

Commercial Operations Advisory Committee (COAC)  
U.S. Customs and Border Protection

Executive Summary

1:00 p.m. to 4:16 p.m.  
Wednesday, July 29, 2015  
Rosemont, Illinois

**Committee Welcome and Committee Roll Call**

Maria Luisa Boyce welcomed everyone to the meeting and began the committee roll call. The committee members present are as follows: Julie Parks, Vincent Iacopella, Cindy Allen, Brenda Barnes, David Berry, Scott Boyer, Heidi Bray, Celeste Catano, Lenny Feldman, Brandon Fried, Lisa Gelsomino, Susie Hoeger, Alexandra Latham, Amy Magnus, Liz Merritt, Kevin Pinel, Adam Salerno, Madeleine Veigel, Michael White, and Michael Young were present.

Ms. Boyce then introduced Commissioner R. Gil Kerlikowske for opening remarks.

**Opening Remarks by R. Gil Kerlikowske for CBP**

Mr. Kerlikowske welcomed everyone to the second session of the 14th term of COAC here in Rosemont (Chicago), Illinois. He thanked all CBP personnel and said he would introduce some of them later. He noted that it has been beneficial for COAC to meet in various locations because more can be learned by being out in the field. He thanked the following colleagues: Deputy Assistant Secretary Timothy Skud, Treasury's Office of Tax, Trade, and Tariff Policy; Mark Koumans, Deputy Assistant Secretary of Foreign Investment, Trade, and Transportation in the Department of Homeland Security. He mentioned that Mr. Koumans has taken over Ellen McClain's position on COAC after her recent retirement.

He continued by thanking Vince Iacopella and Julie Parks for their work as chairs. He added his colleagues from CBP, Brenda Smith from International Trade, Todd Owen from Field Operations, Jaye Williams from Administration, and Charlie Armstrong from Information and Technology, as well as Maria Luisa Boyce. The Commissioner welcomed Commissioner Mohorovic, who is from the Consumer Product Safety Commission and has been a longstanding participant with CBP. Bruce Fouchart from Homeland Security Investigations had to cancel his attendance. Mr. Kerlikowske thanked William Ferrara, the Director of Field Operations and his staff for Chicago for hosting these meetings.

Mr. Kerlikowske admitted to bragging around the world about Ana Hinojosa being elected as the Director of the World Customs Organization Compliance and Facilitation Directorate. He thanked the COAC members and their friends for helping to get Ana elected overwhelmingly.

He reviewed the agenda items to be discussed at today's meeting which included updates on progress since the April session earlier this year. He mentioned updates of the One U.S. Government of the Borders Subcommittee, the Export Subcommittee, the Trade Enforcement and Revenue Collection Subcommittee, and the Trade Modernization Subcommittee. He stated that a discussion and the work of a Trusted Trader, the Global Supply Trade Subcommittee would also be held.

He reported on updates of ACE and the Single Window and emphasized the importance of partnerships, trusted working relationships, and good communication. He stated that ACE is now the system of record for all air manifests. He acknowledged that it took a lot of flexibility and cooperation to address the system issues and facilitate the release of cargo. He said the next milestone targeted for November 1, 2015, is critical. He said CBP has been encouraged by the Trade Leadership Council to reconsider the November 1st mandatory transition date. He stated that the date is still the goal and that trade will not be disrupted. A smooth transition to ACE is planned.

Mr. Kerlikowske reviewed with the group that as of April of this year Option 4 Work Group began operating under the COAC Export Subcommittee. The goal of the working group is to receive proposals on how CBP can best implement the concept of advanced information into the current environment. They need to consider whether the manifest would provide the needed information. He said another question is whether CBP should consider implementing a Trusted Trader approach to address this issue.

He continued and said the air cargo test pilot and the federal register notice for ACE export manifest for air cargo was published on July 10th. He emphasized that involvement with COAC is key to achieving the goals that have been talked about of predictability, transparency, and flexibility. He added that it is important to have trusted communication with the media entities, the U.S. government, and the trade community.

### **Opening Remarks by Timothy Skud for Department of Treasury**

Timothy Skud thanked the members of COAC for coming and for providing their service to the U.S. government. He said he is looking forward to recommendations today about the Single Window. He thanked participants for bringing attention to the concerns of the firms in the industry. He stated that the small and medium sized businesses are a majority of CBP's customers and CBP wants to make sure their needs and concerns are considered.

He offered his time between COAC meetings to discuss issues of interest. He said he heard from Lenny and Scott since the last meeting. He said Heidi spoke to him today and gave him an assignment. Mr. Skud thanked the Commissioner and the staff at the Chicago mail facility for educating him about the complex job of processing the mail.

### **Opening Remarks by Mark Koumans for Department of Homeland Security**

Mark Koumans joined the Commissioner and thanked CBP and the COAC for their cooperation, partnership, and hospitality. He repeated that he took over Ellen McClain's job in May. He said he had seven years experience as Deputy Assistant Secretary for International Affairs where he focused on the foreign engagements that the Department had.

Mr. Koumans stated he wanted to spend a few minutes to update everyone on three policy initiatives that aim to facilitate global trade and trade while securing the global supply chain. He reported that they intend to work with CBP and partner government agencies to implement the February 2014 executive order to streamline the export/import process for America's businesses. He said the order set December 2016 as the date for the government-wide use of the electronic Single Window as part of CBP's Automated Commercial Environment or ACE. He added that a border interagency executive council is to be established to enhance coordination among dozens of agencies with trade-related responsibilities.

He said his office participates in the Trans Pacific partnership, Trans Atlantic trade and investment partnership, and trade and services agreement negotiations. He stated that he is encouraged by the passage of trade promotion on Capitol Hill and the forthcoming conclusion of the Trans Pacific partnership agreement negotiations which promise to expand the U.S. trade and economic opportunity as well as to bring U.S. trade practices and policies around the world. Mr. Koumans said the Department is exploring whether and how the Department of Homeland Security could further facilitate the movement of goods bought and sold through e-commerce. He added that the digital marketplace holds potential for expanding U.S. small businesses and entrepreneurship as well as enhancing established large businesses. He stressed the importance of ensuring Customs and security frameworks adapt to digital commerce.

Mr. Koumans reported that there are multiple e-commerce related efforts underway that reflect the objective to craft an effective strategic approach. He said the Department will look to COAC in the future for input in this initiative.

### **Remarks by Julie Parks & Vincent Iacopella**

Julie Parks began by saying she saw Commissioner Kerlikowske on the WGN 9 morning news. She said she believes getting trade information in front of the general population is a benefit to everyone present. Ms. Parks expressed thanks to the CBP for

their hospitality and tour of the international mail facility in Chicago. For the benefit of those present via the webcast, she stated that the room was full of trade people. She reported that some recommendations would be made from the One U.S. Government and the Export Subcommittees. She then turned it over to Vince Iacopella to give comments on the One U.S. Government Subcommittee.

Vince Iacopella confirmed that there will be a large, lengthy recommendation on One U.S. Government and the Single Window work group. He explained that because the process was very thorough they believe they have quality recommendations that can help CBP.

Mr. Iacopella brought attention to the fact that although it seems other committees have been quiet thus far, they have been working and meeting. He said he believes at the next COAC there will be more recommendations outside of the One USG and Export Subcommittees. Susie Hoeger and Scott Boyer will speak about this later. He said the discussions that took place showed the COAC more than ever how much the change is needed and how much new ACE functionality is relevant to trade.

He called attention to a concern in the trade about comments received by COAC about data creep with the participating government agencies in relation to CBP. He referenced Recommendation No. 9 under One U.S. Government, and he urged everyone to go back to the original executive order and review some of these data outlines because there may be additional data elements that may have been optional before, that may now be required either de jure or de facto for cargo release. Mr. Iacopella offered the help of the COAC resolve any issues that are remaining in the next couple of weeks regarding the air manifest.

He said some PGAs' had discussions with individual COAC members regarding the flagging of certain harmonized codes subject to that PGA's authority in light of November 1. He said the discussions will continue under the Trade Modernization Subcommittee and results will be reported at the next COAC meeting, should the Subcommittee pursue this issue.

Julie Parks added to Mr. Iacopella's comment about data creep and iterated that we cannot halt commerce as a result of the automation of PGAs. She explained that the goal is to facilitate security and not ask for extra data elements on the export manifest, for example. Implementing what is paper today in electronic form must be completed first, and then the PGAs can iterate on the implementation so as not to cause problems for the trade.

## **Update of BIEC PGA Outreach**

Maria Luisa Boyce said before turning it over to the One U.S. Government Subcommittee, she wanted to give an overview of what the Border Interagency Executive Council External Engagement Committee has been doing in outreach along the ports of entry. She refreshed the memories of those in attendance that during the last COAC they mentioned they planned to outreach to 20 or more ports of entry around the country. Since then they have covered 11 ports of entry. She highlighted that FDA, CPSC, APHIS, FSIS, AMS, EPA, and OTEXA have participated in the majority of the ports events. She encouraged the public and those attending via the webcast to go to the website to see the planned schedule and what will be done next. She explained that due to limited budget and/or time webcasts are being used to get the information to the right people with the actual person making the changes from the agency giving the presentation. Government subject matter experts are also involved in order to hear the concerns of those affected by the changes.

Ms. Boyce added that the Office of Field Operations has also joined these webcasts to go over the business roles document that has been posted on the internet in order to bring the documents to the attention of the community.

She then asked Captain Veneziano, FDA, to share information about the outreach and what they have seen from the PGAs.

Domenic Veneziano addressed the group to talk about progress made by FDA and other outreach events. He first stated that the outreach has been fruitful in terms of their operational process. He said that together with the BIEC a decision was made to process entries 72 hours in advance. After outreach they learned that 72 hours would not be sufficient to actually make any changes if something was rejected by the agencies. This information caused them to go back to the current process which is five days in advance to make changes and work with the other agencies.

## **One U.S. Government at the Border Subcommittee**

Maria Luisa Boyce introduced the Subcommittee and ask Susie Hoeger to report on the work of the One U.S. Government at the Border Subcommittee and that the subcommittee has two active working groups: CPSC and the Single Window Working Groups.

CPSC Deputy Executive Director, Carol Cave talked about the status of CPSC alpha pilot, the main focus of the One U.S. Government Working Group with Alexandra Latham and Amy Magnus. Ms. Cave stated that responses or recommendations made to the commission will be available before the next meeting. She explained that a Federal Register Notice was posted, and it is scheduled for an August 12th decisional vote. She told the group in order to find the notice they should look under the June

19th date because that is the date it was sent to the Commission. This notice was to recruit participants to test the electronic filing certificates of entries. She said the next step will depend on whether the vote is to put the Federal Register Notice out or not. She said if that is the case, CPSC would probably not move in the pilot direction.

Ms. Cave explained further that if the commission moves forward in the fall, the plan is to formulate the scope and definition of the pilot with the intent to go live next July, not February as has been discussed.

Member Alexandra Latham reported that the recommendations of the April meeting have been posted and some of the challenges and concerns will be shared with CPSC to explain the import process. She said one of the concerns they get is that no adjustments or responses to concerns that have been voiced have been addressed. She said she thinks that will be addressed with continued collaboration as they move forward with the Trade Support Network (TSN) Working Group.

Susie Hoeger reported for the Single Window working group and that she will make some remarks to frame the recommendation that will be made. She explained that until all the functionality of the ACE entry summary and the gains and use of ACE cargo release is fully deployed, including the PGA message sets, the trade cannot fully adopt ACE entry summary and cargo release. She said CBP should continue to manage the ACE deployment in a measured, meaningful way with the intent to minimize the impact on global supply chains and the flow of international commerce.

She explained that the ACE implementation will need at least 60 days for the trade to participate in transmitting actual shipment data in the production environment to full deployment in order to ensure all connections to other CBP systems are without issue or impact and that the volumes and actual shipment types can be processed without interrupting international trade. Ms. Hoeger said COAC encourages CBP to collaborate with its trade on its own alternate risk mitigation plan and those of PGAs. She added that it's important that the PGA business rules are presented in a summarized and easy to understand business rules and process documents. She said this is necessary so the true impact can be easily understood and assessed by the trade and the internal business processes can be modified accordingly.

Ms. Hoeger stated that CBP should try to maintain the November 1st date to keep momentum going. She said early adopters should be recognized and provided other incentives for their efforts of support. She also said COAC is not a proponent of converting to paper back up for ACE and said CBP can use ACS and Parallel as the backup and not paper.

Scott Boyer began by saying COAC strongly supports the President's Executive Order 13659 of February 2014, that recommended streamlining the export/import process for America's businesses through ACE, strategic discussions, communication, and metrics

to help with the validation of Single Window and ACE implementation.

Mr. Boyer read Recommendation No. 1 as follows: ACE Entry Summary: For entry summaries that are fully functional in ACE today, Types 01, 03, and 11, COAC recommends that CBP maintain the mandatory filing date of November 1st. If filers are unable to file these ACE entry summary types on November 1st due to unforeseen trade or government systems issues, CBP should allow for a defined informed compliance period, similar to how Importer Security Filing was implemented. CBP should evaluate the reason the filer is unable to file and require an action plan from the filer that describes how they will become compliant and hold them accountable for meeting the plan. CBP should allow for a defined informed compliance period for filing entry summary for those entries that cannot currently be filed in ACE (for example, Lacey and consolidated summaries with multiple consignees).

Recommendation No. 2 -- ACE Cargo Release without PGAs or with DIS only PGAs: COAC recommends that CBP review the ACE Cargo Release adoption rates, development and deployment issues, and other factors as November 1st date approaches. We recommend that CBP continue to message November 1st as the mandatory filing date for ACE Cargo Release, but implement a Phased Adoption schedule with COAC's input and industry acceptance for the complete implementation of ACE Cargo Release to ensure adequate time for programming, testing, training, and development. To encourage timely implementation, in consultation with COAC, CBP should provide incentives to filers who are able to meet the November 1st deadline. For those unable to file, CBP should analyze the filers who have shown a genuine effort to deploy ACE Cargo Release, but due to various issues are unable to fully comply. CBP should allow those filers to continue filing ACE release -- ACE Release with ACE Entry Summary under a defined informed compliance period during which CBP will continue to work with those filers through their deployment and exercise enforcement discretion. Those filers who have shown minimal or no attempt to file ACE Cargo Release by November 1st should be held to a more aggressive action plan and be held accountable if minimal or no effort is apparent.

Recommendation No. 3 -- ACE Cargo Release with PGA message sets: COAC recommends that CBP, the BIEC, and ITDS adjust the November 1st requirement to file ACE Cargo Release with the PGAs by 90 days with periodic reassessment to ensure that all pilots have been concluded, issues have been resolved, and the related PGA message sets are fully defined and locked down. Given the complexity of the PGA aspects of ACE Cargo Release, CBP should provide adequate time for the trade to program, test, train, and deploy after the conclusion of the pilots.

Recommendation No. 4 -- Quota Entries: COAC recommends that CBP delay the ACE go-live date for quota Entry Summary and Cargo Release until January 1st, 2016.

Recommendation No. 5 -- Document Imaging System, DIS: COAC recommends that CBP conduct testing prior to November 1st to ensure that the Document Imaging System can handle large volumes of documents submitted via ABI DIS. In the event DIS is unable to handle the volume on November 1, COAC recommends that CBP consider alternate options to DIS, such as posting documents to the ACE portal as done today and/or allowing filers to e-mail documents in accordance with a standard protocol, and advise the trade of those contingency plans.

Member Amy Magnus continued reading recommendations as follows:

Recommendation No. 6 -- Trade Briefings: COAC recommends that CBP provide COAC and the trade biweekly briefings and status reports, including metrics, on each of the PGA's ACE pilots and general readiness for the mandatory filing date as well as CBP's future vision for ACE.

Recommendation No. 7 -- National Guidelines and Escalation: To ensure a common and consistent approach by all ports, COAC recommends that CBP issue national guidelines for dealing with major issues such as cargo release at terminals and ports or processing challenges that arise in ACE implementation, including defined escalation paths and the assignment of adequate field, port, and technical resources. CBP should continue the war room approach, with sufficient allocation of resources to close all major issues. CBP should clarify the role of field, port, and technical staff, as well as the ABI client representatives, in terms of assisting the trade when ACE implementation issues arise. CBP should also issue clear, detailed CSMS messages as soon as possible when ACE implementation issues are identified. If necessary and to ensure port consistency, CBP should provide national guidance on and headquarters review of the issuance of any liquidated damages due to technical difficulties.

Recommendation No. 8 -- Communication to the Trade: COAC recommends that, to the greatest extent possible, CBP and PGAs leverage the BIEC and ITDS to provide more targeted and less technical communication of business rules and processes including policy, software changes, and new requirements to all of trade, including importers, filers, and software vendors, so their respective business processes can be modified accordingly in advance of the mandatory filing date. CBP and the PGAs should not assume that software providers are pushing out this information to their customers, or that highly technical information such as the CATAIR is easily understood by all members of the trade. CBP should also continue to extend communication to other trade members, such as CFS stations and terminals, where paper forms may be required for release, such as non-AMS facilities.

Recommendation No. 9 -- Leveraging BIEC and ITDS: We recommend that CBP leverage the BIEC and ITDS in the oversight of the PGA ACE pilots with the intent of preventing data creep and maintaining alignment with the PGA's current regulatory

authority and the development of the PGA message sets to ensure predictability of operations for the trade.

Ms. Boyce called for a motion. Scott Boyer moved and the motion was seconded by Ms. Magnus. Ms. Boyce then opened the floor for discussion.

Mary Trapper with Mary Trade Services approached the microphone and said she is also representing the Chicago Customs Brokers. She said everybody knows that releases is her pet project. Ms. Trapper said because there is no house bill release in ACE, and it isn't even planned yet, the CFSs are very unsure of what they should do. She asked if there is any way to get house bill release so that the CFSs will understand what they need to do and they can get automated because right now they can't.

Mr. Graham said there was a question from the webcast from Tony Baro who asked whether the President's Executive Order proceed a mechanism to bring agencies into alignment on ACE, and if so, what is it.

Ms Boyce said she would try to address the first question. She explained that the Border and Interagency Executive Council (BIEC) was created, mentioned with the Executive Order to help look at the policy. She said ACE is a system, the IT system, and ACE is the IT system that is being used to implement the ITDS and the spirit of the Executive Order.

CBP Executive Director Cynthia Whittenburg presented a little history beginning in 2006 with the Safe Port Act and Automated Commercial Environment (ACE). She said these are converging now so we have the Executive Order so we can eventually achieve what was placed in legislation back in 2006.

Ms. Boyce called on Amy Magnus to address the first question. Ms. Magnus stated that communication needs to be consistent to the CFSs and the terminal operator as to requirements when cargo has been released. The group tried to remain strategic rather than technical, and said this should be raised in future recommendations.

Mr. Iacopella said that if the facility was off dock -- off the port structure -- it would be bonded by CBP locally, and the container would be unloaded and the broker would submit a piece of paper to that facility. This was addressed in the past, although not deeply enough. He explained that the process had been automated, but it was a paper process. He said that in order to become electronic at the master bill or ocean bill level, they need to know what the non-automated partners' want to see when they release their cargo.

Ms. Allen commented that the problem is the automated process to the non-automated partners to the data supply chain, so ACS allows for a process where you had paper from beginning to end. Now, in ACE, you have an automated process and get to a

point in the supply chain where there are non-automated partners, so you have a process change and no impetus to automate because they cannot have a level of visibility that allows them to facilitate the process to encourage them to automate.

Ms. Boyce called for a vote on the recommendations and suggested continued discussion after the vote. **The motion was carried unanimously.**

Amy Magnus commented that from a broker or freight forwarder point of view, this is vital and necessary. She said she thinks it exists in air but not in the ocean environment.

Member Mike Young suggested that if the House Bill release is going to be reviewed, the white paper that was released under the CESAC MMM committee should also be examined. The white paper outlined various modes of transportation. There was an attempt to accommodate the House Bill and not negatively impact operators or ocean carriers.

Ms. Smith concurred with Mr. Young and added that it is a significant piece of programming and would require some good thinking. She said it would be a useful discussion and looking for short-term solutions could be good and they should try to estimate from a workload perspective where it could fit in.

Mike Denning, CBP Field Operations, said it could give us greater cargo control if we got down to the House Bill level. He said if we're moving that direction to automate and enable that capability, he doesn't think they would be encouraging people to automate; they would be mandating automation. He said he believes it is a business to business relationship to be used with the CFSs to affect releases of cargo.

Member Scott Boyer read a note sent to him, Amy Magnus, and Susie Hoeger. In part it said the sender wanted to strongly encourage the 14th term COAC to read the benefits of automated House Bill release and consider making some recommendations to move this forward.

Ms. Boyce recognized a member of the public, Scott Case with Position Global, who said he is also a Customs broker in Chicago. Regarding looking at the House Bill, he said he believes the further one gets from a relationship with a regulatory agency, the less automation will be implemented. He suggested that the method include visibility to speed proper cargo through the supply chain at a velocity that doesn't impede commerce. Mr. Case explained that this would avoid having unnecessary truckers showing up at warehouse doors clogging delivery times, getting cargo out before it goes into storage, freeing up and allowing warehouse operators to turn the inventory over.

Ms Boyce said there is more homework for the subcommittees concerning this aspect. She called on Cynthia Whittenburg to provide the government perspective. Ms. Whittenburg said that this process is not just about building underlying enabling systems which is a huge piece, but said that at this point we are approaching the beginning that starts the process of maturing and figuring out how to do business in this 21st century global environment and how we move cargo.

Ms. Whittenburg continued and said one goal is to cut down on the redundancies of data. She said they would like to have enhanced coordination with regard to risk management and that it will be a long journey to accomplish this goal. She emphasize that the ultimate goal is to make it easier to bring trade into this country and to export goods out.

Ms. Whittenburg said two of six items, both external facing, have had COAC input to her group. She said functionality is in production and has been achieved. The other task achieved and in production is building early system validations that electronically and automatically reject submissions of missing or inaccurate data.

Captain Dominic Veneziano wanted to make an observation related to the data element recommendation on the data creep. He said the goal is to prevent the process of holding shipments for manual review just to release it based upon the data received. He said a Federal Register notice from FDA related to the mandatory requirements and will only be data elements that are not being collected by other agencies. He said it has been suggested that they have a national webinar to go over these data elements with the industry, and he said he agrees this would be helpful, and said they would be willing to work with COAC and the National Broker's Association to create and conduct a webinar for this purpose.

CBP Acting Executive Director Debbie Augustin said she wanted to provide a program update for the COAC and the benefit of the audience. By the end of 2016, ACE will become the basis for the Single Window which is the primary system the trade community will report imports and exports and to which the government will determine admissibility. She reported that after an extension of the first of three milestones, the legacy air manifest system has been shut down and the process has been completed. Some issues were encountered with the transition process and these issues continue to be addressed.

Ms. Augustin said that during the transition the Office of Field Operations implemented some facilitation measures to ensure that all the cargo was processed timely. The lessons learned from this are being factored into plans for future milestone implementation. She explained that some of the lessons learned included needing to ensure that the operational readiness with all parties are in place before the cutover. She said that more testing that can be conducted in conjunction with their trade partners in advance would help identify and help them address some of the issues that

may arise when they move code into an operational environment. She reiterated how important testing is. She reported that they now recognize what they need to do with respect to post deployment support to make sure personnel is available and effective to address difficulties that arise and to communicate the information to their partners in the trade community.

She relayed that a June 27th deployment was postponed until July 11th in part because of the impact that they were also working through the air manifest transition and also dealing with some cyber hygiene issues. They decided it best to postpone the deployment so the air transition could be the priority focus. When they picked up on July 11th, select capabilities were included in a four-week parallel processing run. She said these capabilities will be available to trade for use on August 8th. The capabilities that became available on July 11th included mail, passenger, and flight line entries as well as quota validations for ACE cargo release entries. Ms. Augustin said the August 8th deployment is targeting for remote location filing for ACE entry summaries certified for ACE Cargo Release and process Entry Summary Types 01, 03, and 11 in the new ACE platform.

Ms. Whittenburg said she wants work that's going on to be included in the record. She reported, first, that EPA has three programs to pilot: the ozone depleting substances, vehicles and engines, and pesticides. She said it's interesting to note that EPA pilots may be limited to nine participants. Food Safety Inspection (FSI) was reported as an EPA pilot that was out since 2014. She reported that the following pilots are set for deployment August 19th: Agriculture, marketing service, PHIS Lacey, DETC. She said they are also working with AFT and that FDA is rolling out again by starting out by program but to be ready August 19th. National Highway Transportation Safety Administration has been testing some filers and are working through a lot of bugs. National Fisheries and TTB Treasury are staging to begin. Enforcement and Compliance under the Department of Commerce (the old ITA) are using the IS for uranium shipments. APHIS has a portion of their work that should be ready looking and she said they expect to hear more in September.

Ms Whittenburg said that the first phase will be followed by the second phase by September 2nd. She said Phase 3 will begin September 16th when 120 ports will be brought on board. All other ports will be brought on September 23rd.

Ms. Augustin added that the November milestone is coming up and is being targeted for the Cargo Release and related Entry Summary filings. For those who haven't heard, she reported recently receiving a letter from the Trade Leadership Council that requested that plans be reassessed regarding the implementation of the mandatory filing summary entries with PGA data on November 1st. In addition, the National Custom Borders Association of America has written to express their support of the TLC request and has offered to assist with support on trade on boarding. Their concerns expressed have to do with the manifest transition, updates to certification environments

that are being made, concerns about limited bandwidth, and then the hosting of partner government agency implementation guides.

Ms Augustin said they have spent a lot of energy on software vendors and making sure they are certified to file in ACE, so they will continue to maintain that. She reported that with 61 percent feedback from a survey conducted by their Trade Leadership Council, respondents indicated they would be ready for the November 1st mandatory date. She said that as the Commissioner mentioned earlier, the goal is to have a successful implementation without adversely impacting the flow of trade.

Tim Skud remarked that some agencies are having difficulty finding partners and that Maria Luisa Boyce and her colleague David Long, Department of Commerce, have been working hard to find pilot participants. Mr. Skud reminded the attendees that although costs are involved in being an early adapter, there are also opportunities and chances to learn and be in a better position to serve your own customers. In response to Ms. Boyce's request for comments from the public, Mr. Graham reported that Kathleen F. McGuigan comments that in the CPSC briefing package that was posted previously, it doesn't appear that the package reflects most, if any, of the recommendations made by COAC. Ms. McGuigan would like to know when these will be considered and if the final Federal Register Notice will reflect the recommendations of the Working Group.

Ms. Cave replied to the question and said because the question is frequent, they try to talk about it at the ports. Ms. Boyce added that they do have companies and that on a recent trip to Detroit everyone was ready for the EPA pilot, but the Federal Register Notice wasn't out, and the companies were not yet in port. She also said that some pilots are available at a specific port that the companies wanting to participate do not move cargo through. She acknowledged that the testing and piloting are important.

### **Exports Subcommittee**

Member Liz Merritt reported that a Single Manifest Work Group was established to address all modes of transport in order to find a more unified multimodal analysis of issues and development recommendations. She said the group will focus on the points and areas of opportunity that have been identified for each mode of transport individually as well as those applicable to transport of cargo between modes in order to ensure that COAC recommendations take full advantage of the new multimodal system provided by the ACE system. She added that the work group is pleased with the inclusion of freight forwarders in the pilot, who are critical to the earliest delivery of electronic data to risk assessment.

Ms. Merritt explained that significant concerns were raised by components of the Federal Register Notice (FRN). First, the FRN does not provide a progressive filing model proposed by COAC, no data elements list or timeline requirements by shipment

data versus transport data characteristics, and no delineation of what data should be provided by the forwarders versus carriers. Among other unexpected changes, the timeline put forward in the Federal Register Notice (FRN) is not possible to achieve in the air cargo environment and was not discussed in advance with the trade via the COAC mechanism. Based on these issues, Ms. Merritt said they will be making three manifest-related recommendations.

Member Heidi Bray spoke about the Option 4 working group, which is made up of current Option 4 filers and some partner carriers. The group has had presentations from various industries: auto, electronics, and agriculture. She said they have submitted a proposal to CBP with the hope they can work with keeping Option 4 and revamp it without making changes to the program that will create difficulties for those companies that participate in Option 4.

Liz Merritt read Recommendation No. 1 -- With regard to the FRN for an ACE Export manifest for Air Cargo test: In developing guidelines and SOPs for the practical conduct of the air automated export pilot, CBP should ensure that the concerns of the trade as set forth in commentary by COAC are addressed, so that the pilot will enable a robust test of the progressive filing model that has been put forth by the COAC Export Subcommittee. In particular, achievable timelines for data submission for air shipments should be established, mandatory data elements should be limited to those currently required on the 7509 form, with pre-departure submission limited to those necessary for risk assessment, and procedures developed for managing holds and shipment interception with minimal disruption to air cargo operations.

Recommendation No. 2 -- With regard to the publication of the FRNs for ACE export manifest tests for ocean, rail, and truck: The determination of, Number 1, property timelines for electronic data submission and, Number 2, the set of data elements that must be transmitted at a given time are fundamental to developing an automated export regime that is both effective and minimally deleterious to export operations and the flow of legitimate trade. CBP should ensure that the mandatory pre-departure data elements contained within the FRNs announcing pilots for the ocean, rail, and truck modes are limited to those found on the current 7509 paper form that are required for pre-departure risk assessment. CBP should also ensure that submission timelines have been thoroughly vetted with the trade, and that trade concerns with regard to feasibility and negative impact have been mitigated to the full extent possible.

Recommendation No. 3 -- With regard to the process for drafting, approving, and publishing FRNs and NPRMs: The transformation that CBP is undertaking to move export processing from paper to electronic, and from individual silos to a One-Government at the Border, single-window approach, requires a paradigm shift with regard to how export reporting can and should work and significant associated policy and regulatory change. Incremental, piecemeal approaches to the regulatory reform process and excessively long delivery timelines for associated FRNs and NPRMs are

incompatible with what must be accomplished over the next two to four years. To better facilitate CBP's export trade transformation strategy, the OR&R legal team should become an integral participant in the substantive discussions taking place in the work groups of the COAC Export Subcommittee, with the nature and extent of the desired legal participation to be determined jointly by the trade and CBP within each work group. Further, CBP should apply more command attention to ensure the process for publishing critical FRNs and NPRMs is streamlined and accelerated.

Heidi Bray continued with Recommendation No. 4 -- As CBP moves towards implementation of automated e-manifest and the ability to accommodate Census Option 4 and export filing requirements, COAC recommends that CBP collaborate with Census to ensure that any policy and process changes do not unjustifiably impede legitimate exports. To this end, CBP in conjunction with Census should begin by clearly identifying the subset of existing export data from the cargo manifest needed for pre-departure risk assessment. Once those parameters are defined, CBP and Census should consult closely and collaboratively with Option 4 filers and their partner carriers to determine whether they can make all or part of those data elements available. If some, or all, of the data cannot be provided in line with above, CBP should investigate alternatives. For example, usage of account-based management and predictive data that address legitimate CBP security screening and Census regulatory control needs, without negatively impacting exports and their significant contribution to the U.S. economy.

Ms. Boyce called for questions and comments from those present and from the public. With no questions, she called for a vote, and the recommendations were approved **unanimously**.

Mike Denning, CBP, and Dale Kelly from Census were introduced and asked to comment. Mike Denning from CBP Field Operations said their objective is to develop a fully automated environment that includes an electronic export manifest filing that would replace the current manual process. He reemphasized that these export initiatives are opportunities for them to test the various process approaches and take COAC's guidance and input as valuable markers for them in areas to focus on related to the filing timelines, the data elements, and the progressive filing approaches that have been proposed. In fact, they intend to test within the pilots across the various modes. He said the ultimate objective is to mandate the most minimum amount of data elements possible to allow them to do advanced risk screening.

Mr. Denning said the recommendation regarding the process we'll use to manage the holds or do not load messages is interesting. He said he believes it would be a good area on which to go after a white paper to get everyone on the same page as to how those procedures would work to make sure there is uniformity in processing across operations when it goes live.

Dale Kelly continued and said any changes to the Option 4 will require changes to the Census Bureau's foreign trade regulations. She stated that as a Census Bureau representative, they do collect this information in order to publish the monthly trade balance figures. She said she is thrilled to see the progress that has been made in implementing electronic export manifests. She stated that the feedback from the COAC and the Option 4 working group has been important and helpful in helping them determine what needs to stay on the commodity side and what can be put forth in terms of advanced information.

Maria Luisa Boyce added that the Option 4 Work Group has 30 members with agricultural members of the industry, a friend of ours in COAC helping to lead the subgroup, export manufacturers and ocean and air carriers. She said the NCBFAA is represented and briefings have been given by each one of the industries. She continued and said they are going back and forth and coordinating with Census. She said the Option 4 calls have been very productive.

Julie Parks added that in late July they had the capability as an exporter in ACE to request an ACE account. This access allowed real time visibility into our filing data. She said they find the data to be complete. She explained that there is a little more work to be done on the routed transactions because they need to add an identifier and date to each line to enable exporters to manage their compliance program. She encouraged everyone to log in and see that they can get both import and export data in ACE.

Ms. Kelly praised the collaborative effort with Debbie Augustin's team, with the ACE team, with Bill Delansky working with Census on a daily basis, and with working with Census to implement the requirements.

### **Trade Enforcement and Revenue Collection Subcommittee**

Member Lisa Gelsomino welcomed everyone to her home town and introduced Troy Riley to give an overview of the trade.

CBP Executive Director Troy Riley said he was going to give an overview of the vision of the trade enforcement approach. He said there is an opportunity to modernize their trade enforcement approach. The vision would include a more proactive and agile trade enforcement system that facilitates seamless trade enforcement operation and mitigates emerging trade risks. He said they would move to expand enforcement expertise by exercising greater trade enforcement training for their operators. He said their vision includes improving their outreach to publicize the commercial enforcement actions that can inform the trade community of CBP's enforcement trends and help to provide deterrents as well as educational material.

He said by leveraging partnerships, they can collaborate with the PGAs and increase the magnitude of their enforcement actions so that the impact government has on correcting adverse importing behaviors will be much greater. He explained that they would like to modernize policies and processes for how they mitigate and address enforcement issues and identify any inefficiencies in the process.

Lisa Gelsomino repeated some of what was said at the last meeting. She said they would be looking to advise CBP on deliverable output metrics that could be produced with legal and confidentiality constraints in order to try to meet the requirements of trade enforcement transparency identified by the Trade Facilitation and Trade Enforcement Act. She said they want to recommend a cost benefit model for evaluating CBP's trade enforcement efforts and how that is helping domestic industry.

On the tour taken of the international mail facility in Chicago, Ms. Gelsomino asked why they have the highest number of seizures of all ports in the country, and they said expertise. She added that identifying contraband and fraud coming into the country helps protect importers and exporters in COAC and meets the goal of this working group. She listed additional goals of the working group: training needed to contribute to trade enforcement efforts, needs at the ports to do more robust trade enforcement, make recommendations of best practices from partnering with the World Customs Organization. She also said that part of the trade enforcement and revenue collection focus is looking at the key priority trade issues which are agriculture, antidumping, and countervailing duty, import safety, intellectual property rights, and various trade agreements.

Executive Director Cynthia Whittenburg took the floor and reiterated Ms. Gelsomino's comments regarding antidumping and countervailing duty working group and that they are continuing the group into the 14th term. She said that in the intellectual property rights area they want to reconstitute a working group to address lowering the risk profile for legitimate cargo.

Ms. Boyce commented that this is one of the committees that has been mentioned. Focus has been on the Single Window, but this work is happening on the other side and trade enforcement and revenue collection are very important. Next Ms. Boyce introduced the Trade Modernization Subcommittee.

### **Trade Enforcement and Revenue Collection Subcommittee**

Member Lenny Feldman said he would present a brief update because people are curious to hear about the future vision and how we will enhance predictability, transparency, and efficiency in the future. He explained that five working groups have been identified. He said the goal is for a diverse working group with members from all the Cs complemented by brokers, forwarders, and carriers to get their feedback of best practices in communication. He said he believes it is critical for all to work together. He

said he agrees with Tim Skud's comment that all sides of the entities must be examined.

Mr. Feldman spoke about the second working group, the role of the parties and the supply chain. He said this would be the next step after role of the broker and that now that the education component has been explored, next should be compliance. A question that needs to be answered is: What if you have a broker who might not be filing for multiple importers but is an in-house customs broker or a self-filer? To what extent does the educational piece apply to them?

Member Cindy Allen continued the discussion and said that the third working group is really two working groups: WTO Trade Facilitation and Multilateral Harmonization. A working group to support the mission of WTO with recommendations at the next COAC meeting is planned. Ms. Allen said they want this working group to consider how best to align U.S. stakeholders with international bodies with particular emphasis on how to encourage the adoption of the WTO Single Window data organization and other core trade facilitation measures with the key trading partners.

Ms. Allen informed the group that two other working groups are planned to start after the other working groups have concluded their work. She reported these groups will be the Simplified Entry Summary and Simplified Revenue Payment Working Groups.

Michael Denning reported tremendous strides in bringing the first three Centers of Excellence to full operability by transitioning into three specific trade work across the nation. The electronic CL Los Angeles, the petroleum and natural gas center of excellence of Houston, and pharmaceuticals in New York are fully operational. He said CBP will next move forward with a full assumption of industry trade work for the remaining seven centers in 2016. Mr. Denning said in the next couple of weeks they plan to provide future work products to the COAC subcommittee to frame out and define customer service levels that they are driving toward within the three Cs.

Deputy Assistant Commissioner Ana Hinojosa briefly thanked the group for all their support in promoting her candidacy and ultimate election to the World Trade Organization.

### **Trusted Trader Subcommittee**

Member Alexandra Latham provided an update of what the subcommittee has done since the last quarter. They had two phone call meetings in which they received updates from CBP on the pilot program. She said one aspect that has been emphasized is how widespread and broad the concept of Trusted Trader is.

Member Michael Young said what needs to be done is to look at the documentation relative to the requirements for Trusted Trader and some of the other subcommittees

such as Option 4, Export Manifest, to refine and look at how that Trusted Trader using C-TPAT as a platform, as a basis to build on to create extra value in other arenas from both CBP and other agencies. He said they want to talk to the CEEs to see find out their market role, their processes, their export and import capabilities and see how to align the Trusted Trader program with more of these opportunities.

Michael Denning said that not much is heard about these subcommittees because of all the Single Window and other hotter topics. He said there is a lot of work being done behind the scenes. He provided a brief history of the Trusted Trader program and said they have defined a number of processes and then implemented the processes last year. They are in various stages of a validation process at this time which means that joint validation teams were formed that are made up of the supply chain, security specialists, and trade compliance. He said they do importer visits to gather information and put them through the C-TPAT security validations at the same time. He said they have completed three of the validations; the fourth will be finished next week; and the remaining five of the original nine should be completed by the end of October of this year.

Mr. Denning continued to say that at the end of the process, they will then take a look at the internal processes they have used to build these accounts and pull the teams together. He said there has been a bit of a cultural change in thinking for the agency as well as a little bit of relationship building between the security focus of the supply chain and the importers that participate through the C-TPAT and then the national account managers that are drawn through our import specialists' set of resources that traditionally work in a different section of the port or now assigned under the centers of excellence which will be the new home for this Trusted Trader program. He said they have been working with AC Smith and her team to transition the ISA program out of the Office of International Trade and Field Operations. The plan is to integrate the C-TPAT application process with the ISA process to get a fully automated application process going forward. Through working to leverage the new automation of the C-TPAT portal they plan to exchange real time information with the ISA participants.

Mr. Denning said that he expects Trusted Trader to work closely with COAC to formulate their go-forward strategy to formally bring all the ISA accounts into the Trusted Trader fold. They have some legal requirements and will need to talk about the strategy for accomplishing that. He said another goal is how to grow the program beyond the initial nine volunteers in 2016.

### **Global Supply Chain Subcommittee**

Member Adam Salerno said the subcommittee has narrowed their focus to four key areas. The first area involves a discussion on electronic cargo security devices. He said they know that the Department of Homeland Security has done pilot programs on Electronic Cargo Security Devices and the viability of it and how to change the way we

trade and move product across the border. He said COAC is requesting a briefing from the Department of Homeland Security and from CBP on the particulars of the pilot program to get a better understanding of the technology. Because there has also been work done in this area in the private sector, Mr. Salerno said he would like to get these groups together, too, and look at the return on investment for both trade facilitation and the security perspective.

Mr. Salerno said the second area they plan to work on is going further into the Beyond the Border agreement and the 21st Century Border agreement, U.S., Mexico, and U.S., Canada. He reported that CBP reached a pre-clearance agreement earlier this year between the U.S. and Canada. He also commended COAC for their Leap Forward plan.

He said the third point is going to be issues regarding pipelines and commodity products moving across the border. He said he understands that CBP is looking at opportunities to work with industry and develop more consistent regulatory processes at the border and give them a little more automation to the border processes.

Member Brandon Fried first thanked the Commissioner for mentioning this on television this morning. In regard to the air cargo advanced screening initiative, he said he is happy that the voluntary pilot has over 200 million shipment transmissions during its duration. He announced that the pilot has been extended to July 2016. He said he hopes to have more freight forwarders in the pilot and also said he hopes that CBP will eventually provide some inducement to help others participate in the pilot program for forwarders who might face IT-related costs to do so. He said they also encourage the development of a portal for ACAS submissions.

Mr. Denning said that lots of good questions have been asked such as where does ACAS fit into a Single Window. He said since the U.S. is to be a leader in preloading advanced data targeting, he looks forward to the proposed rule making so that they can issue more recommendations and move this value whole initiative forward. He said that extending the pilot for a year will open it up for more participants and more air carriers to take advantage of the ACAS capability. He said he hopes for the rulemaking shortly.

He provided some background regarding the pipeline program and said there is a lack of uniformity and a lack of automation in the pipeline environment. He said this situation creates challenges for CBP in maintaining an appropriate level of oversight for the entry and collection of duty taxes and fees for the movement of petroleum and the gas products moved through pipelines. He reported they are looking forward to discussions with industry experts, including getting some legal guidance. He said attaining automation is going to be a long-term effort and that reasonable and regulatory language to provide enforcement oversight and appropriate automation will be of great benefit.

Mr. Denning said he knows there has been work in the past regarding electronic cargo security devices within the department where pilots have been done for private industry, He said he thinks the technology still may have a way to go in formulating a business model of government and industry that's sustainable for something that we would want to formalize going forward.

He said that there has been a lot of forward movement on the technology of the C-TPAT portal with the recently added exporter entity to the C-TPAT portal. He informed the group that there is an upcoming C-TPAT conference that is working its way through the department for approval. He said the subcommittee is in a better position at this point going forward to get into much more detail on AQUA Lane.

CBP Director Liz Schmelzinger reported that on June 17th the National Security Staff and the Privy Council office had a meeting where they reviewed the work of the Beyond the Border action plan. They reviewed work that was complete, work that needs to be done, and then identified the forward plan that Adam Salerno referred to that involves a furtherance of work that was initiated during the initial BTB action plan. She said the integrated cargo security strategy remains one of the hallmarks of BTB and the notion of perimeter security -- that famous phrase of examine once, clear twice.

Ms. Schmelzinger said the pilot remains to be done, and they have identified the pilot as a security-focused pilot; and in terms of the forward plan, there is an interest to conduct a contraband-focus pilot with Canada along with a trade-related pilot. She said she is excited that the in-transit work they had planned to do this past year is really going to be done. She said they look forward to having something ready to operationalize in the fall of this year. She continued and said they are working with the CBSA in the development of the in-transit pilot because they hope when CBSA is ready to initialize their manifest, they will be able to mirror that in-transit movement and will have a completely seamless electronic transmission of trucks transiting the U.S./Canadian border.

Ms. Schmelzinger reported that evaluation of the pre-inspection pilot that was done in Buffalo is under way, and the business requirements for automated option for user fee collection have been finalized. The goal is to remove the cash registers from the primary line and stop making single transaction collections of user fee payments on the primary line. She explained that the pre-inspection pilot that is slated with Mexico at the Laredo Airport and the development of the agriculture pilot at Otay Mesa are both in the final states of finalizing the document. DHS is the lead in terms of the legal frameworks that are being approved, but they look to having an announcement on those particular pilots becoming operational very soon.

Carol Cave spoke next and spoke about the differences between the enforcement side for consumer products. CPSC works collaboratively with CBP, but the counterparts in Canada are not as collegial in terms of how they examine. CBSA has to release cargo

before they do an exam, whereas in the U.S., we look at risk and try to examine at cargo before it leaves the port.

Ms. Cave described a joint tabletop exercise on how to handle import safety issues two weeks ago. The joint exercise was beneficial for all parties to be able to see each other's points of view and concerns. She said the Commission saw this as a great opportunity to exchange ideas, identify common priorities, and look at best practices for the Canadian colleagues while respecting each other. The outcome of this exercise will be shared with our Mexican counterparts in November of this year at a North American summit that our international office is planning.

In answer to a question of Michael Flickinger attending on the web cast, Ms. Boyce said they will announce a working group on Monday next week.

Mr. Ed Harrison with Powers International approached the microphone and explained that he has been involved in the technology piece of what they like to call the cargo intelligence technology piece. He said they have been talking about the Single Window end of it but the other end of the spectrum. He asked where and how they get their data as well as how reliable is the data.

He reminded the group that this has been a unique experience and said the challenge has been to develop and come up with three pieces of the puzzle. He said the first piece is to come up with a process by which needs of the commercial sector. Then he said the second piece of the puzzle is they need a way to gather the data and then communicate it in a reliable way and in a real time scenario. He said the third item is you need to have a platform by which you can get these data and put it into this platform and disseminate it, analyze it, and then break it out to the stakeholders as they need it, whether in a Single Window or whether directly in ACE. He said that more importantly, they need to recognize that it relates back into the commercial sector because these are the people that are going to pay for it. He said he put together a white paper and that their challenge is to be able to educate the commercial market. He said the problem is that as they are doing this, the parallel course about what C-TPAT is going to do and what the incentive is significantly impact that.

He said that it is almost a chicken and egg situation and that the investment is going to be restricted and the research on this is going to be limited until there is a clear path of understanding about what directions C-TPAT is going to go and where those incentives are. He said they are doing their own analysis and have been working with Homeland Security Science and Technology with their testing. He said the problem is no one seems to know when the timeline, the end, is what the expectation of this is.

He stated clearly that they would like to see a timeline. He said Allen Berson is also working on a secure trade corridor concept between Mexico, the U.S., and Canada. He said this is a great idea and it could be a great template to what we can all channel into.

Ms. Boyce thanked Mr. Harrison for his input and said that his materials will be sent to the members for response if they choose to respond. She said Mr. Denning is hearing what he is saying and will look into it as they have conversations and work is done in electronic devices.

Scott Case with Position Global stated that it takes a special person to read, process, adjudicate, and/or enforce the voluminous amount of rules, regulations, and word salad that we put out. He said he speaks from the service provider side that sometimes trying to explain this to importers or exporters is difficult. He said they have limited assets they can produce to demonstrate and talk about these things. He said they don't have access to piers, ports, or targeting centers.

Mr. Case said he thinks it would help if the trade community could have access to more information to help them actually see a container and then see thousands of containers on a vessel and then understand why they can't get their container in three hours. He said CBP's access to the terminals and the processes that are in place is beneficial to them. He said with the work he is doing with companies, he is always pointing back to things on the CBP website. He asked to have similar videos so that people could see and understand why their contained isn't here in three hours.

Ms. Boyce thanks Mr. Case for his helpful input. She said that the communication piece is moving forward with the YouTube channel and Flickr and said they are looking into podcasts and Twitter now. She said she would like to ask the COAC members which committee would make recommendations about what type of information would be useful to educate the general public because it is an ongoing challenge.

Vince Iacopella said he has to call out Susie Hoeger for managing the Single Window Document, eight versions of it, from start to finish.

### **Closing Remarks by Maria Luisa Boyce**

Maria Luisa Boyce recognized Kristin Isabelli, formerly with USCIB, to the CBP team. She closed with thanks to everyone who participated today, and said that this meeting has been music to the ears of all the trade nerds in attendance.