minimum-security criteria (MSC) cannot be completed under certain circumstances. Mr. Overacker deferred the comment to the next subcommittee's discussion.

(Public Comment) Victor Gonzalez emphasized the importance of defining the term manipulation concerning freight. Guidance is needed on what actions are allowed while applying merchandise to the provided paperwork. Ms. Neuhart replied that a follow up will be done with him to discuss the details of his question.

(Public Comment) Denise Calle on behalf of Diaz Trade Law brought up the memorandum issued to the director of field operations on April 9th regarding the location of certain scarce or threatened health and medical resources for

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domestic use. Specifically, the in-transit shipments, what the FTBs are, or what bonded warehouse shipments are used. Mr. Overacker responded that he can only say that further guidance is forthcoming.

(Public Comment) Susie Hoeger from Abbott Laboratories is also looking for public guidance on the exemptions included in the memorandum on scarce resources. The ability to allocate company-owned PPE to overseas manufacturing facilities is essential for the flow of products into the United States. She understands that guidance is forthcoming. Mr. Overacker repeated that further guidance is forthcoming.

(Public Comment) Mary Jo commented that one port particularly has had a huge surge in ISS late penalties, and she is looking forward to CBP intervention concerning timeliness. Furthermore, NACFA has requested leniency in the timeliness for adopting the minimum-security criteria. Ms. Neuhart explained that there will be further discussion on CTPAT minimum-security criteria. Mr. Overacker requested that specifics be provided for review.

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A vote was held, and it was agreed to submit the COVID-19 recommendations. See Appendix for a full list of recommendations.

SECURE TRADE LANES SUBCOMMITTEE

Subcommittee Co-Lead Alexandra Latham explained that the subcommittee has four active working groups. However, none will be presenting recommendations presently.

Cargo and Conveyance Secure Executive Director Thomas Overacker thanked the subcommittee co-chairs and members for all the great work being done. Although there are no specific recommendations at this time, they are making progress with the work they have taken on.

TRUSTED TRADER WORKING GROUP

Working Group Co-Lead Alexandra Latham informed the committee that the working group has had significant activities over the last quarter. Since November 2019, the group's objective was to support the creation and development of an enhanced trusted trader framework for security and trade compliance.

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Over the last quarter, the group held nine calls to discuss and receive updates on various areas, such as the roll-out of the CTPAT Trade Compliance Program. Discussions have also been held on the finalization and implementation of the minimum-security criteria.

PGA work was also within the scope of the group's objectives. A review was recently done and, due to the creation of the 1-USG Working Group, it was decided that they would continue the work. The two groups are now partnered to facilitate the transition of work on the PGA Trusted Trader framework.

Working Group Co-Lead Erika Faulkenberry explained that the Trusted Trader Working Group had planned to have an on-site meeting at the University of Houston at the end of March and was being worked on in collaboration with CBP. It was to include Trusted Trader Working Group Members, CBP personnel, and the CTPAT Trade Compliance pilot members. However, this has been converted to three conference call-webinar hybrids.

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The first call was for CBP to provide and illustrate the training portion on how the new trade compliance model of the CTPAT portal functions. This was to share any updates, perspectives, requirements, etc. on the operations within the portal. The second call was led by the University of Houston, and they shared the technology being used for the CTPAT study they are to be conducting. During this call, the representatives in Houston discussed this partnership, how the study will be conducted, and the duration of the study.

The last call was to discuss the limitations, benefits that have been previously identified, and to discuss feasible objectives to provide benefits under the control of CBP for implementation. Ms. Faulkenberry concluded by presenting the four areas that will be working on in the next quarter: input on CBP's Forced Labor white paper; continue involvement in the University of Houston CTPAT study; the development metrics under CTPAT Trade Compliance, and the proposal of methodology for identifying, submitting, and measuring new benefits for Trusted Trader members.

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IN-BOND WORKING GROUP

Working Group Co-Lead Michael Young stated that the working group has been very active since the last COAC meeting and has had six full meetings. Identification is being done on industry pain points and are being looked at from various mode perspectives. These pain points are then looked at to determine where the biggest impact is in terms of recommendations to improve effectiveness and efficiency while maintaining capability for CBP to manage control.

Each mode has been reviewed with the recommendations made and they are evaluating the ROI based on the impact for a potential positive perspective. To improve efficiency and mitigate ability, changes need to be made to the existing regulations. The group currently has no recommendations but expect to present some come next COAC public meeting.

Working Group Co-Lead JD Gonzalez elaborated that there is a lot of interest concerning changes dealing withholds

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and finer details. Specifically, there needs to be a clearer definition of manipulation.

REMOTE AND AUTONOMOUS CARGO

PROCESSING WORKING GROUP

Working Group Co-Lead Jody Swentik explained that the working group was created in October to establish a clear vision of autonomous conveyance in various environments. It is to assist CBP in identifying and assessing existing and future technologies to facilitate cargo clearance as well. The working group has broken off into four subgroups based on mode: truck, air, ocean, and rail.

The group has been engaged with the Kansas City Southern Rail to conduct testing to increase capacity at the international bridge and streamline the clearance process. Recommendations will be put forward at the July COAC meeting. Work has begun concerning the ocean and automated terminals in Los Angeles and Long Beach. Assessments of air and truck environments for cost benefits and/or risks are also being done. Ms. Swentik concluded that the group has had bi-weekly meetings with

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each subgroup further diving into certain areas to assess the advantages technology can have for that type of mode.

EXPORT WORKING GROUP

Working Group Co-Lead Brenda Barnes stated that the working group does not have any recommendations. Since the last meeting, the group has met eight times via conference call and is diligently working on the identification of entities who own data, are responsible for data, and which government agencies need that data.

This is being done by combing through every element submitted for air, ocean, and rail. Trucks are not currently involved. This data mapping exercise will allow the group to analyze the next step of what data is duplicated, which entities would have the most accurate data for reporting purposes, and who should be responsible for the data.

Mr. Overacker expressed how great the updates have been and wanted to address two things before wrapping up. First, the question earlier on the minimum-security criteria. It was a multi-year process and the original

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deadline for meeting the MSC was January 1st, 2020. He understands the desire to move this deadline, however, instead of officially moving the deadline, we will convey to our supply chain security specialists to exercise discretion, to be flexible, and to take into account the totality of the circumstances regarding how much of the MSC any individual member has been able to input.

Secondly, Mr. Overacker addressed the question relating to the definition of manipulation and what is acceptable. They will maintain consistency on his side and within CBP with respect to how they define and interpret manipulation and work with this subcommittee on that definition.

(Public Comment) Michael Mullen from Express Association of America commented that the COVID-19 crisis demonstrates the clear need for CBP to accelerate its work on automating export manifests. Ms. Neuhart and Mr. Overacker thanked him for his comment.

(Public Comment) Marianne Rowden with AAEI asked if CBP has records for COAC resolutions going back to 2006

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because, at that time, she was designated as an entity's point of contact during a trade emergency. She would like to propose for COAC to fulfill that obligation and hopes to see the original language COAC passed in its resolution. It was clarified to be the COAC recommendations presented in 2006. Ms. Neuhart stated that she would personally follow up on that and will gather the records.

(Public Comment) Robert Tobias with the National Association of Beverage Importers wanted to make two quick points: the significant cash flow issue faced by importers and the need for flexibility on the collection of deferrals of fees, duties, and taxes.

CLOSING REMARKS

CBP Acting Executive Director Valerie Neuhart shared that they are aiming for the next public COAC meeting to be held in July and hopefully in person in Washington, D.C. There will be a public notice regarding the meeting status and venue as it gets closer.

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She thanked all of the COAC members, industry subject matter experts, CBP leadership, and the CBP colleagues and representatives partnered with the COAC members for their efforts in the formation of the recommendations presented.

Ms. Neuhart adjourned the COAC meeting at 5:55 p.m.

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