

UNITED STATES OF AMERICA
DEPARTMENT OF HOMELAND SECURITY
BORDER AND TRANSPORTATION SECURITY DIRECTORATE
BUREAU OF CUSTOMS AND BORDER PROTECTION

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ADVISORY COMMITTEE ON COMMERCIAL OPERATIONS OF CUSTOMS AND
BORDER PROTECTION (CBP)

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MEETING

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WEDNESDAY
MAY 22, 2013

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The Advisory Committee met in the Main Hearing Room 101, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C., at 1:00 p.m., Maria Luisa Boyce, Designated Federal Official, presiding.

COMMITTEE MEMBERS PRESENT

KATHLEEN NEAL, Regal Beloit, Co-Chair
TED SHERMAN, Target Corporation, Co-Chair
DAVID BERRY, Swift Transportation Corporation
LEMAN 'CHIP' BOWN, FedEx Trade Networks
SCOTT BOYER, Kraft Foods Group, Inc.
MARY ANN COMSTOCK, UPS Supply Chain Solutions
JEFF COPPERSMITH, CopperSmith Global Logistics, Inc.
WILLIAM EARLE, National Association of Beverage Importers
WILLIAM FERGUSON, NYK Line (North America) Inc.
MATTHEW FASS, Maritime Products International
BRANDON FRIED, The Airforwarders Associations
SUZANNE HOEGER, Abbott Laboratories
VINCENT IACOPELLA, The Janel Group of Los Angeles, Inc.
KAREN KENNEY, Liberty International, Inc.
JULIE ANN PARKS, Raytheon Co.

JIM PHILLIPS, General Motors, LLC
ELIZABETH SHAVER, The Airlines of America
GEORGE WEISE, Sandler & Travis Trade Advisory Services

MEMBERS NOT PRESENT

CAROL HALLETT, Counselor, U.S. Chamber of Commerce
SCOTT CHILDERS, The Walt Disney Company

ALSO PRESENT

THOMAS WINKOWSKI, Acting Commissioner, CBP
TIMOTHY SKUD, Deputy Assistant Secretary, Tax, Trade, and Tariff Policy, U.S. Department of the Treasury
ELLEN McCLAIN, Deputy Assistant Secretary, Trans-Border Policy, Department of Homeland Security, DHS
MARIA LUISA BOYCE, Designated Federal Official, Senior Advisor for Private Sector Engagement, Office of Trade Relations, CBP
CAROL CAVE, Vice Chair, Border Interagency Executive Council; Director, Office of Import Surveillance and Inspection, U.S. Consumer Product Safety Commission
LEV KUBIAK, National Intellectual Property Rights Coordination Center, ICE, DHS
ALLEN GINA, Assistant Commissioner, Office of International Trade, CBP
DEBORAH SCHILLING, Deputy Assistant Commissioner, Office of Administration, CBP
CINDY COVELL, Executive Director, Regulatory Audit, Office of International Trade, CBP
ANA HINOJOSA, Lead Executive, Border Initiatives, Office of Field Operations, CBP
BRENDA SMITH, Executive Director, Trade Policy and Programs, Office of International Trade, CBP
DANIEL BALDWIN, Executive Director, Cargo and Conveyance Security, Office of Field Operations, CBP
PHIL LANDFRIED, Executive Director, Cargo Systems Program Office, CBP

Opening Remarks

Ms. Maria Luisa Boyce called the meeting to order at 1:07 p.m.

Acting Commissioner Thomas Winkowski welcomed everyone to the meeting and introduced the government participants. Mr. Winkowski updated the Committee on the impact of sequestration on the Agency's budget. CBP has been able to avoid furloughs so far by asking Congress for reprogramming authority in order to move money between various accounts. Congress has yet to respond, but the Agency is hopeful this plan will eliminate the need for furloughs. The budget will be a continuing issue in the coming years, however, and COAC plays a vital role in the fight to lower costs and increase efficiency. Examples of this work include the recent elimination of Form I-94, which led to savings of \$18 million, and the exploration of alternative funding sources.

Mr. Timothy Skud briefly discussed the International Trade Data System (ITDS) report, which was disseminated to the COAC prior to the meeting and copies were made available to the members of the public.

Ms. Ellen McClain briefed the Committee on the Department of Homeland Security's recent efforts, including her work supporting and promoting ITDS to Congress, the White House, and other government agencies.

Co-Chair Kathy Neal thanked the CBP staff for their hard work in support of COAC and gave a brief overview of the day's agenda.

2013 COAC Trade Efficiency Survey

Ms. Julie Parks presented an overview of COAC's 2013 trade survey. The original goal of the annual survey, first conducted in 2012, was to establish a baseline of metrics through the ongoing collection of survey data, instead of just putting out a one-off survey. Ms. Parks briefly went over the results from the 2012 survey, which led to a number of recommendations. Overall, two major issues were found to resonate most universally in the trade: the desire to reduce waits and dwell time for freight, and the importance of addressing concern across the entire entry lifecycle. Ms. Parks lauded CBP's efforts to address these recommendations.

The 2013 survey will be released to the industry in June. COAC hopes for a strong response and is working to emphasize the importance of survey data to the industry at large.

Acting Commissioner Winkowski also emphasized the importance of the survey results to CBP. One area in particular the Agency is looking at is how to improve the use of Form CF-28, which has been an issue in the trade for some time. **Mr. Allen Gina** pointed out that one CF-28 could cost up to \$700 for a company to answer, so that is certainly something the Agency is working to minimize.

One U.S. Government at the Border Subcommittee, and the Work Completed by the Environmental Protection Agency (EPA) Working Group and Food and Drug Administration (FDA) Working Group

Member Mary Ann Comstock, Co-Chair of the One U.S. Government Subcommittee and Chair of the EPA Working Group, presented to the COAC the recent work of her committees. The EPA Working Group has been focused on the data requirements related to ozone-depleting substances and vehicles, including how records can be accurately reported and maintained. **Member Susie Hoeger** gave an update on the FDA Working Group, which has been working on how it can make recommendations under information-sharing, automation, and partnership programs.

Ms. Brenda Smith discussed the Subcommittee's efforts surrounding the Participating Government Agency (PGA) message sets, the ITDS, and international systems, which are focused on streamlining the bureaucratic process at the border, minimizing redundancy, and increasing efficiency. **Ms. Carol Cave**, from the Consumer Products Safety Commission, thanked the Subcommittee and its Working Groups for their efforts in helping to align data elements.

Global Supply Chain Subcommittee's Air Cargo Advanced Screening (ACAS) Working Group and Updates on Land Border Initiatives

Member Jim Phillips updated the COAC on the Subcommittee's work on the Beyond the Border and 21st Century Border Initiative programs. The overall goal of both programs is the harmonization of the cargo screening processes between the United States and Canada, with the desired result of a more efficient and secure supply chain and increased competitive economic posture.

Member Dave Berry discussed the pilot program underway at Prince Rupert, Canada involved with the rail shipments entering the United States at International Falls. The emphasis of the pilot was that screening for security purposes occur once at the perimeter and not be duplicated once in Canada, and again at the U.S. border. The pilot has gone extremely well in that regard and they are currently working on streamlining the smaller details of the process. **Acting Commissioner Winkowski** pointed out that train freight is a major component of inter-border trade, and will only be growing, particularly at the U.S.-Mexico border, so programs like this will be crucial.

Member Elizabeth Shaver talked about the activities of the ACAS Working Group, which has been focused mainly on developing recommendations in response to a CBP white paper on the topic. The ACAS Working Group divided the paper into four subject matter areas that are of most concern to industry stakeholders: the ACAS filing regimes for the various supply chain business models; the outline of the proposed penalty regime; required data elements; and general policy issues related to who is allowed to file ACAS data, what prerequisites they must fulfill to do so, and what regulatory requirements will be placed upon them. The Working Group plans to submit its recommendations at the August meeting of the COAC. **Member Brandon Fried** discussed the ACAS pilot from the forwarders' perspective. There are four primary filing regimes that are being considered: the integrated

carrier files direct to CBP; the second is an AMS filer forwarder who would file direct to CBP; the third option is a non-AMS filer who would file to CBP through the selected air carrier; and the fourth option is the forwarder or shipper uses a portal to file to CBP. The Working Group feels all should be able to file ACAS without having to be an AMS filer, yet have the option to combine filings through to the carrier submission or an AMS submission. Twenty-four forwarders are in various stages in the program, ranging from casual discussion to almost operational, but only four are actually submitting operational data at this time. The Subcommittee urges more and faster engagement to bring additional forwarder submissions into the pilot.

Mr. Dan Baldwin presented the government's report on the work of the Subcommittee. Mr. Baldwin reiterated the successes of the Prince Rupert pilot, particularly when it came to harmonization the work of multiple and agencies and figuring out how to best get all the stakeholders involved. ACAS has been a similar success for similar reasons, and the close work between CBP and the air cargo community has been invaluable. **Ms. Ana Hinajosa** thanked the members of the Subcommittee for their time and input on the cross-border initiatives that are so vital to the future of CBP. **Mr. Winkowski** pointed out that, with ACAS, the COAC and the CBP has an unique opportunity to work with others around the globe to set an international standard.

Member Phillips then presented the Subcommittee's recommendation and moved for its approval: CBP has been very creative in developing processes for conducting C-TPAT (Customs-Trade Partnership Against Terrorism) validations remotely. However, current CBP travel restrictions do not allow for on-site meetings in Mexico, thereby preventing many C-TPAT-certified carriers from participating in Free and Secure Trade (FAST). The Subcommittee recommends that CBP develop an alternative to on-site validations that will allow new C-TPAT carriers to become FAST lane participants. **Member Bill Earle** seconded the motion and the Committee voted unanimously in favor.

Trusted Trader Subcommittee and Work Completed by the Industry Standards Working Group and the Trusted Trader Metrics and Measures Working Group

Member Bill Ferguson presented an overview of the work of the Trusted Trader Subcommittee. The Subcommittee is tasked with supporting the Trusted Trader Initiative, which intends to be a holistic approach to the achievement of Trusted Trader status, with enhanced incentives and benefits involving the consolidation of C-TPAT and ISA programs. The Subcommittee has formed two working groups: the Industry Accepted Standards Working Group and the Metrics Working Group. Mr. Ferguson presented a recommendation from the Subcommittee and moved for its adoption: Before issuing the final Trusted Trader program requirements, COAC urges CBP to allow it to have an opportunity to review the results of all pilots and provide input to the program, in its totality, before COAC decides whether to endorse the program. **Member Scott Boyer** seconded the motion. A vote was held and the motion was approved unanimously.

Mr. Baldwin and **Ms. Smith** discussed the role of the Border Interagency Executive Committee (BIEC) in helping to coordinate the Trusted Trader program.

Mr. Winkowski announced the formation of three new Centers of Excellence and Expertise, scheduled to open on June 3rd: Agriculture and Prepared Products, to be located in Miami; Apparel, Footwear, and Textiles in San Francisco; and the Consumer Products and Mass Merchandising Center in Atlanta, Georgia.

Trade Modernization Subcommittee and the Work Completed by the Automated Commercial Environment (ACE) Working Group and the Centers of Excellence and Expertise (CEE) Working Group

Member Chip Bown led the discussion on the work of the Trade Modernization Subcommittee and its respective Working Groups. **Member Phillips** talked about how the CEE Working Group has been busy developing a set of metrics, supporting inclusion of both facilitation and compliance/risk topics, promoting communication and creating surveys. **Member Bown** discussed the ACE Working Group's recently-issued survey targeted towards software vendors.

Ms. Brenda Smith reported on the results of the CEE customer satisfaction survey. 74 percent of the respondents said that they were very satisfied with the level of service that they received from the Centers, with 96 percent of the respondents reporting that their issues were resolved by contacting a Center. The two top concerns identified by the respondents were the resolution of cargo holds and the previously-discussed issues regarding CF-28s. Ms. Smith also discussed the CBP and NCBFAA co-sponsor software vendor conference held in Baltimore on May 21st.

Member Vince Iacopella gave a report on the work of the Role of the Broker Working Group, which has been charged with developed recommendations in regard to the re-write of 19 CFR Part 111. The work is in progress, but the group plans on submitting its recommendations in time for the August COAC meeting. The group has reached consensus around the importance of continued license education, that reporting should be tied to the triennial report and should be done through ACE. **Co-Chair Sherman** recommended that a mechanism be in place that codifies the difference between a provider of continuing education and an accreditor.

Member Bown presented the COAC with the Subcommittee's recommendation and moved for its approval: Given that the trade community has been asked to make significant financial commitments and investments in the development of the automation of new international trade systems and processes necessary to adapt to ACE deployment, COAC recommends that CBP continue to move expeditiously and according to a well-defined schedule and timeline as previously provided to COAC to finish development and deliver full ACE functionality with full PGA integration within three years. Further, that the progress and achievements of these development efforts should be reported to COAC at least every quarter. **Member George Wiese** seconded the motion, which was subsequently approved unanimously.

Public Comment

Mike Mullen, from Express Association of America, discussed the importance of internalizing the lessons learned from the ACAS pilot, specifically that data is available very early in the supply chain, that risk assessment screenings can be conducted upstream, and that penalties are not required and should only be imposed in cases of gross negligence

Suraya Gunasekara, from the American Petroleum Institute, asked whether the One U.S. Government Subcommittee will have the opportunity to review the findings of the EPA and FDA with regard to the Instruments of International Traffic Imported with Residue pilot program. **Ms. Boyce** said that the CBP is in constant communication with those agencies on this issue and regularly updates members of COAC on these discussions, who then report back to COAC as a whole.

John Kent, from the National Custom Brokers and Forwarders Association, said that the broker industry supports the work being done with regard to the re-draft of Part 111.

Exports Subcommittee and the Work Completed by the Exports Mapping Working Group

Ms. Julie Ann Parks discussed how the Subcommittee had been tasked to develop export map processes that identify trouble spots. To that end, the Exports Mapping Working Group was created to work on the project with importers, exporters, freight forwarders, carriers and brokers, as well as various government agencies. Member Parks and **Member Shaver** discussed the project's methodology and an update on where the project currently stands.

Mr. Dan Baldwin and **Ms. Brenda Smith** expressed their excitement on the Subcommittee's work on this topic and discussed its importance for CBP's goal of establishing a global supply chain strategy.

Trade Enforcement and Revenue Collection Subcommittee and the Work Completed to date on the Regulatory Audit, Intellectual Property Rights and Antidumping/Countervailing Duties Work Groups

Member Karen Kenney discussed the activities of the Subcommittee's two working groups: the Regulatory Audit Working Group and the Intellectual Property Rights Working Group. The Regulatory Audit team has been discussing CBP's proposed enhancements to the Focused Assessment Program and hopes to have recommendations to present for the August COAC meeting. The Intellectual Property Rights (IPR) group is currently assessing the feasibility of using the GS1 standards, specifically the GSIN (Global Shipment Identification Number), as an indicator of IPR compliance of imported shipments. There has been some concern from the trade that this would add another layer to the requirements that importers and in particular brand owners are already complying with, and also that the changes might end up being cost-prohibitive to the industry. The

Subcommittee has created a Bond Working Group to provide advice to CBP on the topic of single transaction bond centralization, and also hopes to provide recommendations at the August meeting.

Member Matt Fass reported to the COAC on Antidumping/Countervailing Duties (AD/CVD) Working Group's progress. The Working Group has been focused on two major areas: formalizing an answer about why there have not been more Type 3 AD/CVD entries filed in ACE up to this point, and devising an AD/CVD question for the 2013 Trade Survey. **Member Kenney** discussed the feedback on the lack of Type 3 AD/CVD entries. There were three main responses: people are not filing any entries in ACE right now, so they're not going to file Type 03 either; because of software provider challenges; and that brokers and exporters see the additional data elements as putting them at a competitive disadvantage.

Mr. Steve Hilsen and **Ms. Cindy Covell** presented the government's report on the Trade Enforcement Subcommittee, and discussed the importance of the role of regulatory audits in helping the government identify areas where efficiency can be improved.

Public Comments

Stuart Schmidt, from UPS, discussed some of the issues surrounding AD/CVD, particularly related to Manufacturer Identification (MID) codes. Mr. Schmidt also asked for more clarity on the difference between the administrative refund process and the post-entry amendment liquidation process.

Adjournment

Ms. Boyce, Mr. Skud and **Mr. Winkowski** thank the Committee and staff for a great meeting and their continued hard work in the past and coming months.

Ms. Boyce adjourned the meeting at 4:27 p.m.