

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

Executive Summary

1:04 p.m. to 3:57 p.m.
Thursday, October 29, 2015
Washington, D.C.

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, Lisa Gelsomino, Susie Hoeger, Alexandra Latham, Amy Magnus, Liz Merritt, Kevin Pinel, Adam Salerno, Madeleine Veigel, Michael White, and Michael Young were present. Brandon Fried was not present.

Ms. Boyce then introduced Deputy Commissioner Kevin McAleenan for opening remarks.

Opening Remarks by Kevin McAleenan for CBP

Deputy Commissioner McAleenan welcomed everyone to the third session of the 14th term of COAC here in Washington, D.C. He introduced Deputy Assistant Secretary Tim Skud from Treasury as well as Seth Stodder, who worked with him for Commissioner Bonner in the U.S. Customs Service era. He introduced members of the CBP leadership team, Assistant Commissioners Brenda Smith and Todd Owen, Charles Armstrong from the Office of Information and Technology, Eugene Schied, Assistant Commissioner for the Office of Administration, Acting Deputy Assistant Commissioners Mark Koumans, and Ana Hinojosa. He also recognized some interagency partners, representatives from the Federal Maritime Commission; Domenic Veneziano from Food and Drug Administration, and Manuel Larragoity from Immigration and Customs Enforcement, Homeland Security Investigations of the National IPR Center.

Mr. McAleenan previewed a few of the things coming up today. The Trade Modernization Subcommittee is going to go over progress made with the Centers of Excellence and Expertise Working Group and discuss the formation of new working groups. He said the Global Supply Chain Subcommittee will talk about electronic cargo security devices; ACAS, and provide an update from our Pipeline Working Group. He said the Exports Subcommittee will provide an update on the Manifest Working Group's

recommendations and a report that is on the Federal Register Notice for Air and Ocean Export Manifest Cargo pilots.

He said the One U.S. Government at the Border Subcommittee will address the key topic of the day, ACE in the Single Window that is today's top priority. The Trade Enforcement and Revenue Collection Subcommittee will discuss the creation of the 14th term intellectual property rights working group and update the group on the progress of the Anti-Dumping and Countervailing Duty working group. He said the final discussion will concern the Trusted Trader Subcommittee and the status of the Trusted Trader pilot.

Deputy Commissioner McAleenan said that since last July the cargo release emission rate has increased to approximately 10 percent, showing steady progress. He said progress is attributed to listening to COAC feedback and that on November 1st the transition to make ACE the single system for filing all data that's needed for the release of cargo as well as entry summary. There will be two phases of this transition. They are working for a smooth transition to ACE. He reported that they are using the Border Interagency Executive Council (BIEC), joint webinars, and other communications to conduct regular outreach to industry to achieve a smooth transition to ACE.

He stated he is looking forward to recommendations from the Exports Subcommittee. He then stated that the Commissioner appreciated meeting the COAC leadership members who attended the Western Cargo Conference in Palm Springs. He recognized how integral the Single Window, Export, and Trusted Trader issues are to CBP's trade mission and the goals around predictability, transparency, and flexibility are. COAC plays a pivotal role from CBP's perspective in helping modernize our operation and provide benefits to the global economy.

Opening Remarks by Timothy Skud for Department of Treasury

Deputy Assistant Secretary Skud told the group that his particular interest today is the ACE International Trade Data System (ITDS), and he would like to know the advice and recommendations of the group on this. He also said the Treasury Department is interested in the work of the Trade Enforcement Revenue Collection Subcommittee.

He suggested that he is interested in hearing about the experience after the manifest rollout and especially the extent to which people have been using the electronic bond functionality. He said he hopes to get a sense of how that's working for folks and to what extent it's being used.

Opening Remarks by Seth Stodder for Department of Homeland Security

Seth Stodder introduced himself as the Assistant Secretary of the Department of Homeland Security where he works for Threat Prevention and Security Policy which covers a lot of areas from screening of people to enforcement to information sharing agreements around the world. He also works with trade policy and foreign investment reviews as well as supply chain of security and transport security.

He told the audience that he worked with Kevin McAleenan within Commissioner Bonner's office and last attended a COAC meeting about 10 years ago. He said he is looking forward to several of today's reports. He also said he looks forward to facilitating secure and expeditious flow of lawful commerce throughout the U.S. and the global economy. He looks forward to the Electronic Cargo Security Devices (ECSDs) report and discussions of the C-TPAT program, including the Trusted Trader concept.

Assistant Secretary Stodder explained that he is interested in areas of importance for the department from the Secretary on down to get this over the finish line. He emphasized his support for the project as being top priority. Mr. Stodder also mentioned he has been deeply involved in representing Homeland Security and its agencies with the U. S. Trade Representative (USTR) in the negotiations of the TPP (Trans-Pacific Partnership) which are completed except for the battle with the U.S. Congress. He is interested in talking about reducing trade barriers while we make sure we have secure trade within the context of the agreements. He is very interested in the group's ideas on this topic.

Assistant Secretary Stodder added that Homeland Security is working with CBP and everyone in COAC to see how trade is evolving and how our strategies in the U.S. should accommodate this evolution. He commented that he hopes to rev up and start thinking about an eCommerce strategy and how to work with smaller to medium-sized enterprises that are participating in global trade and the various regulatory changes that should be thought about in this context.

Remarks by Vincent Iacopella and Julie Parks

After recognizing and thanking Ms. Boyce, Deputy Commissioner McAleenan, Deputy Assistant Secretary Skud, and Assistant Secretary Stodder, Committee Co-Chair Iacopella talked to the group about the tremendous challenges and opportunities available now with automation and efficiency. He added that the dichotomy is the cost of these changes. He emphasized that the changes have been collaborative and have included input from all parties to come up with the most common sense results.

He commented that he feels the past year has been successful if you look at all that was deployed and adopted. He said he believes the July recommendation on Single Window was more tactical than they had wanted, but it was the only way they could demonstrate the effect of the economic impact of these changes. He said this is why they went tactical rather than strategic.

Mr. Iacopella added that although the capital investment on behalf of customer brokers and filers was substantial, the supply chain of importers and exporters have a lot of value tied to this investment. He stressed the importance of the communication piece of this. He said leveraging the Border Interagency Executive Council (BIEC) and ITDS, especially with the feedback from the pilot participation with the Partner Government Agencies (PAGs) was also informative. He continued by saying a lot of work was done on Global Supply Chain and Export subcommittees. The focus is not being taken off of Single Window.

Committee Co-Chair Julie Parks compared 146 recommendations from the 13th COAC to the 22 recommendations that are currently on the books for the 14th COAC. She said it is important from a COAC perspective to review current status of the recommendations with Customs in an effort to maintain transparency. She said there will be recommendations today around the Global Supply Chain regarding the electronic cargo security devices and other recommendations from the Export Manifest Work Group related to the Federal Register Notice that has come out. One U.S. Government at the Border will also make some recommendations regarding the Single Window; and Trade Enforcement and Revenue will have some advice and guidance on the Office of Regulations and Rulings (ORR).

Ms. Parks said that there have been 44 working sessions of this COAC since the last quarterly meeting. She said a lot of work has happened and where there are disagreements, they will continue to engage in dialogs to resolve the issues. She said Trusted Trader and Trade Modernization will provide needed benefits to key areas of things that need to be seen from a business perspective.

Lastly, Ms. Parks thanked members Celeste Catano and Mike Young for taking charge of the fourth survey that is expected to come out in mid-December and close in mid-January.

Global Supply Chain Subcommittee

Subcommittee Co-Chair Adam Salerno from the COAC began and said there have been two active working groups, the Electronic Cargo Security Devices (ECSD) and the Pipeline working groups. He explained that Air Cargo Advance Screening (ACAS) topic has been on a holding pattern waiting for approval of a regulation.

CBP's Liz Schmelzinger introduced Sean Moon, Acting Director of Transportation and Cargo with the DHS Office of Policy. Mr. Moon said he was enlisted about six months ago to look at ECSDs to determine the barriers of usage, the benefits, operational risks, and the private sector's viewpoint of the return on investment of ECSDs. After several energetic, informative, and educational meetings, they came up with some fairly specific and usable recommendations.

Mr. Salerno reported that the Subcommittee concluded that ECSDs may have wide-ranging functions for tracking certain shipments but that there are operational shortcomings and costs that prohibit wide scale adoption. He said the COAC applauds companies that voluntarily use and invest in this technology and proceeded to read the following recommendations:

Recommendation No. 1: Companies that voluntarily use ECSDs should not face additional burdens when crossing international borders. Regulations should be modernized and interoperable and necessary rulings modified or evoked to eliminate any additional paperwork, data entry, duty payments, or Customs declarations when moving these or similar tracking or monitoring devices, regardless of positioning of the number of devices inside or outside of the shipping container. ECSDs should be universally accepted as an instrument of international traffic. CBP should work with trade partners to find a 21st century solution that overcomes barriers.

Recommendation No. 2: COAC recommends that CBP monitor the technology market focusing on technologies that are gaining wide market acceptance. The voluntary use of ECSDs and other technology will create a better product and drive a market-based solution that is mindful of international trade and transportation modes. Any consideration of these devices would have large impact on international trade with variation by mode of transportation and should always consider operational impacts and cost-benefit analysis.

Recommendation No. 3: Companies that voluntarily use ECSDs utilize the data to monitor movements of a shipment's life cycle. This information is and should remain proprietary and should not reside in the public domain. There should be no expectation that this data will be made available to parties outside of the shipper, its contract carrier, or other authorized parties.

After calling for discussion, there being none, a vote was taken and **all three recommendations were passed unanimously.**

Liz Schmelzinger said they will continue to monitor the maturity of the ECSDs and the operational impact and cost-benefit analyses on the international trade arena.

Adam Salerno continued and said that the working group and Global Supply Chain subcommittee has met with CBP and industry stakeholders to discuss the lack of uniformity at ports of entry, automation procedures, and modernized regulations governing the movement of products through pipelines. He reported that COAC has been working with industry experts and CBP to coalesce around recommendations to develop an appropriate approach for this industry. He said they plan to use a pilot program to test any recommendations that move forward and hope to find solutions that are suitable for both industry and CBP in the short term. He said he hopes to have more discussions in January and February of next year and get a pilot program moving forward.

Jim Swanson, Director of Cargo Security and Controls, Cargo and Conveyance Security with the Office of Field Operations, CBP told the group that they approached COAC because of complaints from the industry that they didn't feel their concerns were being heard and they didn't feel represented. He said that through meetings they discovered how little they knew and proceeded through the torturous process of talking to each other to try to set boundaries and guidelines which was eventually successful. He said they will be running a pilot on in transit movement. He said additional work on recent rulings will be undertaken to provide the trade with guidance.

Adam Salerno related to the audience that the Global Supply Chain Subcommittee has been meeting with CBP and industry stakeholders to discuss the lack of uniformity at ports of entry, automation procedures, and modernized regulations governing the movement of products through pipelines. He pointed out that there has been little regulation for the pipeline industry but added that he expects ongoing meetings will produce some recommendations and a pilot program for the industry.

Jim Swanson reported that the pipeline industry people reported not feeling represented, and he admitted that COAC didn't know a lot about the pipeline industry. He said a big part of the problem was that in the past rules for standardization were created without industry participation. He explained that with recent communication they believe there will be a pilot on in-transit movement shortly. He attributed a lot of success to the fact that the work was largely driven by CBP's Petroleum, Natural Gas and Minerals Center.

Export Subcommittee

Before turning it over to Heidi Bray, Subcommittee Co-Chair Liz Merritt reminded the group that the Export Subcommittee is divided into a commodity side and a manifest side. Subcommittee Co-Chair Bray reported that the Option 4 Work Group has been on hold while waiting for risk documentation from Customs that will be used to build the

program around the risk documentation. She said they want to be able to utilize a post-departure option for filing and that they are considering an account based predictive data set to be provided annually to CBP by Option 4 entities. Ms. Bray said they believe they should be able to leverage ACE, Trusted Trader, and account-based processing to come up with a product that will work for all parties.

Jim Swanson began by talking about what hadn't worked for them and why. He said they worked on determining what can be delivered that meets the needs of the trusted partners without forgetting about the low risk repetitive export market of small holders on the agriculture side. He said they have agreed not to talk about Option 4 as a program. Mr. Swanson said it is time to talk about pre-departure and post-departure information now and to consider what levels of information are appropriate to the risks. He explained that they need to get to the point where repetitive shipments can go in a post-departure filing.

Liz Merritt turned to the manifest side and said they have been working primarily on the air side since the last public COAC meeting due to the fact that the Federal Register Notice (FRN) for the air export manifest electronic pilot was issued first for the air mode. She said member Mike Young is working on the ocean data elements and that Mike White from IATA (International Air Transport Association) will be working on the truck manifest. She said that the work on the air segment has been based on a recommendation from the last COAC regarding establishing timelines and data element requirements to allow a robust test of the progressive filing model. She said this has involved an element-by-element review. Ms. Merritt explained there were many questions pondered in determining the data elements to use and not use. She said they asked whether elements should be mandatory or optional; pre-departure for risk assessment; or post-departure with a reconciliation of data; should the forwarder or carrier be the primary party tasked with delivering the data element; and which elements should be eliminated. After these decisions were made, recommendations were constructed.

Recommendation No. 1: We recommend that CBP formally recognize in its air export pilot documentation the fundamental difference between house airway bill or shipment level data and master airway bill or consolidation level data as was done for import electronic data in 19 CFR 122.48a. For the export pilot this difference should be recognized by delineating and redefining the data element list along a house/ master demarcation as per the specific recommendations provided in Recommendation 6 which includes elimination of the imprecise terms "consolidator" and "de-consolidator."

Recommendation No. 2: We further recommend that flight-level information be distinguished from master-level data such that flight information can be provided independently of and subsequent to the provision of both house bill data and master bill

data and that flight information remain a post-departure transmission during the pilot period as per the current paper manifest filing time frame.

Recommendation No. 3: Per the concept of decoupling shipment data from transport data, the effectiveness of which has been proven by over five years of ACAS pilot experience, we recommend that CBP designate house bill and master bill data elements for pre-departure submission to allow risk targeting in the pre-departure time frame well in advance of flight departure. At the same time, recognizing the time pressured operational environment of air cargo and the current pre-departure regulatory structure for the automated export system, no data deadlines for house or master airway bill transmission should be set earlier than the filing for AES.

Recommendation No. 4: Per the Trade Act dictate that data be provided by the party in the best position to do so we recommend that CBP further designate that house bill data, during the pilot period, may be provided by participating freight forwarders, while master bill data and flight data should be provided by the carrier.

Recommendation No. 5: Finally, recognizing that industry and CBP may have different opinions regarding what cargo information, per the Trade Acts Mandate is -- quote -- reasonably necessary to enable high-risk shipments to be identified for purposes of ensuring cargo safety and security -- end quote, and recognizing that industry was surprised by several new data elements that were introduced in the FRN for the air export manifest pilot without prior discussion with COAC, we recommend that data elements not currently required under the export manifest regime be designated as optional for the pilot period. We believe that even with the optional designation the pilot will supply sufficient information to determine the necessity of the new data elements for risk assessment to be weighed against the burden their provision will cause to the trade. We also note that one FRN data element, consolidation status, appears to have been included in error as it is not applicable to the air environment and that another number of house airway bills is an unnecessary element in an electronic reporting system, and, therefore, both of these elements should be removed from the list.

So those are the five general recommendations.

Ms. Merritt provided additional data element information as a point of information but did not provide all the details so as not to bore those in attendance.

After calling for discussion, there being none, a vote was taken and **all six recommendations were passed unanimously**. (See slide deck from 10/29/2015 for the 6th recommendation details).

Assistant Commissioner Todd Owen took this opportunity to announce that because

Jim Swanson is spread thin between his work with Single Window and cargo Release, Ed Moriarty, Assistant Port Director for Trade out of Philadelphia, a field expert, will be brought into headquarters and will be the senior leadership official within OFO to spearhead and move forward on the work within the exports. He said that Mr. Swanson has done a great job but wants him to focus completely on Single Window and Cargo Release.

Member Lenny Feldman said the foreign trade regulations and export data Option 4 has been looked into, and he said it is critical to engage Census in the process. Jim Swanson agreed with Mr. Feldman. Mr. Swanson said they will be meeting with participants in the Export Manifest soon to work with them to determine how to determine the data elements necessary.

Maria Luisa Boyce introduced the speakers listed for the One U.S. Government Subcommittee and then realized that she had forgotten to call Debbie Augustin up to speak about exports of the automation and accomplishments in this area.

Executive Director Debbie Augustin reported that at this point in the program they have more than 80 percent of the export processing functionality deployed through ACE. She said they have deployed capabilities that are in support of export manifest filing for air, rail, and sea modes and are working and continuing to work with Census to integrate AES Direct with ACE. She said the ACE exporter accounts and export reports were delivered this past June as part of the deployment. She explained that at this point they are in the process of trade data testing ACE, AES direct filing capabilities, and are looking forward to expanding two additional trade filers shortly.

One U.S. Government at the Border Subcommittee

Scott Boyer first reported that this subcommittee has three co-chairs: Amy Magnus, Susie Hoeger, and Scott Boyer. They have two working groups: Single Window Working Group and the North American Single Window Vision Working Group, also known as NASWVWG. He described the latter as consisting of importers, exporters, filers, software vendors, Canadian and Mexican trade partners, and CBP, with a focus to facilitate a collaborative dialog between CBP, CBSA, SAT, and the broader trade community to clarify the future vision for a potential North American Single Window.

Subcommittee Co-Chair Susie Hoeger explained that for the most part the involved agencies are highly collaborative with regard to the pilots, and they are working through some kinks at this time. She said one area of concern is data creep. Many data elements currently provided are truly relevant for admissibility decisions on low-risk cargo at the time of entry. Ms. Hoeger defined the mandatory collection of this data as policy creep.

Ms. Hoeger said they believe it is important to instill a sense of ACE confidence in the importing community in order to attract more importers into the pilot programs. She elaborated that more frequent and less technical communication to importers and filers would be beneficial to the program. She reported that feedback from the trade on the PGA pilots have identified issues to be addressed in order to ensure proper balance between security, safety, and trade facilitation. CBP was asked to escalate and discuss these issues with the BIEC.

Ms. Hoeger continued to say that communication and outreach are needed with published importer FAQs for how to join a pilot. She stressed that prompt acknowledgement of receipt of requests is very important. She said key issues and information learned from pilots should be published on CBP.gov and widely communicated to the trade as soon as possible. Further, she said CBP and PGA should publish a list of ACE contacts and escalation points by port and/or district or region.

Subcommittee Co-Chair Amy Magnus picked it up with recommendations dealing with the PGA message set and related ACE functionality.

Ms. Magnus continued to say COAC recommends that CBP do the following:

Leveraging of the BIEC as appropriate with PGA matters are involved -- the first one: The business rules, implementation guides, and record layouts for all PGAs should be locked down now with no additional changes allowed prior to the February 2016 mandatory filing deadline. The agencies have had enough time to finalize their layouts. Importers and filers need to be afforded the same courtesy in terms of having adequate time to complete and test their own programming.

As recommended previously (Recommendations 14008 and 14018), CBP should work with PGAs to minimize data creep. Data not used for admissibility decisions before, including forms that were kept in brokers' files but rarely requested by PGA, should not be used for that purpose now. The agencies should collect this data post entry, if necessary, but it should not impede the entry process when no real risk is present. In continuation, all data elements that are included in the Customs entry and are also required by the PGA should be fed automatically without having to re-key the data. CBP should incorporate automated house bill release and ACE cargo release, and companion manifest capabilities where it does not exist to facilitate effective visibility in managing cargo release at non-automated facilities. And finally, in this group CBP should implement an eBond process for DOT Bonds.

Second recommendation: This recommendation is for the PGA pilot process. COAC recommends that CBP do the following: leveraging the BIEC as appropriate when PGA matters are involved. The PGA should evaluate staffing levels to ensure they are able to turn around releases in the new shorter time frames. The timing of certain automated PGA data may shorten the time the PGA has to review the data for cargo release. CBP and the PGA should establish a true One U.S. Government process whereby requests for documents and our exams are made once on a multiagency basis and the same information or exam results are used by all agencies.

In continuation, unless FDA intends to continue pre-validating data after the conclusion of their pilot, FDA should test real invalidated data during the pilot to ensure all potential issues are identified and addressed. If FDA intends to continue pre-validating data, it should be done one time at a master data level and not at a shipment level. Pre-validating data on a shipment level is not sustainable by the trade or the agency. CBP, via the BIEC, should encourage FDA to relax all non-critical data requirements, for example, those that are important to the agency but do not impact admissibility and weren't previously provided at the time of entry so that release is not held up due to the additional new data elements. Additional information or validation, if deemed necessary can be provided post entry.

If FDA is not willing to relax and/or eliminate some of its new requirements, we recommend that the mandatory filing date for FDA is pushed to later than 2016 to allow time for further testing of real data.

Subcommittee Co-Chair Scott Boyer added that the last PGA recommendation holds the following: The COAC recommends that CBP, the BIEC, and the ITDS Board of Directors provide guidance to the trade community so that they may properly understand the hold authority of CBP as well as those of the PGAs whose regulations permit pre-emptive authority at the border. The trade community needs clear guidance on who has the authority to issue a hold, how the hold will be managed, particularly under any relevant PGA pilots, and what the actions may be taken to resolve the hold or detention.

Mr. Boyer continued: We believe the PGAs who have the ability to detain or hold cargo at the border may also have the authority over imported goods after they have cleared the border and been released from CBP custody. For this reason the trade community needs to understand its obligations both at the border and after importation. We highly recommend the issued guidance include a list of current laws and regulations enforced by each PGA, the process to be followed to satisfy each agency's import requirements and additional information requirements for the other PGAs who rely on CBP's 30-dy detention period in 19 USC 1499 to ensure that imported goods can be made available to them after release.

Mr. Skud expressed the following opinions regarding the recommendations above: He said he believes the business rules and the record layouts for PGAs should be locked down now. He clarified that when PGAs are talked about, it is intended to include all PGAs in the current ACS electronic reporting functionality and not the other 20 PGAs. He questioned the definition of locking down and said that what is important is getting quality that works and is not expensive for the trade community to file so there isn't an incentive to file paper.

Mr. Skud reported that he has had conversations with many who say they would like to see changes in NHTSA due to data and policy creep issues. He also said he needs more detail on APHIS before lockdown.

Ms. Magnus explained that due to the short time period left between now and February she doesn't know whether she will be able to meet the deadline and be able to get testing done and get feedback from the pilot. She said FDA comprises probably 25 to 30 percent of all of their cargo, and NHTSA hasn't even been talked about yet.

Susie Hoeger added that the importers have even less time available and that everyone needs time to adjust their own programming and processes.

Captain Domenic Veneziano said he understood that software requirements aren't changing at this time; however, some insignificant changes may be necessary.

Executive Director Cynthia Whittenburg clarified that the goals are not changing for agencies with roles and responsibilities at the border. She said many comments she has received deal with communication, and they will be addressed with an attempt to be more transparent about what's going on. She said they need folks in the system partnering with them as early adopters in order to be ready for everyone to get involved. She explained that what is needed from the government side is a better job with enforcing and risk management, and for the trade to be a seamless single window that they are looking to achieve.

Member Cindy Allen said she believes everyone understands the goal and that they all know about the CATAIR specifications for the new PGA records. Then all the regulations for NHTSA need to be pulled out and the legal requirements looked at. Then the CATAIR need to be decoded for NHTSA. She said the needs of importers must be considered as well as the needs of the software provider. She explained that software is different for each importer. She explained that each importer is different and creates differences in software development.

Ms. Allen said she believes all the participants want to make money or they wouldn't be here; and meanwhile, she said everyone needs to keep the shipments going. She said that when we consider this to be final and can answer all the questions for the software vendors, they can complete the program. She added that then the people can be trained and Susie Hoeger as an importer can go back to her supply chain and tell them what else is needed and wrap it all together.

Member Celeste Catano volunteered to give a quick answer to Captain Veneziano. She said she had a preview of the FDA recommendation. She said there is a list of changes to be made and that one field is no longer going to be required, and the codes will have to be corrected in order to delete the unneeded field so new programming is required.

Co-Chair Vince Iacopella spoke next about the business model. He reiterated the fact that some people will be testing and some won't be. He said private sector companies all allocate their resources differently. All businesses have similarities as well as differences, and every business won't use the same software vendors. He said periodic assessments are crucial as well as phased adoption.

Deputy Assistant Secretary Timothy Skud said that he will share this information with the ITDS Board and address the issues relevant to data and policy creep. He said some future member-to-agency consultation might be needed in order to make progress.

Maria Luisa Boyce said in order to follow FACA regulations, since this was a working document that was provided by the Work Group to the Subcommittee, it will be published on the webpage so it can be available for the public, too. She asked the Work Group to add the caveat that it was a working draft and explain where the document came from so there is no misinterpretation from the public that these were recommendations before deliberation. She said this will be necessary in order to keep the transparency of the process.

Susie Hoeger said where it says potential recommendations, she will put in the final recommendations. Mr. Skud agreed with this procedure.

Mr. Skud continued by requesting some details regarding the Customs Entry. Looking at the next slide, Mr. Skud said that his colleagues at the Department of Transportation say they want to work with CBP to incorporate their requirements in the eBond process.

Mr. Iacopella said that the testing by EPA on the agricultural chemical pilot shows that it is functioning well. He said getting rid of the Notice of Arrival paper form was a huge improvement in the process. He added that the mode of entry into the U.S. via air and ocean are manageable but shipments arriving from Canada cannot use the ocean bill of

lading into the First North American Port of Entry. He needs a Canadian Rail bill of lading, and they are getting it much later in the supply chain. He explained this means that in Area 5 of Chicago EPA they may have had a couple weeks to look at the document in the past and now they might have only four or five days. The question becomes how does the agency look at all the papers in the shortened period of time? He is currently discussing this situation with CBP and EPA.

Mike Mullen, Executive Director of the Express Association of America, wanted to bring up two data points. One was everything that was discussed about programming, testing, and training that's required between now and February. The second point he mentioned was the experience he has had implementing Air Manifest in ACE since June. He said it was a torturous process, but they have made tremendous progress. He said the reason for the success was because CBP adopted a policy of facilitation.

Mr. Mullen said his question is: Is CBP working on the development of a sophisticated policy of facilitation to make sure that the implementation of ACE next year is completed successfully without shutting down the U.S. economy for significant periods of time.

Mr. McAleenan responded to Mr. Mullen's final question by saying it will all be done with flexibility, that adjustments will need to be made whether emergent or planned, and they don't plan to shut down trade as changes take place.

Mary Ann Comstock, former COAC member and who is now a consultant, asked whether a 13th term recommendation for a draft message set document could be looked at by One U.S. Government at the Border. She said this draft message set document, No. 13114, was worked on with the ACE business office participation. She said she believes this is needed in order to get through the PGA work. She said her colleagues at UPS have reported that they need further clarity in the messaging they are getting back.

Ms. Comstock also brought up the fact that there are problems with Master and House bills if the carrier files it as a regular bill which would cause messaging challenges. She said this is another area that COAC can help with.

Assistant Commissioner Smith added that a mechanism is needed to take in all this information and learn from it as we go along. She reminded the group that this is a transitional phase and change is always difficult. She also reminded the group that it was figured out a long time ago that a big band deployment is not a good thing. She explained that they need to start with some basic commodities to get it started. Mr. Skud agreed that the February 28th deadline should be the target. Ms. Boyce agreed and said that they will provide everything needed to help everyone meet the deadline.

Committee Co-Chair Julie Parks commented that she believes CBP is recognized as being a partner with us in the facilitation. She requested that the message should go back to ITDS and the BIEC that they should work with us. After a brief break Ms. Parks requested an explanation for the group of the path from a legal perspective that would help the group understand and not take out of context some of the notices that get published because they're required by law. Maria Luisa Boyce asked Executive Director Debbie Augustin to address this.

Ms. Augustin said while the work continues with the Single Window implementation, the work around the legal and regulatory framework will be continuing. She related that on October 13th an interim final rule was published that officially designates ACE as a CBP authorized electronic data interchange system which is authorized for processing entry and entry summary filings. This was a signal to the public that the legacy automated commercial system will be phased out. She said this will lead to a notice specifying all of the entry types applicable under the notice.

She said the next step will be the Notice of Proposed Final Rulemaking which is the final piece of the legal framework that set up ACE as the sole electronic data interchange processing system for entry and entry of summary filings. She said this coincides with the February 28th timeframe. She explained that while in the transitioning to ACE phase, paper filings can be accepted but as of the June/July timeframe when the final rule goes into effect, they will be looking to end the hybrid phase. She said feedback from the trade and the public is welcome and wanted.

Member Lenny Feldman said he believes flexibility has to be available and used during the transition phase.

After calling for discussion and concluded a vote was taken and **all four recommendations were passed unanimously**. See slide deck from 10/29/2015 for the all four 1USG recommendation details).

Trade Enforcement and Revenue Collection Subcommittee

Subcommittee Co-Chair Kevin Pinel was introduced and reported that the Antidumping and Countervailing Duty Working Group has been discussing and reviewing the recommendations made by the 13th term. He added that the Intellectual Property Rights Working Group has been reconstituted and has submitted a proposed statement of work containing four key areas of focus that the group thinks they can make impact on and to address and develop recommendations. There are plans to add questions to

the trade survey in order to gain more information around intellectual property rights and what stakeholders see from their point of view.

Subcommittee Co-Chair Lisa Gelsomino expressed her gratitude for all the collaboration and work between CBP, the Department of Commerce, and ICE. She said the Bond Working Group will be starting up in January 2016. Since eBond was deployed in January 2015, there have been over 140,000 eBond transactions completed -- a real time saver. Ms Gelsomino said a high volume user of DOT bonds that brings cars into the U.S. from Canada said if they had to use paper, it would add four hours a day to their staffs' work to convert the paper bond into the DIS module, and this is why COAC recommended DOT Bonds be converted to a similar eBond process.

Another upcoming change reported by Ms. Gelsomino is that the Bond Working Group will start up in January of 2016 and will focus on the bond directive for determining bond amounts and also the 113 rewrite that will be required because of eBond. Bonding is also being looked at in regard to antidumping and countervailing duty.

She commented that CBP has recently launched a program to look at importers that have had outstanding antidumping debt to see if there are any related entities. She said it levels the playing field to see that Customs is looking at this work. TERC has also been meeting and preparing for the Trade Facilitation and Trade Enforcement Act of 2015. Another thing Ms. Gelsomino reported is that CBP is trying to build its trade enforcement vision around the Centers of Excellence. She said it helps the Trusted Traders and eliminates the bad actors. She said a CBP report shows an increase in penalty assessments from 385 million in 2011 to 925 million in 2014.

Ms. Gelsomino read the following recommendation:

COAC recommends that CBP, in consultation with the Office of Regulations and Rulings take immediate steps to identify those areas of enforcement involving PGA admissibility issues where the current CBP penalty and/or liquidated damage regime does not allow CBP to provide any independent relief apart from the Partner Government Agency (PGA) recommendation. As an example, we urge CBP and OR&R to articulate mitigating factors for liquidated damage claims involving the failure to redeliver merchandise subject to FDA requirements.

We believe that this will become increasingly important as we integrate into the ACE Single Window. And we're recently encountered, I guess, a little bit of confusion on how those mitigation guidelines are playing out between the ports and between FDA. And so we would ask for consideration on this recommendation.

After appropriate motions, Ms. Boyce took a vote and **the recommendation was passed unanimously.**

Executive Director Cynthia Whittenburg stated there is value added in the Antidumping and Countervailing Working Group because of fluid communication between Customs and domestic importers and the Working Group. She said there is so much unfair trade practice going on that they work hard to keep ahead of it with input from the group in helping hone their tools and communicate and be transparent in terms of their efforts. She reported that they successfully piloted a voluntary abandonment program at the Express Consignment Hubs, and this year they plan to be more transparent in the downstream process following the abandoned shipments and ways to share information with rights holders.

Ms. Whittenburg said they will be collaborating with the bond group early next year to work on how to set monetary guidelines. She said they are considering looking at other agencies that have bonds. She said she wonders if they should include it in the functionality that is being deployed in ACE.

Manuel Larragoity, representing the Director of Homeland Security Investigations, reported that the IPR Center is going to continue working with CBP, private industry, and their 23-partner agency to attack illicit trade and hope to continue their success from last year into the coming year. One area they have been working in and will continue to do is investigating counterfeit items distributed through the internet. He said they have Operation Engine Waiting that works with counterfeit parts for the automotive industry. Another project he reported is called Think Player which deals with sport area items. He said they are expanding from the football arena to Major League Baseball where they have agents looking for counterfeit chairs. He listed Apothecary Pharma and Plastic Beauty as two more operations under investigation.

Mr. Larragoity explained they have the Trade Enforcement Unit that is working with the Antidumping and Countervailing people as well as the Department of Commerce and the CBP. He said they have increased their number of cases and convictions, and the case known as the Honey Case has had 26 arrests. He added that a recent case in San Juan where they worked with CBP and private industry has resulted in five arrests. He emphasized that cooperation from private industry is important in these cases.

Trade Modernization Subcommittee

Subcommittee Co-Chair Lenny Feldman commended the TERC Subcommittee for the recommendation passed earlier today because it is not only about enforcement but also includes facilitation. He recommended that incidents be looked at from an account-

based process. He talked about three centers that have been fully deployed with seven more coming on in 2016. He announced that the new Centers Uniformity Working Group has been designed to seek concepts, promote uniform treatment and transparency in the centers as they've been deployed. He said they are looking to see what other things the centers can do and suggested they might be able to provide assistance with functions such as cargo release and entry. He asked to what extent they might get liquidated damages and penalties in the Fines, Permits and Forfeiture process.

He said they respect the work of Regulations and Rulings but there's an expectation in the trade that to facilitate the concepts of informed compliance and he asked how can the centers help with that process and facilitate it. He discussed the fact that it sometimes seems that there are 47 shades to enforcement. He said this comes from the different types of PGAs and the difficulty to get them all on the same page. He said he hopes to actually bring them together.

Mr. Feldman said in light of Ana Hinojosa being the WCO Director, they have been focusing on compliance and best practices with International Affairs. He believes this is the right time to work on their trade modernization subcommittee's working group on International Engagement and Trade Facilitation. He wants to look at whether our partners are promoting our exports or not. He said he wants to focus on trade barriers as well as best practices and look at where the countries will get the best bang for their buck. He said he wonders if they are posed for success with the TPP and with T-TIP, and other facilitation agreements that are out there.

Mr. Feldman said he is looking forward to working with Cindy Allen and Adam Salerno to focus on the global efforts in light of the Trade Facilitation Agreement. He said he believes some very interesting recommendations will be coming out over the next few meetings.

Subcommittee Co-Chair Cindy Allen said they are ready to proceed with an aggressive schedule and have their work group members identified. She said their third group is the Role of the Parties that will begin work in 2016 with their main focus being on the role of the parties in the overall supply chain. She discussed that even when their group and their partners complete a process, problems tend to occur or efficiency gets lost in the handshake between the silos. She said this is most often in the automation efforts where the information doesn't transfer from one point to the next and when one port is automated and another is not.

Ms. Allen said this can prevent processes and policies from becoming effective or widely adopted in the Supply Chain. She stressed this is the reason the role of each

party and how they interact must be understood to assist in identifying issues and developing solutions. She said they want to build on the work of the Role of the Broker.

CBP's Susan Thomas reported that in June of this year three of their centers reached full operability which means that the post-release trade function and the Import Specialist personnel have been permanently transitioned to those centers. The centers are electronics, pharmaceuticals, health and chemicals, and petroleum, natural gas, and minerals. She said that as of June each center was appointed a permanent center director, which affirms the commitment to reaching full maturity for all centers in 2016. She emphasized that in the end state the centers will process all the post-release trade functions and personnel associated with that work will transition to the centers as well.

She stressed that it is important to note that the centers touch Global Supply Chain, Trusted Trader, and PHA interaction. She said she looks forward to working with the Uniformity Working Group and its members to improve on some best practices and work on consistency across all centers.

Assistant Commissioner Smith said she is interested in the regulations and rulings side of things. She said she would like to see improvement in the length of time it takes to get various types of rulings.

Lenny Feldman added that the numbers for the rulings need to be looked at and it needs to be determined whether they are talking about binding rulings or perspective classification rulings of a protest and whether value issues are involved. He believes a starting point would be to look at the strengths and see where improvements can be made. Mr. Feldman said he was happy to hear Ms. Smith report that they will be happy to share the numbers they have with him.

Executive Director Cynthia Whittenburg said the Trade Modernization Subcommittee is a nice sandbox to play in. She explained that this would be an opportune time to provide input and look back with the centers at what the original vision and purpose was, value added of the centers when the recommendation was offered by COAC in the past, and looking at progress. She said as they are getting ready to move into operationalizing all 10 centers, this would be a good time to provide input from their trade partners.

Ms. Whittenburg in the past two years when COAC offered 22 recommendations, they have been working on those. She said the working group has been dormant and they have consulted with the NCBFAA. She said they have been addressing the challenges of increasing professionalism of the broker community, looking at how ACE modernization fits into this, identity theft and all of those challenges. She said the operable phrase should be roles of the broker rather than role of the broker. She stated

that with all the work that has been done that the working group under trade modernization can now be reconstituted.

She said with the appetite for the Office of Management and Budget (OMB) to take in new regulatory requests, things are moving a bit slower. She said they would like to put their capital behind their regulatory strategy with respect to ACE and Single Window. Ms. Whittenburg concluded that there is flexibility to now go back to the working group and work on perfecting whatever package they decide to move forward. Cindy Allen agreed and said this would be a good kickoff for determining the overall role of the parties so they can understand their role.

Acting Deputy Assistant Commissioner Ana Hinojosa agreed that this is a good time to accomplish the tasks discussed and said it fits in well with CBP's 2020 vision and strategy document the outlines the strategic goal of enhancing U.S. competitiveness through promoting lawful trade and travel. She said she believed this is a golden opportunity because many countries will be looking at their processes to see what improvements can be made.

Mr. Feldman added that there has been a very broad-based discussion on the role of the broker. He thinks they don't want to be confined to a working group because of the number of stakeholders involved. He said he would like to see what the feelings of others are as to how they should approach and whether CBP has a plan about how to navigate through these issues.

AC Smith said she doesn't believe in starting from zero and believes in building on the work that's already happened. She added that she thinks they need to make sure to take advantage of the opportunity in the next couple of months to get the stakeholders together and go through proposed solutions and move forward.

Trusted Trader Subcommittee

Subcommittee Co-Chair Alexandra Latham reported that over the last quarter they received updates from CBP on the Trusted Trader Pilot Program as well as on export C-TPAT. She updated the group and said Liz Schmelzinger is now on the subcommittee. She said they have agreed that they need a plan to move forward in the Subcommittee and have proposed a two-phased approach to this. She explained that the first phase, Phase 1, is focused on strategic recommendations for the next quarter to establish a baseline for Trusted Trader in four areas. She said they plan to look at the features of what they expect to see in the Trusted Trader Program, one that combines compliance, security, PGAs, one that has a global alignment with the WCO and the AEO programs with the existing MRAs and future MRAs, and also include Export C-TPAT.

Ms. Latham continued and said they need to keep in mind that the benefits of programs need to outweigh the costs. She said the fourth element of the initial phase would be to look at the transition of existing members in C-TPAT and ISA to a new enhanced Trusted Trader program. After these steps have been taken, they plan to develop more specific recommendations that look at global alignment, PGA integration, the transition and then the benefits.

Subcommittee Co-Chair Michael Young welcomed Liz to the group and said her enthusiasm and direction are going to be beneficial for the subcommittee. He said he believes there is a lot of impact in the Export Manifest and in the Option 4 side in relation to how the Trusted Trader program can interface and provide value in terms of how customers are dealt with and in terms of benefits to be gained from the program.

Mr. Young said the unofficial feedback from looking back revealed that there are some areas that are somewhat cumbersome in terms of the protocols that have been applied in developing and moving forward in the Trusted Trader program. He said he believes this is good to talk about some strategic recommendation to see how to maintain the requirement in terms of risk assessment and in terms of regulatory requirements but also to provide the benefit to some parties to see how to mitigate some of the complexity in terms of the Trusted Trader program as it works today and in terms of some of the pilots. He said he hopes to be able to create some value and improvement to make this more of an international program so we don't find ourselves in the position that only the U.S. is doing something. He wants it to be aligned with the other parties from other countries and try to see how we can gain some mutual benefit in moving forward.

Liz Schmelzinger stated it is her pleasure and honor to serve in this role. She is excited and believes it is important to have a dialog about the pilot itself to gain an understanding of what worked, what didn't work, and why certain things didn't work. She informed the group that a team is going to the EU shortly to gain an understanding of how their program works. She said she believes it is important to understand the global view with its differences, pluses and minuses, and to understand our compliance programs, our security programs, and where the differences are so we understand what we are talking about when we talk about Trusted Trader and offering benefits globally.

Closing Remarks by Deputy Commissioner Kevin K. McAleenan

The Deputy Commissioner told the assembly of COAC members and the public that he is impressed with the group's staying power and sticking with this for two days. He said he observed that the discussions today were as good as he has heard in any COAC. He said the feedback on the ACE and Single Window issues hit on fundamental critical

path concerns for the implementation of the program. He told the group the pilots, communications, and lockdown concept are taken to heart. He thanked everyone for the work of the COAC and the Subcommittee.

He explained that he is pleased that COAC is actually grappling with the issues that have been circled on the mat for two to three years now. He said he believes the first set of recommendations are very strong and that he likes the move to pre-departure posts and is impressed with the direction on the exports.

He complimented the last two groups and said he heard a lot of energy in the Subcommittee and Liz Schmelzinger certainly contributes to that energy.

Deputy Commissioner McAleenan thanked Committee Co-Chairs Vince Iacopella and Julie Parks for their good work that will improve how trade moves across our borders.

Maria Luisa Boyce asked Deputy Assistant Secretary Skud if he had any closing remarks, which he didn't. She adjourned the meeting at 3:57 p.m.