

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

June 2022

COAC

COMMERCIAL CUSTOMS OPERATIONS
ADVISORY COMMITTEE

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Report of the Work of the COAC
Subcommittee on Intelligent Enforcement

Co-Chairs

Erika Vidal-Faulkenberry – Biogen
Matt Zehner – Roanoke Group
Heather Litman – GDLSK

Intelligent Enforcement Subcommittee Members:

Brian Barber, Barry Baxter, Dave Corn, John Drake, Chris Everly, Tom Gould, Heather Litman, Kerry Novak, Julie Pojar, Cynthia Roller, Travis Skinner, John Van Wallaghen, Erika Vidal-Faulkenberry, Brian White, Kathy Wilkins, and Matt Zehner.

Background

The following working groups make up the Intelligent Enforcement Subcommittee:

- 1) The AD/CVD Working Group, Chaired by Matt Zehner
- 2) The Bond Working Group. Co-chaired by Matt Zehner and Tom Gould
- 3) The Forced Labor Working Group, Co-chaired by Erika Vidal-Faulkenberry and Julie Pojar
- 4) The Intellectual Property Rights Working Group, Chaired by Heather Litman

All subcommittee objectives and scope are consistent with the official charter of COAC.

Summary of Work

The Intelligent Enforcement (IE) Subcommittee is responsible for looking at opportunities to enhance trade and government processes, policies, and programs, with the goal of enabling trade and CBP to be better positioned for the future. The IE Subcommittee currently consists of four (4) active working groups. Each will have substantial tasks over the 16th term.

AD/CVD Working Group:

The Antidumping and Countervailing Duty Working Group will continue building upon the work and recommendations of the 15th and earlier COAC AD/CVD Working Groups. The AD/CVD WG intends to meet monthly. Since the last COAC meeting, it met in March, April, and May, and will meet again after June 15, 2022.

The AD/CVD WG will focus its efforts on facilitating imports of compliant importers and ways for importers to achieve high compliance. The AD/CVD WG will also continue with the ongoing work from the prior WG as it pertains to non-resident importers and the topic of better accuracy with AD/CVD entry filing. Additionally, the WG will assess the implementation status of the prior recommendation from this group, and where fully implemented, the AD/CVD will review the efficacy of the proposal. Where necessary, matters involving Sections 201, 232, and 301 will be discussed by this WG.

The AD/CVD WG does not have any recommendations to submit for the June 2022 meeting.

Bond Working Group:

The Bond Working Group will continue building upon the work and recommendations of the 15th and earlier COAC Bond Working Groups. The Bond WG intends to meet monthly; it met earlier this year in March and May and will meet again later in June, 2022.

A great deal of work from past meetings has culminated with several recommendations presented late in the 15th COAC term. The Bond WG is monitoring CBP's implementation and/or execution of previous recommendations, including the TSN's submission of RFDs (request for development) for the expansion eBond. The Bond WG has provided its input to the CBP Revenue Division regarding updating the Bond Amount Directive (3510-004), and eagerly awaits CBP's publication of that revised Directive. The Bond WG will also review recent actions regarding the use of continuous bonds with TIBs where potential liquidated damages could exceed the amount of the continuous bonds. Additionally, the Bond WG will continue discussions regarding the electronic delivery of CBP Form 5955a to sureties, bond principals, and/or entry filers.

The Bond WG does not have any recommendations to submit for the June 2022.

Forced Labor Working Group:

During the second quarter, the Forced Labor Working Group (FLWG) focused on the Uyghur Forced Labor Prevention Act (UFLPA). During several calls, the FLWG worked on consolidating input from the trade, engaging on discussions with CBP as it relates to the UFLPA Operational Guidance for Importers that CBP will publish as well as the overall UFLPA implementation. The outcome of the work is reflected on the recommendations that will be presented as part of this quarter's COAC public meeting. The recommendations cover Training and Communication, Partnership and Collaboration, due diligence, documentation, detention, exclusion, and release process. Additionally, COAC is presenting recommendations on UFLPA implementation as it relates to Foreign Trade Zones, Importer Certifications, technology and tools. In the next quarter, the FLWG will continue to partner with CBP and trade as it relates to enforcement reasonable care, due diligence, and other best practices that the Trade community can utilize to demonstrate low risk and to help CBP develop more measured and intelligent targeting and enforcement across supply chains.

Intellectual Property Rights (IPR):

With the commencement of the 16th Term of the COAC, the IPR Working Group (IPRWG) was reactivated after having been on hiatus. In reactivating the IPRWG, CBP asked that the IPRWG explore opportunities to enhance trade and CBP practices, policies, and programs relating to CBP's interdiction of violative counterfeit goods.

Since reactivation, the IPRWG has begun regular meetings. To date, meetings have been held in February, April, May, and June. The next meeting is scheduled for June 27, 2022. In these meetings, the IPRWG has begun to evaluate current CBP communication practices impacting exam, detention, and forfeiture. CBP has been actively involved in the discussions and has provided comprehensive briefings on the detention and seizure process. Based on these discussions, the IPRWG has narrowed its focus to developing three recommendations:

- 1) Automating the detention process
- 2) Enhancements to the IPR webpage

- 3) Evaluating alternative enforcement mechanisms, such as manipulation, that can help CBP avoid the need for seizure in every instance

Of these three, the IPRWG anticipates that its first recommendations will be focused on steps that CBP can take to automate the detention process, which is currently paper based.

Conclusion :

The Intelligent Enforcement Subcommittee looks forward to presenting recommendations from the Forced Labor Working Group at the June meeting. All four (4) of the IE working groups continue to be active. Looking forward, we will continue to evaluate potential opportunities to enhance the trade and government processes, policies, and programs, enabling the trade and CBP to be better positioned for the future.