

Commercial Customs Operations Advisory Committee  
(COAC)

U.S. Customs and Border Protection

Executive Summary

December 4, 2019

1:07 p.m. - 3:50 p.m.

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## OPENING REMARKS

Ms. Valerie Neuhart called the COAC public meeting to order. She welcomed and thanked the attendees, introduced Deputy Commissioner Robert Perez as the meeting chair, and performed a roll call. The following members were not present: Warren Hastings, Erika Faulkenberry, Michael White, and Amy Smith. All other members were present.

U.S. Customs and Border Protection (CBP) Deputy Commissioner Robert Perez proceeded to welcome everyone, stressed the importance of the ongoing collaboration put forth by the stakeholders and CBP, and briefly acknowledged the executive assistant commissioners -- Ms. Brenda Smith for the Office of Trade and Mr. Todd Owen for the Office of Field Operations.

Deputy Commissioner Perez then touched on how critically important the collection of data that is derived from e-commerce, the work being done with entry pilot programs, trade security within the supply chains, and the development and implementation of emerging technologies is to what is currently being done in trade.

Treasury Deputy Assistant Secretary Tim Skud welcomed everyone back. He stressed the urgency of addressing issues within bonds; then briefly mentioned the work being done on the global business identifier, autonomous vehicles, blockchain, and continuing education for brokers.

Department of Homeland Security (DHS) Assistant Secretary Scott Glabe was introduced. He spoke on how new challenges have brought a renewed emphasis on the trade mission of DHS, its components, and across the government; and how important it is to collaborate with COAC to meet these challenges.

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Immigration and Customs Enforcement (ICE) Acting Deputy Director Derek Benner provided updates from the criminal investigative side of global trade enforcement. There has been an increase of integration and staffing, the addition of criminal analysts, and all global trade investigations and programs have now been centralized under one directorate within Homeland Security Investigations (HSI)/ICE. Mr. Benner touched on two upcoming events: vaping health and safety summit and digital piracy symposium. Lastly, the release of the fiscal year 2020 guidance to the field was mentioned.

Trade Co-Chair Lenny Feldman acknowledged the 12 working groups and elaborated on how they are currently dealing with emerging issues. This segued to briefly discuss how the working groups and subcommittees worked through the border security crisis, and how they are currently dealing with the trade war crisis.

Trade Co-Chair Lisa Gelsomino followed up with additional highlights from the working groups and subcommittees. She thanked everyone involved for their continuing efforts.

### **SECURE TRADE LANES SUBCOMMITTEE**

COAC Co-Lead Alexandra Latham gave a brief overview on the Subcommittee level. Currently, there are four active working groups: In-Bond Working Group, Trusted Trader Working Group, Export Modernization Working Group, and Remote & Autonomous Cargo Processing Working Group.

Ms. Latham briefly provided an update on the Trusted Trader Working Group. It continues to implement the elements of the framework strategy that was published in July of 2016 in order to move the Trusted Trader program forward. Currently their focus is on the creation of the CTPAT trade compliance program and identifying program performance metrics.

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The Forced Labor Working Group has had two rounds of recommendations and the group is currently awaiting a new iteration of the forced labor requirements for Trusted Trader.

CTPAT Director Manuel Garza noted that the integration from ISA into trade compliance began in August with 50-plus companies. They are planning to have the next 50 to 75 ISA members to transition in February 2020. He discussed the possibility of a face-to-face meeting to discuss various metrics and the implementation of previously identified program benefits.

### **In-Bound Working Group**

Subcommittee Member Mike Young quickly touched on CTPAT minimum security criteria issues. There was an agreement on the basic minimum-security criteria (MSC) for all modes of transportation. However, since their publication of the MSC there have been instances within oceanic transportation which require additional minimum-security

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criteria. Roughly seven have been added and some will be requiring significant changes for ocean carriers.

Discussing the In-Bond Working Group, there are currently no new recommendations. Instead, recommendations previously discussed and based on the final rules published in 2017 are now being used to enhance implementation. Mr. Young elaborated that specific issues have been identified within the current rules relating to in-bond cargo movement. The new recommendations being developed touch on these issues and will be presented at the next meeting.

Subcommittee Member Jose Gonzalez then spoke on the need to ensure uniformity and continued process of flow for trade. Currently, a cost analysis within a longer time frame is being developed for all four modes.

Director James Swanson thanked all In-Bond

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Working Group participants, noting that this group's derivative was to implement new regulations and create a written document encapsulating the agency's goal and in-bound cargo management. He continued to note the success of automation with some levels being fully automated. Director Swanson explained that automation has provided data for the following aspects: process, post-audit, identification of trends, communication issues, liability issues, and effective enforcement issues. His goal is to create a white paper for the next COAC session that will identify the 21st Century vision of what in-bound can look like and how it fits in with the overall strategy for enforcement, compliance, and trade facilitation.

## **NEXT GENERATION AND FACILITATION**

### **SUBCOMMITTEE**

#### **Remote & Autonomous Cargo Processing Working Group**

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Working Group Co-Lead Jody Swentik introduced the new working group and that there is a draft of the statement of work in review. Currently, there are discussions and considerations of the different modes of autonomous vehicles. An analysis will be done for each more on what the impacts, risks, and benefits are for each vehicle and the timelines for adaption.

Working Group Co-Lead Heidi Bray discussed how they are learning what is going on in the ports, what drones are doing, and how to use this technology to work in warehouses and container freight stations. Additionally, evolve Free and Secure Trade (FAST) at the Northern border in Detroit.

Acting Director Efrain Solis then spoke on the main challenge is being able to merge the future into the present and to understand the peripheral and transactional costs that exist. There are discussions being held on what skill sets would

be required within the industry, what modernized processes are needed, and what would the infrastructure of the facilities need to be.

### **Export Modernization Processing Working Group**

Working Group Co-Lead Brenda Barnes began by emphasizing the importance of exports to the U.S. economy and the diminishing markets from the trade wars. Four recommendations are to be presented with the first two recommendations based on the transition of export manifest processes moving to a paperless process. It is recommended that CBP collaborate with stakeholders to ensure all critical control points are functional, assess the impact of the process changes, and work on the development of regulation changes.

The second recommendation presented by Ms. Barnes is the electronic export manifest system have clear and concise policy guidelines for the regulators, trade users, and enforcement bodies to understand prior to launch.

Working Group Co-Lead Kate Weiner introduced the following two recommendations. The third one recommends that data elements be mapped for electronic export information and manifest filing to define the owners and responsible parties of the data for those who file them. Continuing, the mapping should include defining which government agency requires each element of data and eliminating redundant data requirements.

The fourth recommendation is the collaboration of CBP and Census to revise foreign trade regulations and align CBP's enforcement policy and mitigation guidelines based on unintended consequences of the enforcement environment. Director James Swanson explained how the trade symposium discussed clarity issues. The goal is to transform the language of the regulations which will improve enforcement.

A question was asked regarding the electronic environment, if working with state and commerce

to electronically transmit export licenses pursuant to the Arms Export Control Act.

Director Swanson responded that doing so was one of the working group's first successes.

COAC Committee Member Lisa Gelsomino commented how the recommendations should help on the enforcement side to focus on the real issues instead of issuing tickets based on unclear guidelines and that efforts will need to be collaborative. Director Swanson agreed as it will aid to the autonomous processes making it more secure.

Treasury Deputy Assistant Secretary Tim Skud applauds the working group on their recommendations. Further, he comments on an obvious problem being legal proof of export and that there may be data that can be shared with the government. Co-Lead Brenda Barnes commented on how it will connect into the in-bond process. However, the only issue she notes is using

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schedule B versus Harmonized Tariff Schedule (HTS). Co-Lead Kate Winer followed up by saying that excise tax might be a consideration for drawback.

A COAC Committee Member asked if there was anything CBP can do internally to train the ports on this new process. Director Swanson replied that there is current work being done with the ports, however once one problem is solved at one port it will be a problem later somewhere else.

COAC Committee Member Jose Gonzalez mentioned that autonomous trucks are currently not being developed but are hoping that they will be soon. COAC Committee Member Lenny Feldman comments on how they are identifying the partners in this export process from the standpoint of HSI or CBP. CTPAT may be a good program to implement as it is used on the import side. **The COAC then voted on the adoption of the recommendations which then passed. See Appendix for full recommendations.**

## **NEXT GENERATION FACILITATION SUBCOMMITTEE**

Subcommittee Co-Chair Cindy Allen explained that this subcommittee's task is to understand what both the trade and government need to be successful in the future. In a normal trade environment, it would be a daunting task, but it is especially so due to the rapid reactive modes of global companies due to trade challenges and changes.

### **1-USG Working Group**

Executive Director John Leonard provided a bit of background information. The use of manufacture identification numbers (MID) has been going on for many years but there is a need to create a better, more reliable identifier. In November, a group convened at a two-day in-person meeting to discuss the evaluative proof of concept to implement global business identifiers (GBI) initiative, which culminated into 17 recommendations.

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Working Group Member Luisella Basso stated that the 17 recommendations stemming from the two-day meeting address the entity identifiers, the GBI benefits, and the evaluative proof of concept design. These recommendations are split into two groups: short-term recommendations for proof of concept and long-term recommendations for post-proof of concept.

Ms. Basso begins with recommendations addressing the need to use one GBI. The first recommendation is to use one GBI only among all the partnering agencies. Another recommendation being the distribution of the final requirements for participation for the proof of concept as early as possible. Also, it is recommended that CBP and the 1-USG Working Group design a pilot program management inclusive of various aspects from the proof of concept.

The fourth recommendation presented by Ms. Basso addresses the potential cost recommends that participants do so at no or reduced cost. Number

five is that three identifiers must be provided by the foreign entities. Continuing to the next group of recommendations which focus on the potential use of data ownership by the identifier management companies. The sixth recommendation is for the data to have independent ownership or contractual arrangements. Recommendation number 7 recommends that the two-phase approach proposed be combined into one phase. It is also recommended that Mexico be included as one of the country of origins that are targeted under proof of concept. The other five recommendations are China, Canada, New Zealand, Vietnam, and Singapore.

Recommendation 11 is that the participants should not be penalized for the lack of timeliness and completeness when submitting entry data under the pilot. The next recommendation is that CTPAT importers submitting required GBI data require fewer inspections. This recommendation is also a long-term one after the proof of concept is

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passed. Ms. Basso concludes her portion with recommendation 13, it addresses the need for CBP to continuously review the entire operational process to ensure there is no negative impact to trade facilitation.

Working Group Co-Lead Madeleine Veigel then presented the long-term recommendations for post-pilot. Although there are four, only two were highlighted. One of these recommendations is that CBP explore aligning the GBI bi-laterally, regionally, and facilitate a broader adoption in terms of benefits. Another recommendation is that CBP explore the use of GBI related to screening entities of concern.

Marianne Rowden with the American Association of Exporters and Importers implored the working group to do a boarder outreach to the trade community to discuss the issue further with a wider variety of companies, both big and small.

**A motion for the 1-USG Working Group**

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recommendations was made and COAC voted to adopt the motion. See Appendix for full recommendations.

### **Emerging Technologies Working Group**

Working Group Member Celeste Catano provided a short update. The proof of concept on the blockchain pilot on Intellectual Property Rights (IPR) has just been completed. Surveys were recently sent out to all participants and the answers are currently being reviewed. For now, we will look towards what our next venture will be.

Executive Director James Byram mentioned that the assessment is expected to be completed and reviewed within the next couple of weeks.

Additional proofs of concepts will be tested and are currently being worked in conjunction with DHS Science & Technology again. Additionally, there will be leveraging of the Silicon Valley Initiative Program to get resources to start

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development efforts on those concepts.

### **Unified Entry Processing Working Group**

Working Group Member Jose Gonzalez provided a brief update on how the group has identified pain points in the entry process to focus on.

Currently a lot of import processes are being identified and work is being put into getting all the participating government agencies (PGAs) involved to expedite the flow process at bridges and seaports.

Director Swanson briefly commented on how hard-working the group is. The effort has gone towards identifying the pain points mentioned by Mr. Gonzalez, but also the stability of data elements. There has been work done recognizing certain data elements and entry sets are set while others are in flux, identifying a way to capture it early, and what can be built from it.

### **E-Commerce Working Group**

Subcommittee Co-Chair Cindy Allen stated that no matter the role in the trade environment, e-commerce has become a single change element that affects everyone. The supply chain is very complex and opaque to both participants, consumers, and government stakeholders. The chain is not linear from origin to destination with more parties involved.

Ms. Allen mentioned the two pilots which have just been announced. The type 86 pilot, which automates collections of section 321 outside of current environments, and the section 321 pilot, which looks to trade parties that are not filing data today or are traditional players, getting that information, making it available, and understanding it.

### **RAPID RESPONSE SUBCOMMITTEE**

Co-Lead Kathy Wilkins quickly mentioned that the only thing being worked on is the broker

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continuing education initiative. She then introduced Subcommittee Member Amy Magnus.

Ms. Magnus provided a brief history of work as a broker and because of the rapidly changing environment, brokers wanted to have mandatory continuing education to stay abreast of changes within the industry. Currently, the committee is in the discussion phase and does not have any recommendations.

Special Advisor Elena Ryan introduced herself as the lead for this task force who put together the packets of information for the in-person meeting. Currently, the working group is looking at the information gaps and how to fill those gaps, especially the impact on brokers, particularly loan brokers or small brokerage houses, stressing how essential continuing education is.

Committee Member Alice Kipel briefly mentioned the importance of having a discussion, regardless of its result. It is important because things

are changing rapidly and it allows open conversation and thinking on how professionalism can be improved across the board.

Treasury Deputy Assistant Secretary Tim Skud asked if Ms. Kipel was talking about broker training or if it will be open to other participants. She answered that this is designed specifically for licensed brokers to be able to maintain their license, but training sessions are open. Ms. Magnus followed up by stating that there have been successful meetings and seminars where the CBP has been involved.

COAC Member Heidi Bray commended the subcommittee on their great job and commented on her excitement for the program.

Attendee Jose Cortez, an international trade adviser formerly with the Census Bureau, commented that, as far as procedures and regulatory things, it would be good for the CBP

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Officers to hear the same thing that the trade community is hearing as there can be a disconnect.

A web comment from Stuart Schmidt of UPS regarding the previous presentation was made. UPS would like to see the Proof of Concept include a robust entity dealing with smaller entities simultaneously to determine its impact on cargo flow. He suggested the development of a measurement for success for the identifier. Lastly, regarding the GBI, he asked if that number has to be instantly obtainable to obtain the velocity of cargo loads. Ms. Neuhart thanked him for his comments and assured him they would be noted.

### **INTELLIGENT ENFORCEMENT SUBCOMMITTEE**

Subcommittee Co-Chair Heidi Bray explained that the committee is comprised of four working groups. She then introduced Subcommittee Member Lisa Gelsomino who will provide updates on two of

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the groups.

**Anti-Dumping and Countervailing Duty Working  
Group**

Working Group Co-Chair Lisa Gelsomino began by explaining that the group was dealing with a very difficult system which to try and educate the trade community. Over the past three years, the group has done a lot of outreach, convinced Commerce to do webinars, and updated the FAQ.

Ms. Gelsomino stated that the biggest improvement has been CBP revamping the Automated Commercial Environment (ACE) which was deployed on October 5, 2019. There has been major improvements in the search capabilities, MIDs, incorrect HTS numbers, and with differences in country of origin. Lastly, Ms. Gelsomino elaborated on how the group wants to tackle key issues involving data duty calculation, enforcement modernization, critical circumstances, and scope rulings.

Executive Director John Leonard quickly jumped in

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by stating how satisfying the automation piece for Department of Commerce (DOC) and CBP is in ACE and is one of their proud moments within the ACE enhancements.

### **Bond Working Group**

Continued updates by Working Group Co-Chair Gelsomino, she mentioned the recommendations in delaying the risk-based bonding for anti-dumping and countervailing duty because of Trade Facilitation and Trade Enforcement Act (TFTEA) section 115. She went on to recommend that implementation be delayed so that more time is available to collaborate on this. The tentative implementation date is March 2020. Again, Executive Director Leonard jumped in by stating that the major concern for CBP is the setting up of a program that will withstand judicial scrutiny.

### **Forced Labor Working Group**

Working Group Co-Chair Brian White expressed how

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happy the Forced Labor Working Group has come off of hiatus. There have been seven Withhold Release Order (WRO) issued in the last few months related to forced labor activities. Four objectives for the working group have been developed: to define the elements of what a credible high-quality allegation would be, to establish a meaningful CBP Form 28 to understand what diligence was taken from an importer, how to address forced labor and get those industry organizations to address forced labor collectively, and to establish the statutory guidance related to disclosure in mitigated factors. Mr. White is hopeful that by the next public COAC meeting, the Working Group will have some recommendations relating to the four objectives.

Deborah Augustin, Executive Director for the Trade Remedy Law Enforcement Division and the government counterpart on The Intelligent Enforcement Subcommittee Co-Chair then spoke.

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She mentioned the reinvigoration of the work being done on not only the Forced Labor Working Group but in the IPR space as well. She is enthusiastic about engagement on this topic as it plays into larger themes on humanitarian efforts regarding human trafficking and other related issues. It is a top priority focus area for the agency.

Lisa Gelsomino wanted to stress the importance that the Forced Labor component of the Trusted Trader Program be brought to fruition. There are only nine companies in the Trusted Trade Pilot and currently there is nothing regarding the enforced labor component.

**Intellectual Property Rights 21st Century  
Framework Working Group**

Working Group Co-Chair Heidi Bray explained the need to address potential IPR violations before they reach the U.S. The questions they are

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focusing on is how it can be done; what's in place; what technology is out there; and what are the processes for CBP to use to identify the bad players and bad actors in the IPR space.

Ms. Valerie Neuhart opened the floor to additional comments. The first comment by COAC Member Lenny Feldman is for everyone to be cognizant of how rights holders feel, as well as importers who are not rights holders. Mr. Timothy Skud countered with the clarity of the regulations. Mr. Feldman replied that it is an evolving discussion.

Mr. Feldman then commented on anti-dumping by stating that the critical circumstances review is an area of confusion for trade community members as the potential rates can go up to 300 percent and becomes unaffordable to companies. In the short term, there needs to be a fix as it is creating an unnecessary burden on the trade community and CBP.

A comment then was made by Brian White, asking for an update on where they stand on the regulatory reform recommendations. Executive Assistant Commissioner Brenda Smith responded that the recommendations are continuously being entered within regulatory reform. She goes on to state that it is quite challenging to get significant regulatory changes through the clearance process, so it has been rolled into the 21st Century Customs framework effort.

Deputy Commissioner Robert Perez quickly touched on the comments from Mr. White and Ms. Smith; it was transitioned to the 21st Century framework for that reason. He then wrapped up the meeting by stating how impressed and grateful he is to have heard what has been discussed during this meeting. Regarding emerging technologies, unified entry, export mod, broker continuing education, global business identifies, IPR forced labor and enforcement in general. There is an absolute need for everyone to think through and

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devise unconventional approaches with new entities and new technology.

Ms. Valerie Neuhart then made two announcements: the hope to see everyone at the trade symposium on March 10 and 11 in Anaheim, California and the confirmed date of the next COAC meeting being April 15 in Washington, D.C. Then, Ms. Neuhart adjourned the meeting at 4:43 p.m.