

COMMERCIAL CUSTOMS OPERATIONS

ADVISORY COMMITTEE

(COAC)

U.S. Customs and Border Protections

Virtual Quarterly Public Meeting

March 31st, 2022

1:00 p.m. - 3:02 p.m.

By: Chelse Sander

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OPENING REMARKS

CBP Office of Trade Relations Deputy Executive Director Valerie Neuhart welcomed all the participants to the first public meeting of the sixteenth term. After going over some general meeting instructions, a formal roll call of the COAC members was held and all were members present.

CBP Commissioner Chris Magnus welcomed the members of COAC, CBP, and other governing officials who appeared together in person, as well as the public who were able to join virtually.

Executive Assistant Commissioner Pete Flores introduced himself giving an overview of his background. He thanked the members of COAC for their continued work as they strengthen their partnership. Due to the pandemic, there have been disruption and vulnerabilities within the supply chain, and so he is extremely proud of the men and women in CBP and OFO who have shown up every day to be a part of the solution during a difficult time.

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CBP Commissioner Chris Magnus continued that in addition to this meeting being the first public meeting of the sixteenth term, it is also his first meeting. He empathized that although he is a newcomer, he and CBP are laser-focused on the trade mission and its importance to the nation and the economy. It was highlighted that when everyone works together, they can improve the supply chain, protect citizens from counterfeit and dangerous products, cut through redundancies, and better address critical issues such as forced labor and national security.

Continuing, some highlights and updates on current activities were provided. Congress passed the Consolidated Appropriations Act which funds the federal government for the fiscal year 2022. Additionally, \$16.3B was appropriated to CBP which includes \$87M for non-intrusive inspection systems, \$27.5M for implementation of the Uyghur Forced Labor Prevention Act, and \$12.4M for the advanced trade analytics platform.

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CBP is working on two rules that will have a significant impact on customs brokers. The first is updating regulations under 19 CFR Section 111 with an overarching intent of enabling customs brokers to meet the challenges of the modern operating environment while maintaining a high level of service. The second relates to the broker continuing education final rule which will impact compliance issues and help to create broker import expertise.

Regarding the 21st Century Customs Framework (21-CCF), CBP will be looking at the Task Force and COAC's leadership on how the Agency can statutorily address challenges for the trade industry, trade facilitation, and other benefits that business and industry would like to see updated or codified in law. Automated Commercial Environment (ACE) 2.0 is based on advanced technology and will be developed to incorporate legacy systems, distributed ledger technology such as blockchain, and system flexibility as new technologies are available. Additionally, a new COAC initiative: the Domestic Manufacturing and Production Working Group.

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Concluding, Commissioner Magnus shared that the next public COAC meeting will take place on June 23, 2022, and that there will be a public hearing on the Uyghur Forced Labor Protection Act on April 8, 2022. He then thanked his co-chair, deputy co-chairs, COAC trade co-chairs, and all of the COAC members for their participation.

Tax, Trade, and Tariff Policy Deputy Assistant Secretary Timothy Skud echoed the Commissioner's sentiments on looking to COAC for guidance and recommendations, specifically on de minimis issues concerning 21-CCF, administrative, and mail issues. Further, he is interested in topics relating to forced labor and the effective administration of sanctions and other restrictions associated with the war in Ukraine.

DHS Trade and Economics Security Assistant Secretary Bridget McGovern explained that her office collaborates on a daily basis with CBP, ICE, and the private sector stakeholders to look at and lean on trade policy from an economic and homeland security standpoint.

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She then highlighted a few key issues that DHS has been working on with colleagues at CBP and COAC. DHS leads the Forced Labor Enforcement Task Force and is working with interagency partners to implement the Uyghur Forced Labor Prevention Act. She encourages everyone to consider the requirements within the statute as an opportunity to increase supply chain transparency, emphasize the value of supply chain resiliency, and bolster U.S. economic competitiveness through transparent compliance with the law.

Briefly touching on the 21st Century Customs Framework, it is noted how important this effort is to support the shared trade priorities. Moving on to discuss supply chains, she stated that recent shocks have revealed the limitations of U.S. supply chains that have informed policy goals. These goals include collectively leveraging existing tools and new policy frameworks for supply chain transparency, effectiveness, and risk management.

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Patrick Lechleitner, ICE Senior Official Performing the Duties of the Deputy Director echoed his appreciation and thanks to all in attendance. He is the permanent head of Homeland Security Investigations (HSI), the principal investigative arm of DHS and leads the IPR Center. HSI is focused on public-private partnerships and trade-related investigations and forums which enables HSI to protect industry and the American people from various actors.

COAC Trade Co-Chair Kathy Wilkins explained that Trade appreciates working with Customs and that Trade as a whole is vested in the security of the supply chain. Additionally, they are looking into recommendations made by prior COAC terms to assess their status.

COAC Trade Co-Chair Brian White thanked the leadership team, members of the various agencies, COAC, and the public for their continued service. COAC is looking forward to addressing the changing and challenging landscape of trade with CBP through collaboration and partnership as new legislation is developed and implemented.

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All members of the sixteenth term have been on-boarded and they've used this time to determine four key priorities that this term wants to focus on. The first is trade facilitation and focusing on the use of cross-border movements and how to reduce costs, improve transparency, and simplify the overall process.

Secondly, prioritizing enforcement modernization and identifying the opportunities where they can leverage technology, machine learning, and predictive analytics to help drive better decision making and digitize CBP's enforcement efforts. The third priority focuses on risk-based partnership and seeking out ways to help improve tangible benefits and risk-based screening. Lastly, the fourth is the regulatory package updates.

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INTELLIGENT ENFORCEMENT SUBCOMMITTEE

COAC Co-Lead Erika Vidal-Faulkenberry provided a brief overview of the subcommittee. They are responsible for looking at opportunities to enhance trade and government processes, policy, and programs to enable Trade and CBP to be better positioned for the future. They consist of four working groups: Antidumping and Countervailing Duties (AD/CVD), Bond, Forced Labor, and Intellectual Property Rights. She also introduced the Subcommittee's two other co-chairs, Heather Litman and Matthew Zehner

BOND WORKING GROUP

Subcommittee Co-Lead Matthew Zehner began by discussing the pipeline operator bonding, stating that in late 2021 Customs issued a CSMS message clarifying the bonding requirements for goods moving through a pipeline as either requiring a type one or type two bond. ACE bonding enhancements that were made by the fifteenth term for Customs to improve are now before the TSM. They are going to be watching and monitoring how the TSM is influenced by those improvements.

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Concerning risk-based bonding, Customs has adjusted its approach and is now relying on several existing authorities as they are beginning to implement it. They are also preventing suspended or debarred entities from importing using continuous bonds. However, those parties can still import but they will require single transaction bonds.

The next step for the current term is to carry forward the work in progress from the fifteenth and prior COACs. They are awaiting the publications for both the bond directive and the Notice of Proposed Rulemaking (NPRM) for part 113. Additionally, they want to conduct a review of the past working group recommendations by monitoring their implementation status as well as those that have been fully implemented.

ANTIDUMPING AND COUNTERVAILING DUTIES (AD/CVD)

WORKING GROUP

COAC Co-Lead Matthew Zehner stated that Alex Amdur from Customs has been leading the working group and they've already had their second meeting.

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The Group is focused on issues regarding importers achieving higher compliance rates for entries they are filing with two areas having already been identified as problematic in terms of compliance. This is the failure to include companion cases involved with the merchandise and the failure of properly using the case number suffix combinations that are applicable for those duty rates.

Mr. Zehner explains that the group also intends to review the content on Customs website concerning dumping and countervailing to ensure the information remains current. Also, they need to determine where trade outreach is needed for dumping and compliance shortcomings.

**INTELLECTUAL PROPERTY RIGHTS PROCESS MODERNIZATION
WORKING GROUP (IPRWG)**

COAC Co-Lead Heather Litman stated the priority of the group is to review and consolidate the current COAC and IPRWG recommendations. They are working on find pragmatic and practical solutions for improving the communication between Customs, importers, and rights holders.

The Working Group is initially focused on current CBP communication practices that impacting exam, detention, and forfeiture. The intent is to develop strategies to streamline those practices and enhancing the efficiency for all parties.

FORCED LABOR WORKING GROUP

Lead Julie Pojar provided the update for the Working Group. She states that the forced labor trade leads and CBP have met to discuss and finalize the statement of work and so the larger working group hasn't met yet. The focus of the Group will be on the Uyghur Forced Labor Prevention Act in the second quarter as their current focus is the statement of work.

Trade Remedy and Law Enforcement Acting Deputy Executive Director Emily Simon explained that they have spent a considerable amount of time preparing for new beginnings while assessing past goals and recommendations.

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With respect to the Bond Working Group, they want to confirm that there has been progress on the e-bond enhancements and the codification of e-bond in Part 113 of NPRM. They are also interested in exploring risk-based bonding approaches. Lastly, they are looking forward to the innovative approaches on how to make bonding more effective for CBP and Trade in terms of protecting revenue.

For the AV/CVD Working Group, IPRWG, and Forced Labor Working Group, it is very important to have effective and clear communication through multiple outlets for the public and are looking forward to their guidance on that. Again, they are looking to revisit and discuss past directives and recommendations from the group.

Executive Director Simon briefly highlighted that the Forced Labor Working Group will have more latitude after the public comment period closes. They are looking forward to really focus on how to embrace the challenges brought on by the Uyghur Forced Labor Prevention Act.

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NEXT GENERATION FACILITATION SUBCOMMITTEE

COAC Co-Lead Jody Swentik explained that this Subcommittee has the responsibility of looking at opportunities to enhance trade and government processes, policies, and programs.

The Subcommittee currently consists of four groups: the 21st Century Customs Framework Task Force, the eCommerce Task Force, One United States Government (1-USG) Working Group, and the Automated Commercial Environment (ACE) 2.0 Working Group (previously the Re-Imagined Entry Processes Working Group). It is noted that the Emerging Technologies Working Group is temporarily inactive.

21ST CENTURY CUSTOMS FRAMEWORK (21-CCF) TASK FORCE

Working Group Lead Brian White provided a brief history of the Task Force from its beginning in 2019 until present. Now, they are able to go back to the original philosophy of 21-CCF while incorporating all the enforcement actions that CBP is looking to accomplish based on today's challenges.

They are currently reevaluating the Task Force, have added over twenty new members, and assesses their process. What they've discovered is the need to identify across the whole of trade is the spectrum of alignment and to identify what those key areas are where they are aligned and diverge. The next step will be meeting with CBP's leadership team as a focus group once those ideas are distilled.

E-COMMERCE TASK FORCE

Working Group Co-Chair Amy Smith explained that their mission is to examine the growing eCommerce ecosystem and how to keep trade flowing while also recognizing the security challenges they and Customs are seeking to address. Over the last decade, eCommerce has become a pillar of the economy with growing options for consumers and growing customer base for SME's. Stifling eCommerce would harm the U.S. economy and so they must support Customs' mission of managing the risk within the eCommerce environment with practical, cost-effective, and narrowly focused recommendations.

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During the group's first meeting, Section 321 shipments were discussed along with the mandated use of HTS numbers for those shipments and the outstanding issue of multiple parties transmitting data. Members of Trade view the HTS as the method for determining if a shipment requires a PGA filing while others have demonstrated that there are other methods deployed to determine that requirement. This will be further examined in the coming months.

Ms. Smith adds that the Task Force is required to respond to recent developments. There are certain members within Trade that are concerned about an emerging proposal addressing the future of processing upcoming eCommerce shipments. However, taking steps backwards in this global environment is counterintuitive to the communities shared objectives. Global partners are watching and deliberating their own regulatory changes and look to the U.S. for leadership and is an example of how changes made at home could profoundly impact U.S. companies abroad.

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ONE UNITED STATES GOVERNMENT (1-USG)
WORKING GROUP

Working Group Co-Lead J.D. Gonzalez highlighted that they have already had two productive meetings that have allowed them to engage and address areas of advancement with the automation process. The group is very much looking forward to further engaging the PGA by taking into consideration the 21-CCF and the vital role PGAs play. Currently, there are still PGAs that are not fully intergraded in with the on automated system with CBP.

In order to achieve a true 1-USG processing, two systems need verification referencing Ms. Smith's comments on HTS. Additionally, the group is looking forward to working with the eCommerce Task Force on ACE 2.0 to develop a unique identifier or the continuance of HTS to determine PGA exemptions with the express packaging and entry processing.

AUTOMATED COMMERCIAL ENVIRONMENT (ACE) 2.0
WORKING GROUP

Working Group Lead Jody Swentik stated that they are utilizing the foundations of the United Entry Process Working Group and the Reimagined Entry Process Working Group. Their objective is to recommend to Customs an operational framework for a new and improved ACE with future technology that identifies gaps related to the entry manifest, post-entry, and audit. Additionally, Director Vincent Annunziato provided the group with a high-level overview of gap analysis his team is working through which will be shared with the group in the near future.

Trade Policy and Programs Acting Executive Director Gail Kan touched on each of the Subcommittee's Working Groups and Task Forces, giving an overview of of the important work that is being done by each group.

PUBLIC COMMENT

The first question presented was, in what ways are you anticipating block chain to be more useful for CBP transactions and will those be in the same space of financial transactions? Further, will access to information on the block chain be exclusive to CTPAT or to everyone with access to ACE? Deputy Executive Director Valerie Neuhart responded that, as posed, the question spans across a multitude of operational areas of CPB and it will be taken to CBP leadership and appropriate program directors who could potentially respond to the inquiry.

Another question posed was in regard to Section 301 exclusion reinstatement, asking when will HS code 99038867 become available for filing? Acting Executive Director Gail Kan replied that the exclusions have been re-implemented by the Federal Register Notice and that CBP is going to beady for Trade to start filing on April 7, 2022.

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RAPID RESPONSE SUBCOMMITTEE

Subcommittee Co-Lead Brian Barber provided brief overarching updates. They have met this quarter to review their existing working groups and memberships. Specifically, the Broker Continuing Education Working Group and the Broker Exam Modernization Working Group has merged and is now the New Broker Modernization Working Group. The newly found group will have their first meeting mid-April.

Trade Policy and Programs Acting Executive Director Gail Kan noted that they began with an Advanced Notice of Proposed Rule Making in October of 2020 and subsequently, publishing the Notice of Proposed Rule Making on September 10, 2021. To date, they are working on that final rule.

The newly merged Working Group will be focusing on the various modernization efforts that both CBP and the broker industry want such as broker modernization regulations, broker continuing education, and improvements on the broker exam.

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Executive Director Kan then discussed the United States - Mexico - Canada Agreement (USMCA) Working Group, noting that since its implementation on July 1, 2020, over \$890B worth of goods have been imported into the U.S. claiming preference under that agreement. Looking ahead, the group will be continuing to leverage the private sector input to fully implement that agreement, particularly the Chapter 7 provisions on administration and trade facilitation.

Lastly, she introduced a new COAC initiative with the creation of the Domestic Manufacturing Production Working Group. This group will work to further understand Trade areas within CBP's legal authority which impacts domestic industries.

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SECURE TRADE LANES SUBCOMMITTEE

Subcommittee Co-Lead J.D. Gonzalez explained that they are in process of vetting more members of Trade. This Subcommittee will focus on uninterrupted improvement in areas aimed at modernization, the import/export process, trade intelligence, and maximizing automated proficiencies.

TRUSTED TRADER WORKING GROUP

Working Group Co-Chair Kerry Novak noted that they have held two meetings with the full group, one as a kickoff that included introductions from CBP and COAC members, and the other included representatives from FDA who have enlisted the Working Group to provide feedback on what an FDA Trusted Trader Program would look like.

EXPORT MODERNIZATION WORKING GROUP

Working Group Co-Chair Dave Corn updated that they have met three times to date with a primary focus on the launch of the electronic export manifest for all modes of transportation. They will be reviewing post-departure requirements in review of data elements for export.

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IN-BOND WORKING GROUP

Working Group Co-Chair Chris Everly feels that there are many opportunities to improve upon and refine the group's recommendations and deliverables, such as amending in-bond entries without having to delete the original entry. Additionally, they will be focusing on clarifying automation versus electronic capabilities and the transfer of liability. The group is expected to have recommendations finalized by the June deadline

REMOTE AND AUTONOMOUS CARGO PROCESSING WORKING GROUP

Working Group Co-Chair Stephen Simmons briefly stated the group's objective moving forward will be to refine the White Paper to focus on emerging technologies that enhance cargo processing and then to design a road map for cost benefit risk analysis.

Cargo and Conveyance Security Executive Director Thomas Overacker announced that it is the twentieth anniversary of the creation of the Customs-Trade Partnership Against Terrorism (CTPAT), announced in November of 2001.

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CLOSING REMARKS

Deputy Director Valerie Neuhart adjourned the meeting at
3:02 P.M.

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