

13th Term COAC Draft Recommendations
February 11, 2015

Export Sub-Committee Draft Recommendations

Export Manifest Working Group:

Commodity: Licensed

1. COAC recommends that CBP engage with Border Interagency Executive Council (BIEC) in order to deliberate on the development of an interagency information tool comparable to the informed compliance program to help develop the competency of those in the trade with export equities.
2. COAC recommends that CBP engage with the Bureau of Industry and Security (BIS) upon their initiation of the project to review European Union practice of cross-referencing their control list and 6-digit harmonized tariff number and provides an update to the BIEC PECSEA/COAC on findings and the review process. COAC further recommends that CBP aligns the initiative within the BIEC, and advocate with BIS to engage the Directorate of Defense Trade Controls (DDTC) as a stakeholder in the review process.
3. COAC recommends that CBP Headquarters lead a port standardization effort targeted on licensed exports. The effort shall incorporate input from all stakeholders including the trade, AES automation, CBP Ports, DDTC, BIS, and other relevant permitting and licensing agencies. The undertaking should leverage the BIEC as a steering committee and to resolve cross-agency policy matters. The outcome shall be updated policies and guidance on licensed shipments and a status briefing to COAC.
4. COAC recommends that CBP automate all licenses and permits via the Single Window into AES/ACE, to accommodate inbound and outbound as appropriate. Capabilities should exist to link an import to an export or an export to an import, and the design should ensure flexibility of entity relationship and trade reporting. Evaluation of a short term solution to utilize CBP's Document Imaging System should be considered if license automation implementation is extended beyond 1 year. Additionally, given the availability of licensing data via the Single Window, and given the PECSEA recommendation regarding incorporation of licensing points of contact, COAC recommends CBP engage the Trade Support Network for a licensing point of contact design with the goal of resolving holds expeditiously.
5. COAC recommends CBP encourage BIS to complete the final rule regarding International Import Certificates or Delivery Verifications, (proposed rule 79 FR 19552) in order to realize process efficiencies for both CBP and the Trade. Additionally, we recommend CBP engage BIS and the Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE) to automate remaining forms.

6. The COAC recommends that CBP brief the BIEC on the new manifest, export automation tools, targeting capabilities, and C-TPAT Exporter Entity in order to prompt a dialogue designed to prevent listing freight forwarders as intermediary consignees on the license at time of license submission. CBP shall engage the trade in the education and dialogue to in order to design a solution that meets all stakeholders' key concerns. The resulting new process shall consider Government concerns, industry forwarding practices, leverage the future automation design, and consider benefits of government to government interfaces.
7. COAC recommends that CBP compare C-TPAT and C-TPAT Export Entity Criteria with the Department of Defense National Industrial Security Program Operating Manual (NISPO) and International Traffic and Arms Regulations (ITAR), and reduce redundant reporting and redundant reviews for companies participating in good standing. Additional comparisons should be made to Federal Acquisition Regulations, Defense Acquisition Regulations System (FAR and DFARS) with the same goal.
8. COAC recommends that CBP communicate policy changes to the Trade via the Cargo System Messaging Service (CSMS) as well as via other government agency outreach, e.g. Hand Carried DSP-73 Material – Endorsement Permitted at the 1st Port of Departure.
9. COAC recommends that CBP engage the BIEC in a discussion to consider aligning the U.S. inbound, outbound, and license valuation regulations in accordance with the World Trade Organization Customs Valuation Agreement.
10. COAC recommends that CBP and the BIEC discuss a process enhancement for the Export Enforcement Coordination Center (E2C2) to prepare a monthly “categorization of risk” export report that considers inputs from all agencies related to export and can be used by CBP as a input into targeting adjustments. The report should quantify the risk, including notation of items removed from the risk register.
11. COAC recommends that CBP initiate cross-agency operations review meetings on a monthly basis to discuss agency referral turn-around times (requires creation of cycle time and volume metrics) and to receive feedback on effectiveness of field operations.
12. COAC recommends that CBP staff the Exodus Command Center to allow for trade inquiries to facilitate compliant exports, in addition to the already scoped work for CBP field operations referrals. CBP should consider directly staffing the Exodus Command Center with Licensing and Permitting Agencies on a regular basis, provided the resources have a delegation of authority to act on outbound questions without referral via E2C2, in order to benefit the Trade and reduce freight stops.
13. COAC recommends that CBP collaborate with the Census Bureau and provide details on the new AES design allowing separate filers for commodity data and transportation/manifest data with the intent of ensuring report data availability to the Trade commodity filer. Additionally, CBP should collaborate with Census to deliver additional solutions that would replace the “routed transaction” language with language and processes that resonate with already provided business process and business data. Regulatory changes may be required to reduce the burden to trade while still meeting agency concerns.

14. COAC recommends that CBP engage the Trade to provide inputs into CBP's Licensing Operating Manual. Prioritized areas of review should be focused on the areas of opportunity.
15. COAC recommends automating export data by the creation of the USPPI and Filer accounts in ACE and allowing data visibility in ACE for a 5 year time period.
16. COAC recommends that CBP engage the BIEC in a dialogue regarding non-technical errors with the request to align agency approaches to penalty assessment. The Trade shall develop a list of examples of non-technical errors to facilitate dialogue.
17. COAC recommends the formulation of a new work group to address the export post entry process. This same work group shall address the trade inputs required to address area of opportunity #25.
18. COAC recommends that CBP reviews the possibility of automating the filing and release of hand-carried licensed hardware by leveraging a CBP Mobile Group application that may be designed for traveler declarations of hand guns.
19. COAC recommends that CBP review their export staffing model with COAC in order to collaborate on excellence, challenges, opportunities, and solutions.

1 US Government at the Border Draft Recommendations

The COAC IUSG will formerly submit the Border Interagency Executive Council Report as a final product.

Process & Messaging Working Group

The COAC recognizes the need to have well defined and understood messages from CBP and/or the PGA's for the various trade members (Carriers, Customs Brokers, Importers and other parties) in the Automated Commercial Environment (ACE).

1. The COAC recommends that CBP ensure an acknowledgement of receipt (e.g. "PGA" Data Accepted), followed by defined status messages (e.g. "PGA" May Proceed or Hold Intact) are received from the PGA via CBP when either data (PGA Message Set) or an electronic document (Document Imaging System) is presented to the PGA as part of the cargo release process.
2. The COAC recommends that CBP ensure the PGA message sets returned to the trade community identify the PGA involved at the line level or the entry level, by utilizing a valid Agency Program Code in each message. The term "PGA" in the message set is the place holder for the valid Agency Program Code.
3. The COAC recommends that the CBP ACE messages (generated by CBP or a PGA) be designed so all parties (CBP, PGA and the trade) can distinguish between a true "automated (paperless)" message versus a message issued as the result of some manual review or intervention. All parties will be able to assess the percentage of "automated" messages to monitor or track trade facilitation efforts.

4. The COAC recommends to CBP the PGA response messages should have a standard definition, and be uniformly applied by each PGA. A best practice would be to map the normal (automated) process flow for each PGA and identify the messages that individual PGA's will utilize, identifying whether messages will be issued at the entry or the line level. In addition, a DRAFT Message Dictionary is under construction.
5. The COAC recognizes that not all PGAs will require a message set. Some PGAs will utilize the CBP ACE system for their data needs instead of having a standard PGA message set. The COAC recommends to CBP whenever possible, that when a PGA (without their own message set) requests CBP issue a *review, documents required or hold message* that the trade is informed of which PGA is involved, so the trade may appropriately respond to the correct party to resolve a *review, documents required or hold message*.
6. The COAC recommends to CBP that ACE should facilitate carrier visibility to PGA status messages to allow for greater transparency. This work group anticipates that CBP will engage in further dialogue with numerous trade partners representing each transportation mode to facilitate this work.

Trade Enforcement and Revenue Collection Subcommittee Draft Recommendations

Intellectual Property Rights (IPR) Working Group

Voluntary Disclosure Sub-Working Group

1. The COAC formed a Voluntary Disclosure work group to review the recommendations made at the May 2014, COAC public meeting. The work group has determined that because of the potential litigation risk contained in the Voluntary Disclosure July 20, 2010, document for both CBP and the trade, and the lack of benefits to the trade contained in the document, a pilot of this program is not viable. The COAC recommends that a pilot of this Voluntary Disclosure program for IPR should not be initiated by CBP.

Anti-Dumping/Countervailing Duty Working Group

1. COAC recommends that CBP utilize CSMS messaging to more actively push out AD/CVD information in the following circumstances: (1) when a petition is initially filed with the Department of Commerce and at the time of initiation, (2) for every scope review determination by the Department of Commerce, with efforts made in conjunction with the DOC to summarize the scope ruling in the most readable/understandable way possible. CSMS messages should also contain links to the DOC case in question and contact information at CBP and DOC for questions. The target date for development of this process is within 90 days, recognizing that individual cases can involve language that is very technically complicated and the ability to summarize in a more simplified way may vary and take more time.
2. COAC recommends that CBP work with specific industry sectors to develop additional industry outreach related to AD/CVD issues with particular emphasis on reaching further down the supply chain beyond the traditional importer and domestic industry community. This outreach should include additional coordination with other agencies such as the Department of Commerce, the Department of Justice and ICE/HSI, as well as harnessing and building upon the expertise at the Centers of Excellence and Expertise. The target date to develop and outline a strategy for this is within 90 days with a 12 month target to begin to implement new strategies.

3. COAC recommends that CBP undertake a dedicated communications initiative to further develop and improve information systems currently communicating AD/CVD information to stakeholders. Specific areas of focus should include (1) more prominent highlighting of AD/CVD information on the current cbp.gov website, (2) communicating additional case-specific information such as “fraud alerts” and other appropriate “concerns for the trade”, (3) better coordination of AD/CVD web portals/web content currently managed by other agencies and (4) continued development of FAQ’s working in conjunction with the trade and other agencies. We recommend ongoing coordination with the trade as much as possible with all of these communication efforts. We recognize the ongoing work currently taking place in these areas and recommend a target date of 12 months to develop a more fully dedicated communications structure.
4. We recommend consideration in the longer term of the idea of a single, multi-agency managed website dedicated to AD/CVD. AD/CVD has a unique and particularly complicated set of laws, regulations and policies with multiple agencies involved in management of the AD/CVD process. The existence of one single website or other communications portal dedicated as an umbrella for AD/CVD information could provide significant long term value for all stakeholders.

Trade Modernization Subcommittee Draft Recommendations:

Centers of Excellence and Expertise (CEE)

Over the last several months significant discussion has taken place on CEE performance and metrics. Although, survey results to date show that the Centers are highly rated by most initial participants, both CBP and the COAC agree that metrics should be created to monitor performance on an ongoing basis (from both a trade and government perspective). This will be especially important as a significant number of additional companies are processed under CEEs. Consistent with these discussions, the following will be reviewed by the full COAC and likely voted on in February 2015:

As stated on www.CBP.gov, Centers of Excellence and Expertise were “established to increase uniformity of practices across ports of entry, facilitate the timely resolution of trade compliance issues nationwide, and further strengthen critical agency knowledge on key industry practices.” Metrics that capture benefits to the trade and CBP will help determine if the CEEs are succeeding. Examples of benefits include reductions in processing times, reductions in forms required to be processed and implementation of the CEE as a single point of contact (versus working separately with each port). Further, questionnaires to individual companies may be the best method to collect this data.

1. COAC recommends that metrics be created and data collected and reviewed annually with COAC and other trade stakeholders to determine if CEE objectives are being satisfied.

Simplified Entry Summary and Payment

Another topic that led to considerable discussion was Simplified Summary and Entry Summary Payment. Although, detailed work remains on how this process would work the subcommittee believed it was important to bring a recommendation to the full COAC for review while the proposed process is in development. Members discussed both possible benefits and possible challenges to the

success of the program as indicated in the recommendation. Consistent with these discussions, the following will be reviewed by the full COAC and likely voted on in February 2015:

In 2014, CBP formed the Simplified Summary and Revenue Collection Working Group. The purpose of this group was to examine the import summary and payment processes and identify opportunities for improvements. The working group was comprised of representatives from CBP and the trade community. In development of the Simplified Processes concept, the working group convened for three working sessions to discuss research and define the desired future state of importation. CBP is reviewing work done to date and gaining additional input through outreach to the trade.

The COAC recommends that:

1. CBP continue to work with a broad section of the trade to explore a Simplified Entry Summary and Payment process that is beneficial to the trade and CBP.
2. Participation in a Simplified Entry Summary and Payment program should be optional and that customs brokers and IOR's should be able to file CF7501's in the current, legacy process.
3. The development of a Simplified Entry Summary and Payment program should be postponed if it will negatively impact ACE deployment.
4. The following should be evaluated before proceeding with design and implantation of a Simplified Entry Summary and Payment program:
 - a. Level of resources that would be required by importers and brokers to participate in the process.
 - b. Additional layers of services that would be needed by Customs Brokers
 - c. Level of benefit a Simplified Entry Summary and Payment program would provide to CBP and the Trade as compared to the cost.

Global Supply Chain Subcommittee Draft Recommendations

Beyond The Border Action Plan

On February 4, 2011, President Obama and Prime Minister Harper announced the United States-Canada joint declaration, Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness. Beyond the Border articulates a shared approach to security in which both countries work together to address threats within, at, and away from our borders, while expediting lawful trade and travel.

Since the signing of the agreement, good work has been completed on several of the initiatives as listed in the "2012-2014 PROGRESS REPORT: BEYOND THE BORDER ACTION PLAN."

Work continues on several additional initiatives.

The COAC recommends that DHS/CBP continue to work with Canada on and complete Beyond the Border initiatives that include but are not limited to the following:

1. COAC recommends continued development and implementation of Single Window in each of our countries through which importers can submit all government-required information (filing data 1 time for multiple uses).
2. COAC recommends the implementation of the Integrated Cargo Security Strategy pending recommendations of the USA – Canada evaluation.
3. COAC recommends the completion of a preclearance agreement for all modes.
4. COAC recommends streamlined processing of temporary workers who support cross border operations or customers.
5. COAC recommends continued diligence on the harmonization of trusted trader programs.
6. COAC recommends implementation of the truck in transit pilot and program.
7. COAC recommends that DHS/CBP work with Canada to complete the updated implementation strategy with timelines and timely reporting against those goals to internal and external parties including the COAC.
8. COAC recommends that CBP consider lessons learned to facilitate trade and where beneficial apply to applicable US ports.
9. The COAC recommends that the USA - Canada border fee study be summarized to include study goals and conclusions. The COAC supports an additional study to analyze the overall cost of crossing the border.

21st Century Border Initiative

In 2010, Mexico and the United States issued the Joint Declaration on 21st Century Border Management and committed to ensure that our common border promotes economic competitiveness and enhances security in both countries through the efficient, rapid and lawful movement of goods and people. Since the signing of the agreement, good work has been completed on several initiatives as listed under

<http://www.dhs.gov/accomplishments-and-announcements>.

The COAC recommends that DHS/CBP continue to work with Mexico under the umbrella of the Joint Declaration on 21st Century Border (consistent with the Beyond the Border Initiative) on projects that include but are not limited to the following:

1. The COAC recommends that DHS/CBP work with Mexico under the umbrella of the Joint Declaration on the 21st Century Border (consistent with the Beyond the Border Initiative) to create a plan to mitigate border congestion and address port hour limitations.
2. The COAC recommends that DHS/CBP work with Mexico under the umbrella of the Joint Declaration on the 21st Century Border (consistent with the Beyond the Border Initiative) to create and disseminate a Plan of infrastructure improvements.

3. The COAC recommends that DHS/CBP work with Mexico under the umbrella of the Joint Declaration on the 21st Century Border (consistent with the Beyond the Border Initiative) to create a communication plan between Mexico and the USA (example: unplanned and planned down time).
4. The COAC recommends that DHS/CBP work with Mexico under the umbrella of the Joint Declaration on the 21st Century Border (consistent with the Beyond the Border Initiative) to create single windows in each of our countries through which importers can submit all government-required information (filing data 1 time for multiple uses).
5. The COAC recommends that DHS/CBP work with Mexico under the umbrella of the Joint Declaration on the 21st Century Border (consistent with the Beyond The Border Initiative) to create an updated implementation strategy with timelines and timely reporting against those goals to internal and external parties including the COAC.
6. COAC recommends that CBP consider lessons learned to facilitate trade and where beneficial apply to applicable US ports.

Wait Time Metrics

The GAO reported that CBP action is needed to improve wait time data and measure outcomes of trade facilitation efforts. Consistent with those findings:

1. COAC recommends that CBP determine and take steps to help ensure consistent implementation of existing wait time data collection methodologies.
2. COAC recommends that CBP assess the feasibility of replacing current methodologies with automated methods.
3. COAC recommends that CBP document its staff allocation process and rationale.
4. COAC recommends that CBP develop outcome-oriented performance measures.
5. COAC recommends CBP develop Fast vs. Non-Fast lane metrics for CBP, Carriers and Importers to query through ACE. Metrics would include Fast lane usage by Importer entry, Carrier and Port. The intent is to better substantiate FAST lane advantages and enable best use of FAST lane capabilities by all stakeholders.

Trusted Trader Subcommittee

The Trusted Trader Subcommittee is not expected to put forth any recommendations at the February 11, 2015, public COAC meeting.