

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

U.S. Customs and Border Protection

Virtual Quarterly Public Meeting

Wednesday, June 28, 2021

1:05 p.m. - 4:28 p.m.

## OPENING REMARKS

CBP Office of Trade Relations Deputy Executive Director Valarie Neuhart welcomed all the participants to the second quarterly meeting of 2021. A formal roll call of the COAC members resulted in all members being present.

CBP Acting Commissioner Troy Miller announced that CBP Deputy Commissioner Robert Perez would be retiring at the end of June 2021 after twenty-nine years of service. Deputy Commissioner Perez thanked all the participants for their ongoing efforts on the important work being done by COAC. He encouraged everyone to not lose sight of how important their work and voices are towards the country's economic and national security.

Acting Commissioner Miller introduced AnnMarie Highsmith as the new Executive Assistant Commissioner (EAC) of CBP's Office of Trade. She has been with CBP since 1992 when she began her legal career as a staff attorney with U.S. Customs Service. She served as a principal lead adviser for CBP on all matters involving customs law and its impact on trade. EAC AnnMarie Highsmith thanked the Acting Commissioner for

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the kind introduction. She began her career with Customs as a law clerk and has had the privilege of growing and evolving with CBP over the entire span of her career. Although new to the Office of Trade, she has extensive experience with customs laws and is eager to help shape the direction of CBP's trade mission.

Deputy Commissioner Perez stated that as of May 28th, the Withhold Release Order (WRO) on seafood from the Dalian Ocean Fishing Company was announced with evidence of forced labor. This WRO is just one of the forty-eight being enforced with another eight active forced labor findings. CBP continues to demonstrate that it will not tolerate forced labor within its supply chains. Additionally, CBP has partnered with the Chamber of Commerce. Announced on May 25th, this new effort to combat intellectual property rights violations focuses on expanding information sharing about known and suspected IPR violations. This will also provide CBP with more visibility of the supply chains to better target counterfeit and pirated goods.

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Treasury Deputy Assistant Secretary Timothy Skud expressed his best wishes to Deputy Commissioner Perez and the warmest welcome to EAC Highsmith. The committee's interest in the status of the U.S. Mexico-Canada Agreement (USMCA) Regulatory Packages was acknowledged and he reported that only three have been received and subsequently sent to Office of Management and Budget (OMB) for inter-agency review. He then expressed several areas of interest within the meeting's agenda. Particularly, COAC's views on the issues surrounding forced labor and the challenges it presents for trade.

After echoing the sentiments of Deputy Assistant Secretary Skud, Department of Homeland Security (DHS) Assistant Secretary Bridget McGovern gave an update on President Biden's Trade Policy Agenda. Set for release in March, this comprehensive document includes an expansive list of trade priorities that intersect directly with the work being done by DHS, specifically, the development of a worker-centric trade approach and work relating to forced labor. She stressed that forced labor is a central priority

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for the Administration and is a prominent feature in the Trade Policy Agenda.

Another Administration priority is on worker-centric trade policy development which focuses on the protection of workers and its connection towards an improved economic outcome. With this approach, they are hoping to reinforce the mechanisms devised in the USMCA to provide relief to workers for the violations of their rights.

Homeland Security Investigations (HSI) Assistant Director Steve Francis highlighted the prioritization of HSI's efforts in commercial fraud to include anti-dumping, countervailing duties, free trade agreements, textiles, and environmental crimes. It is expected that additional resources and personnel will be needed to bolster the effort. Currently, there are fourteen Trade Enforcement Coordination Centers (TECCs) nationwide and allow partner agencies to coordinate efforts to disrupt and dismantle criminal organizations. Two additional TECCs are expected to be added by the end of the fiscal year, one in San Francisco and another in Miami.

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In October 2020, DHS established the Center for Countering Human Trafficking (CCHT). They work extremely close with the Office of Trade to receive information on each WRO and the findings. The CCHT Forced Labor and Supply Chain section supports multiple criminal investigations of 18 USC § 1589 violations against corporations benefiting from business ventures involved in forced labor overseas. Nearly all of HSI's criminal investigations stem from the WRO's determinations. Moving on, he briefly added that the National IPR Center was scheduled to assign a Memorandum of Understanding (MOU) with Grace Farms and with Liberty Shared that will focus on wildlife trafficking.

Assistant Director Francis then discussed efforts relating to Operation Stolen Promise (OSP), specifically with 3M and CBP to provide information to target counterfeit respirator masks and the indirection of shipments entering the U.S. Since January of 2021, they have launched over one hundred criminal investigations and seized twenty-three million counterfeit N95 respirators.

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COAC Trade Co-Chair Lenny Feldman stated that after six years, they have reached the last meeting for the 15<sup>th</sup> Term COAC with twelve members, including himself, leaving. Since April 2015, 555 recommendations have been made and issued by COAC with nine more presented at this meeting. None of which would have been possible without collaboration, communication through written policy, and consistency throughout the agency and trade community.

He thanked CBP, DHS, Treasury, leadership, and Office of Trade Relations for their support. Briefly, he thanked each of the other eleven members of the 15<sup>th</sup> Term COAC whose term had expired: Cindy Allen, Brenda Barnes, Kate Weiner, Heidi Bray, Celeste Catano, Lisa Gelsomino, Alexandra Latham, Amy Magnus, Madeleine Veigel, Michael White, Michael Young. The 15<sup>th</sup> Term COAC continues to urge CBP, the Department, and the Administration to swiftly appoint the remaining members of COAC. Concluding, it was a pleasure serving as the Trade Co-Chair and he will continue to serve and be an advocate within the trade community.

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COAC Trade Co-Chair Brian White expressed his gratitude for having Mr. Feldman as a co-chair but also personally as a friend and a mentor to him. He also extended his thanks and appreciation to each member of the 15th Term for the opportunity to learn and grow with them. He added that there is still work to be done and, although they will be transitioning from their appointment, most will continue to partner with CBP to advance priorities for the trade community and work towards innovative solutions.

### **SECURE TRADE LANES SUBCOMMITTEE**

COAC Co-Lead Alexandra Latham explained that the subcommittee has four active working groups operating under it. Recommendations will be presented by the Export Modernization Working Group along with updates on their White Paper. Then, the Remote and Autonomous Cargo Processing Working Group will present their White Paper. The In-Bond Working Group and Trust Trader Working Group will only be providing updates at this time.

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## **EXPORT MODERNIZATION WORKING GROUP**

Working Group Co-Lead Brenda Barnes explained that the White Paper began with a roadmap created by the 12<sup>th</sup> Term COAC and moved through to the 15<sup>th</sup> Term COAC. The goals are set within the White Paper with each goal being able to be met by using the concepts and practices outline within the White Paper. The work from the thirteenth and fourteenth COAC is explained with the products contained from the work included within the appendices for reference. The 15<sup>th</sup> Term COAC then took these concepts and added to them with the help of Customs and other government agencies. All eighty-six data elements included within the Electronic Export Information (EEI) as well as air, rail, and ocean manifest, were analyzed diagraming who owns the data and where the data elements may be duplicated. Connections from these details to the advanced manifest and post-departure filing work are outlined and diagramed on how the processes work more efficiently for all parties involved. Government agencies will gain the most accurate data for enforcement and historic analysis. More time will also be available to enforce enforcement allowing greater focus on egregious violators.

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Working Group Co-Lead Kate Weiner thanked the 15<sup>th</sup> Term COAC working group for their hard work and collaboration on tedious work which included going line by line through data elements of the EEI and manifest requirements for air, ocean, and rail. However, truck is largely missing and a bit behind the other modes. We recommended that the next COAC continue to pursue applying the recommendations to truck as the e-manifest work continues.

The group's first recommendation is that CBP incorporates the Export Modernization Working Group White Paper, "*Export Operations for the 21st Century*," in its entirety, including appendices, which outlines details and processes, into the 21st Century Customs Framework. The second recommendation is that CBP updates electronic manifest requirements as addressed in the Export Modernization Working Group White Paper and expand the current electronic manifest pilot to full operational status at all ports.

The third recommendation from COAC is that CBP modifies appropriate CBP, Census Bureau, and Participating Government Agency's (PGA) regulations to accommodate the

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envisioned "*Export Operations for the 21st Century*" as recommended in the Export Modernization Working Group White Paper. Lastly, COAC recommends CBP lift the moratorium on post-departure filing for new applicants and expand the filing process to approved exporters based on the enhanced security provided by the electronic manifest filing and as recommended in the Export Modernization Working Group White Paper.

Cargo and Conveyance Security Executive Director Thomas Overacker thanked the working group for their hard work and drive. The work began with the 12<sup>th</sup> Term COAC and ending at the close of the 15<sup>th</sup> Term demonstrating just how complex and detailed this White Paper is. From the CBP perspective, they are very supportive of the recommendations within the White Paper

### **PUBLIC COMMENT**

Ms. Karmeshia Tuck read a comment submitted online from Julie Parks: Reflecting on the history of the export topic on COAC, I want to sincerely commend this team for speaking so correctly on behalf of the trade. Simply put, various

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business practice is smart and fortunate. What we desperately need is for CBP to prioritize the road maps and get things done. Exporters are under more pressure than ever to deliver value to our business.

Another comment by Michael Thompson: Please advise of the availability of various documents (White Paper) presented. Deputy Executive Director Neuhart replied that they will provide additional guidance on the documents. Additionally, they will share it with all registered attendees via email.

Executive Director Overacker responded to Ms. Park's comment, stating they do recognize the importance of prioritizing the modernization of the export regime to reflect the importance it plays in our economy and the role that CBP plays in facilitating exports.

Deputy Executive Director Neuhart opened the floor to the COAC members. Hearing no additional comments, a motion to submit the Export Modernization Working Group recommendations was made by Jody Swentik and seconded by

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Celeste Catano. Through a roll call vote, the recommendations were passed and submitted. See Appendix for the full list of recommendations.

### **IN-BOND WORKING GROUP**

Working Group Co-Lead Michael Young provided an update of the group. The group produced a White Paper itemizing in detail the recommendations made during various COAC sessions to consolidate them within one working document as a roadmap for future development. Further, a section of that White Paper was submitted to Trade Support Network (TSN) to focus on the technical details. They continue to meet regularly TSN with a few of the COAC working group members involved with the TSN group as well. They have already identified and outlined items and recommendations concerning some technical issues and improvements which are to be submitted as RFDs to CBP.

The In-Bond Working Group is also working on regulatory requirements, specifically looking at CBP Regulations and improvements to areas that show as requiring manual intervention. There is some automation in place, but they

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are trying to consolidate the information to identify a streamlined protocol. As the group works through the regulatory requirements, they are certain additional recommendations will be made in future sessions and subsequently added to the White Paper. Concluding, he thanked several people for their support and is positive they can continue to move forward productively.

Working Group Co-Lead J.D. Gonzalez stated that Mr. Young articulated the missions very concisely and did not have additional updates. Mr. Gonzalez thanked Mr. Young for having been a mentor during the 15<sup>th</sup> Term COAC. He also thanked the other advisory committee members for their ongoing support. He believes that the working group's Export White Paper has been a benchmark for some of the other White Papers that are being submitted presently.

### **TRUSTED TRADER WORKING GROUP**

Working Group Co-Lead Alexandra Latham presented updates on what they have accomplished over the last quarter. They have been four calls with the working group and focusing on providing additional feedback on further development and

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implementation of a forced labor component into the Customs-Trade Partnership Against Terrorism (CTPAT) Trade Compliance Program based on the CBP's Forced Labor Trusted Trader White Paper. They reviewed the new iteration of the paper and have provided additional feedback on the program requirements and proposed benefits. Those benefits do remain as a work in progress as they wait on which will be implemented into the final program. Regarding the Trusted Trader benefits generally associated with the CTPAT program, both for security and trade compliance, the Working Group has received an update on the status from CBP on the prior benefit they had prioritized for implementation. She stressed that keeping the focus on benefits in the development of the program and its ongoing maintenance is critical to increasing the trade's participation and the overall success of these programs. The Working Group has created a Best Benefits Methodology White Paper that was released in July 2020 and has since completed most of the objectives in the scope of work through four sets of recommendations.

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Working Group Co-Chair Erika Vidal-Faulkenberry explained that four topics continue to be the group's priority, such as further development of the CTPAT Trade Compliance Program. Specifically, some benefits activities remain open or pending implementation. Secondly, they are focused on the further development of the benefits associated with Trusted Trader's forced labor component within CTPAT.

The remaining two topics relate to pending activities regarding the study completed in partnership with CBP and the University of Houston's study of e-commerce challenges. They have not been able to finalize the document associated and all the feedback they have gathered. And lastly, the publication of the Forced Labor Notice of Proposed Rule Making (NPRM) remains pending.

#### **REMOTE & AUTONOMOUS CARGO PROCESSING WORKING GROUP**

Working Group Co-Lead Jody Swentik is pleased to present the group's White Paper consisting of their study and findings. Established in October 2019, they were tasked with understanding the impact of the technology used relating to cargo processing and what CBP would need to be

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prepared. The transportation industry needs updating. It is on the verge of a transformation in terms of technology and the available technology pushing towards the use of remote and autonomous vehicles. This push also stems from the limited trucking capacity and drivers.

Currently, autonomous vehicles are being used at varying levels domestically. However, the biggest challenge they have encountered relates to high-definition mapping in real-time. Google Maps provides any sort of map inclusive of the roads and street names, but autonomous vehicles need a mapping for things such as a curve radius, lane width, inclines, declines, and if there are guard rails, trees, and/or bridges.

The Remote and Autonomous Cargo Processing Working Group provides some options to consider. Concerning truck, they suggest a prototype port be created at one of the borders to test the concept of trucks crossing a local border, or northern or southern border, and the ability to handle different situations. With rail, the group focused on the impact of autonomous vehicles and cargo processing would

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have on the technology, infrastructure, regulatory, and labor.

For the ocean, it was generally looked at as the trend has been automation of tasks and reduction of the crew sizes on ships. They determined it is more likely that the Feeder Vessel Systems will be the focus for automation and running the defined routes. Then, with air, they assessed unmanned aerial vehicles such as drones. The potential issue with that is it would bypass traditional airports and thus bypass customs ports.

Ms. Swentik explains that remote and autonomous vehicles are emerging actors requiring a cargo process set up through hours of manual data entry and void of any ink or paper. Additionally, this requires technology and transparency within the supply chain so CBP can make decisions based on such data. These key challenges have been driven and identified by the 21st Century Customs Framework. Further, the group has determined that the opportunities for the next steps would also be identified within that framework

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program and would like to work in conjunction, so efforts aren't duplicative moving forward.

Executive Director Overacker commented in respect to the Remote and Autonomous Cargo Processing Working Group, they can identify and apply emerging technologies in various sectors and aspects of supply chains. The White Paper the group presented identifies the emerging technologies and issues of concern for each vector and he is particularly intrigued by having a prototype location to conduct tests.

### **NEXT GENERATION FACILITATION SUBCOMMITTEE**

Trade Policy & Programs Acting Executive Director and CBP Lead Brandon Lord began by thanking the members of the Subcommittee, the Subcommittee leads, and the Work Group leads. He then explained that the subcommittee has the responsibility of looking to enhance trade in government processes, policies, and programs that enable the trade community and CBP to be in a better position for the future.

In the e-commerce sector, CBP continues to see an overwhelming volume of small packages and the lack of data

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limits the ability to identify high-risk shipments that may contain narcotics, merchandise that poses a risk, safety counterfeits, or other contraband. CBP expects to reach one billion small packages arrive each year all lacking sufficient data to determine their risk. The two ongoing pilots have the dual benefit of clearing legitimate shipments quicker while also focusing resources on possible bad actors at the time of arrival.

In collaboration with the E-Commerce Task Force, CBP is finalizing new data elements allowing for a larger scope of visibility into the foreign seller and associate non-traditional customs data from a platform or website where goods were sold to the specific small package arriving at an entry port. These data elements will be required for certain Section 321 shipments. And critically, the task force has flagged the challenge and costs of classifying each small package with a ten-digit automatic tariff schedule number. Supply chains will then have an opportunity to demonstrate the ability to identify PGA-regulated commodities and those that can, will not need to

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submit the ten-digit Harmonized Tariff Schedule (HTS) on every shipment, only those regulated by a PGA.

Moving on to the One United States Government (1USG) Working Group, it has officially turned two years old. Over the past two years, they have fulfilled their intended role as a key conduit to the border interagency process. Similarly, the 21st Century Customs Framework Task Force was launched in 2019 and is just over two years old. They have worked diligently on a framework that offers a new paradigm for the evolution of trade in the 21st Century. Additionally, CBP has drafted discussion drafts structured around what they view are the biggest impediments to trade modernization.

The Reimagined Entry Process Working Group has continued to work on the entry process that will increase facilitation and security of cargo bound for the U.S. This process will allow CBP to gather data earlier in the supply chain and obtain data in real-time. The Work Group has also defined requirements for CBP future systems and identifying where statutory changes may be needed.

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## **E-COMMERCE TASK FORCE**

Working Group Lead Cindy Allen expressed the group's gratitude towards CBP and their continued partnership. They have listened to the trade community to understand the trade process flows for both cargo and flow of data. The success of the Type 86 pilot and Section 321 pilot is evidence of that partnership. However, one of the concerns of the trade community is on the e-commerce trade flows. While there have been several identified, only one or two of the e-commerce trade flow types have been fully tested under the Section 321 pilot.

The issues concerning the other types of e-commerce trade flows are with the connectivity and flow of data through each of the different partners and the parties to the transactions, specifically when the data changes hands during the transaction. The flow of information and/or data either isn't effective or is non-existent from the marketplace, sellers, and through the agents, resellers, and shippers into the U.S. Further, the parties may not be aware that they are part of an international transaction or that the goods of the transaction are bound for the United

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States. This demonstrates the need to expand the Section 321 pilot to the other types of e-commerce trade flows so they can be fully tested.

Another concern is that buyers are not often aware that the products they order are directly imported into the U.S. before they are delivered to them. This applies to not only personal shipments but also applies to American companies ordering products from a U.S.-based e-commerce platform or business where the products they order are produced by a foreign party.

While the visibility of data is a concern for CBP, it's also a concern from the business aspect in two ways. Firstly, how data is sourced and reported. If a participant's data needs to be recorded, who reports that data? Furthermore, how is the data reported; who is responsible for the record-keeping of that data; and what is the level of care taken by the participant in the collection and reporting of that data securely while also abiding by the needs of CBP? Secondly, how data is protected. If proprietary information for a company or

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product is traveling through the supply chain, how is that information shielded before it is received by CBP on import? So, while visibility is crucial, this just demonstrates some of the issues the Task Force is working through.

### **ONE UNITED STATES GOVERNMENT (1-USG) WORKING GROUP**

Working Group Lead Madeleine Veigel summarized that the group was established to collaborate with CBP on their efforts with government agencies and industry stakeholders. Although they don't have any recommendations, they have worked persistently over the fifteenth COAC term.

One of the biggest areas of focus was on the Global Business Identifier (GBI) as a replacement for the Manufacturer ID or MID. They have produced seventeen recommendations that were presented at the December 2019 meeting. They continue to have discussions internally and with CBP to further their work and develop the concept for a pilot program which they hope to have at the end of 2021.

There was a focus on the "PGA Disclaim Handbook". Developed from the 2020 workshop held in conjunction with PGA, the

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Disclaim Handbook will serve as the centralized guidance to the trade community concerning the use of disclaims per PGA to increase awareness and informed compliance with the federal import regulations and resolve any confusion within the trade community in disclaiming goods that are subject to PGA review. Additionally, the 1-USG Working Group has prioritized and listed the original paper documents PGA requires as they move towards going paperless. A lot of the requirements of an original paper document originate from foreign governments and they will need to address this with the 21st Century Customs Framework Task Force.

Additionally, the group has received continued updates from the PGAs regarding the implementation of Automated Commercial Environment (ACE) message sets. They continue to have conversations with the Trusted Trader Working Group and CBP on the development of a Trusted Trader Program with the PGAs. Lastly, the group is looking forward to working with the 21st Century Customs Framework Task Force on incorporating the PGAs within a newly designed government and trade process for the future.

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### **RE-IMAGINED ENTRY PROCESS WORKING GROUP**

Working Group Co-Lead J.D. Gonzalez stated that the group has completed a series of six deep dives into the working systems through review of the entire process and determining the point entry data becomes available and the parties that own that data. This information has been identified, documented, and shared with the 21st Century Customs Framework Task Force and they will continue to participate in monitoring the requirements of the CBP future systems and identifying that data. Higher quality data available earlier within a supply chain will ensure a stronger economy for the U.S. and provide greater security.

### **EMERGING TECHNOLOGIES WORKING GROUP**

Working Group Co-Lead Barry Baxter informed COAC that since the last meeting, the group has gone on hiatus. They feel as they have done a great job of laying the foundation to explore new technologies as they become commonplace with many of the areas and terms used now having been first explored within the Emerging Technologies Working Group. He gave appreciation and thanks to his Working Group Co-Lead, Celeste Catano, all the members of the group over the

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last three years, and to Business Transformation and Innovation Division Director Vincent Annunziato.

## **21ST CENTURY CUSTOMS FRAMEWORK (21-CCF)**

### **TASK FORCE**

Working Group Lead Lead Lenny Feldman recalled that a request for public comment was made in December 2018 with CBP holding the public meeting with testimony given from the trade community in March 2019. CBP was cognizant of their need to stay current as trade evolved which is the objective of this Task Force.

The Task Force has determined one of their areas of focus needs to be on the limited data collection with the concept of exploring how to collect data from relevant parties within the supply chain and how to utilize the data collected for lawful purposes within modern technology. Under this area of data collection, they are also assessing various opportunities to incorporate heightened analytics to obtain data. Focus is also on restricted data usage with the idea of using advanced data and data from non-traditional parties or providing data in non-traditional

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ways and sharing that data to leverage PGAs that will enhance uniform data sharing between CBP and the PGAs, facilitating release and pre-clearance as early in the trade process as possible. Continuing, they could increase visibility and accountability by potentially expanding recordkeeping requirements and accountability to non-traditional parties. This provides supply chain operational visibility to intermediaries, such as customs brokers, and disseminates valuable information to trusted stakeholders.

Their fourth focus is on untimely and ineffective enforcement. Not only is there a need to strengthen enforcement to facilitate and streamline lawful trade but also implementation of account-based enforcement. This could be accomplished by automating the process and promoting enhanced compliance awareness through outreach, education, and communication. All in conjunction with leveraging Trusted Trader and known import programs to facilitate trade lanes in traditional and non-traditional spaces.

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Lastly, there is a focus on insufficient funding and how to fund trade modernization sustainably. The considerations being made include funding programs that do not compromise trade equity through pay for play type of model leveraged with revenue collections along with other efficiencies through modern technology such as fee-based incentives for trusted partners. The Working Group is also looking at opportunities to decrease the level of fees for those who are trusted partners.

Moving forward, the group is looking at cross operational visibility to the filer and inter-operability to the seller. The key concept is to provide certainty, transparency, increased efficiency, and decreased costs. CBP is to also work with Trade to indicate where it doesn't have clear datasets as early within the process as possible so they can be completed in a sufficient way to facilitate those transactions. COAC needs to continue to encourage the CBP to consider public comments in meetings before dropping statutory language. The 21st Century Customs Framework (21 CCF) Task Force feels that this would increase transparency and partnership so the whole of trade can

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comment once a statutory review has passed through the focus group and the Task Force.

Trade Modernization Acting Director Garrett Wright restated that the 21 CCF Task Force was announced during the March 2021 meeting as a mechanism to share with trade and receive feedback on what is being called discussion.

The discussion drafts address what the agency views as the biggest legal impediments to trade modernization. Specifically concerning updates to the Title 19 authorities as it is over twenty-eight years old. Trade has transformed dramatically over the last twenty-eight years and is in a high-risk environment due in part to higher trade volumes brought on by e-commerce and part to increasingly complex supply chains with new and emerging actors. These discussion drafts aim to address the challenges associated while also creating opportunities to leverage emerging technologies and broader supply chain visibility to better segment out and facilitate lawful trade.

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The Task Force has had six of the ten scheduled meetings to review the discussion drafts. They aim to complete those meetings by the end of August or mid-September. Beyond that, a smaller subset of subject matter experts within the task force has been organized and is comprised of both trade and government representatives. They are to develop recommendations on if and how to incorporate the feedback received from their ten scheduled meetings.

### **INTELLIGENT ENFORCEMENT SUBCOMMITTEE**

Subcommittee Co-Lead Kate Weiner stated that enforcement has been a growing issue with the trade community in many areas. One of the higher priorities for the current Administration is how to enforce the new value of the safe trading initiative. COAC continues to reinforce trade facilitation and transparency for those involved in legitimate trade and continues to remind CBP to strike the balance between enforcement and facilitation.

Executive Director of Trade Remedy Law Enforcement Ana Hinojosa explained that although three of the working groups will not be presenting recommendations, they have

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taken their work very seriously and have worked diligently over the past quarter. Overall, the subcommittee did discuss the Modernization White Paper that was submitted in October of 2020. There is an opportunity to look at what has been done and to identify future progress that can be made within those areas.

### **ANTI-DUMPING AND COUNTERVAILING DUTY (AD/CVD)**

#### **WORKING GROUP**

Working Group Lead Lisa Gelsomino provided an update on their activity over the last quarter. They have been working with the 21st Century Customs Framework concerning complex third country AD/CVD cases. These cases often involve a country of origin that is different from the country of origin for the scope of an AD/CVD case. This has caused a challenge for the trade community to work with those case numbers within ACE and so they have updated an ACE port, Rep 202, to give more visibility in that area.

A key area of focus has been on enforcement. They also recognized CBP's need to collect revenue owed which has since been aided by the Enforce and Protect Act (EAPA).

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Currently, CBP has over fifty active EAPA cases, collected over \$50 million in evaded duties, and, as of March 27, 2021, launched a new portal. This portal allows people to request a login and password, providing visibility into their cases within a more functional database. Ms. Gelsomino explained that CBP is required to post congressional reports every year and this is reviewed through the Working Group to check in on how enforcement has improved. There are more than 600 active AD/CVD cases with new cases filed each year and is active with a lot of the enforcement investigations, both through EAPA, the False Claim Act, and others. Lastly, there are more liquidations, which can be an issue for AD/CVD due to the suspension of entries.

Another issue the AD/VCD Working Group has identified issues concerning some additional rulings made as they have commodities with trade revenues and AD/CVD duties. These cases continue to be difficult for trade because the customs brokers and importers must break down the different components to determine the correct classification of trade remedies and the AD/CVD margins. ACE has received special

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value provisions but isn't set up to handle cases of this complexity. They have requested that CBP look through the 21st Century Customs Framework to consider how to better evaluate these issues.

### **BOND WORKING GROUP**

Co-Lead Lisa Gelsomino briefly reviewed the working group's efforts. They have made progress with the Office of Trade on policy and the Office of Finance on collection and debt. A review of CBP's monetary guidelines for setting bonds has been completed, which hadn't been updated since 1991. She is pleased with the work completed so far by the group and they will be presenting four recommendations today. Additionally, the Foreign Trade Zone Bond, through the Pipeline Operator bond, has recommendations regarding single transaction bonds involving other PGAs. They are aware that there needs to be a review within CBP, but they are optimistic the document can be updated by the end of the calendar year or potentially the end of the fiscal year.

In the meantime, the group encourages CBP to issue Cargo System Messaging Service (CSMS) messaging to communicate

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some of the policy changes they have been able to make before the guidelines are released. The messages provide guidance to customs brokers, sureties, and those who need to review and deal with the materials. An update was then provided on risk-based bonding. There has been another provision from Trade Facilitation and Trade Enforcement Act (TFTEA) where Section 115 required CBP to develop and import a risk assessment guideline to adjust bond amounts, especially for priority trade issues such as AD/CVD, IPR, and other revenue driven areas. It also focuses on new and non-resident importers. CBP plans to look to their existing authorities while also looking at other policies they can leverage. On May 21, 2021, CSMS number 47894086 announced CBP would be investigating the suspended and debarred importers of record that are in the system and recommending the termination of those bonds to the sureties.

Moving on to discuss the e-Bond test, in 2015 the e-Bond module was released successfully in ACE and allows bonds to be filed within seconds compared to the minimum of five to thirty calendar days. The group will be presenting

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recommendations to further round out the work of the e-Bond pilot and turn it into a regulation.

COAC recommends that CBP let the customs broker filer set the Importer Security Filing (ISF) number, transaction number, and submit that through the e-Bond logic with matching functionality as it works today. This would eliminate the multi-step process that does not match the bond to the ISF transaction. This would also guarantee a bond is on file to cover the ISF transaction as the ISF transaction can be filed before the Electronic Single Transaction Bond (e-STB) is filed. Additionally, it would provide sureties with the ISF data in real-time via the Automated Surety Interface (ASI).

The next recommendation is in support of recommendation 14033, that CBP should implement an e-Bond process for Department of Transportation bonds. This helps complete the data required for PGA message sets and ACE functionality. The DOT Bond is only uploaded to the Document Imaging System (DIS) with no verification of the bond or matching to the PGA message set. The Bond Working group

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believes that over 100,000 DOT Bonds are processed annually without any oversight, matching logic, or visibility to CBP.

The third recommendation is to include International Trade Commission (ITC) Bonds in the e-Bond process. They are infrequent compared to other bond types, and those unfamiliar with the processing and acceptance of these bonds can lead to errors in bond execution. The fourth recommendation is on Intellectual Property Rights (IPR) Bonds. COAC recommends including IPR Bonds in the e-Bond process as it would be more efficient to sureties input the IPR Bonds via e-Bond in both continuous and single transaction instances.

The last recommendation is that CBP prioritizes issuance of a NPRM to finalize the regulatory rewrite for 19 CFR § 113 to include language to support the prior four recommendations within the ACE e-Bond module, which will provide visibility to CBP on all remaining bond types. This will also ensure that the sureties receive all data attached to each bond type electronically through real-time ASI.

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Executive Director Hinojosa commented that they are very much in support of the recommendations that COAC has put forward from the Bond Working Group and look forward to implementing them. With no additional public comments made, Executive Director Neuhart asked for a motion to submit the Bond Working Group recommendations. The motion was made by Ms. Kate Weiner and seconded by Mr. Brian White. Through a roll call vote, the recommendations carry. See Appendix for the full list of recommendations.

**INTELLECTUAL PROPERTY RIGHTS PROCESS MODERNIZATION  
WORKING GROUP**

Working Group Co-Lead Amy Smith explained that the group will not be making any recommendations today, but they have made forty within the fourteenth and fifteenth terms. They are currently prioritizing all forty recommendations and aiming to complete this prior to the sixteenth term of COAC. Additionally, there is IPR Process work being done on the 21-CCF and E-Commerce Task Force.

## **FORCED LABOR WORKING GROUP**

Working Group Co-Lead Erika Faulkenberry presented an update from their most recent meeting as they worked with CBP to add three new objectives to the Forced Labor Working Group as the group had completed the previous objectives they were tasked with. The three specific objectives have been split between three subgroups. The Informed Compliance Fact Sheet Subgroup handles is focusing on the fact sheet and original items relating to that. The Emerging Technologies and Traceability Subgroup with the purpose to assess the tools they could use to improve forced labor mediation relating to technology to track feedback. The last subgroup is the Forced Labor Report and Metrics Subgroup to identify potential actions relating to the Department of Labor 2020 Forced Labor Report.

During the last quarter, the decision was made to temporarily suspend the activities relating to the Emerging Technologies and Traceability Subgroup with activities continuing internally and as part of due diligence. The other two will continue to make progress.

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Executive Director Hinojosa explained that there are two upcoming industry bids that will be used to support some of the work the Forced Labor Working Group is doing. The bid will look at tracing capabilities by tracing the origin of products as it relates to forced labor and tracing the supply chain.

### **RAPID RESPONSE SUBCOMMITTEE**

Trade Policy and Programs Office Acting Executive Director Brandon Lord began by reviewing the work being done by the Broker Exam Modernization Working Group. In April 2021, CBP conducted the Broker Exam using two methods: the traditional in-person proctored broker exams and the remote proctored exam pilot. CBP is grateful for the 185 examinees who participated in the remote exam pilot. However, despite thorough testing of the exam by the COAC workgroup members and CBP, the remote exam did experience technical challenges mostly stemming from examinees being disconnected from the exam.

He continued with thanks to COAC for the continued partnership through the USMCA Working Group as they

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continue to create the opportunity for Trade to work with CBP on the implementation of the Agreement and bring awareness to issues faced by Trade. However, the USMCA Work Group will be paused until the USMCA's final domestic regulations are published, which are scheduled to be published by July 1st, 2021.

### **BROKER EXAM MODERNIZATION WORKING GROUP**

Working Group Co-Lead John VanWallaghen restated what Acting Executive Director Lord covered. He added that they are currently exploring opportunities to improve the exam experience in general, but the remote proctored exam was the focus leading up to the April exam.

### **UNITED STATES - MEXICO - CANADA AGREEMENT (USMCA) WORKING GROUP**

COAC Lead Kathy Wilkins detailed that the group would continue to work with CBP and the Center for USMCA on the implementation instructions. As Acting Executive Director Lord mentioned, the group will be on hiatus until the final USMCA domestic regulation, which includes including

automotive and textile goods, are published and effective scheduled for July 1, 2021.

### **PUBLIC COMMENT**

Marianne Rowden had a question directed towards the e-Commerce Task Force. She wants to know if they're tracking legislation, such as the shop vac, which will require e-sellers and marketplace platforms to list the country of origin of goods offered for sale online. Further, is the Task Force tracking legislation but not necessarily going through congressional committees of jurisdiction governing international trade?

Deputy Executive Director Valarie Neuhart replied that they will follow up with her individually, however, she did share that the Task Force is currently on pause as a few items are worked through. They will be reconvening shortly and will push that question over to them.

Ms. Rowden also directed concerns towards the 21st Century Customs Framework Task Force regarding U.S. trade priorities for e-commerce negotiations of the World Trade

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Organization. Deputy Executive Direct Neuhart again replied that they will follow up.

### **CLOSING REMARKS**

Deputy Director Valarie Neuhart adjourned the meeting at 4:28 P.M.