

Advisory Committee on Commercial Operations of
U.S. Customs and Border Protection
(COAC)
Executive Summary

1:00 p.m. to 4:00 p.m.
Thursday, May 22, 2014

Committee Welcome and Committee Roll Call

Maria Luisa Boyce, Senior Advisor Private Sector Engagement, U.S. Customs and Border Protection (CBP), welcomed everyone to the meeting and began the committee roll call. The committee members present are as follows: David Berry, Scott Boyer, Mary Ann Comstock, Jeff Coppersmith, Matthew Fass, William Ferguson, Brandon Fried, Carol Hallett, Suzanne Hoeger, Vincent Iacopella, Karen Kenney, Kathleen Neal, Julie Parks, James Phillips, Kevin Pinel, Elizabeth Shaver, Ted Sherman, George Weise were present. William Earle was not present.

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

Opening Remarks by Commissioner Kerlikowske for CBP

Commissioner Kerlikowske welcomed colleagues to the Miami COAC meeting 2014. He also welcomed Timothy Skud, Deputy Assistant Secretary, Tax, Trade and Tariff Policy, Department of Treasury, and Ellen McClain, Deputy Assistant Secretary, Trans-Border Policy, Department of Homeland Security. The Commissioner has enjoyed meeting so many members of COAC during the confirmation process. He enjoyed spending time with Ms. McClain on a trip to China where there was time to discuss the export and import of prescription drugs. Smuggling issues were talked about with Chris Maston. He acknowledged Rich DiNucci, Acting Assistant Commissioner of Office of International Trade and Charles Armstrong, Assistant Commissioner with the Office of Information and Technology.

He has been impressed with the Customs and Border Protection (CBP) people he's met with and has heard that all are dedicated to a successful COAC partnership. Mr. Kerlikowske stated he has not heard any negative comments from any of the members or participants. He thinks the Trade Survey results will be fascinating. He looks forward to expanding the next level of the partnership with modernization of business processes.

Mr. Kerlikowske announced that the Food and Drug Administration (FDA) and CBP will be starting a new working group with COAC. Through his past years he worked closely with Dr. Hamburg, Administrator of FDA and former Health Commissioner in New York City. He became aware of numerous issues in front of FDA -- issues regarding counterfeit prescriptions to keeping our food supply safe. He learned early on that in briefings about difficulties at times with different levels of federal government. He recognizes a need to have better cooperation among all of us with the FDA while we make sure we're abiding by our responsibilities to keep the food and pharmaceutical supply chain as a pinnacle in the world for safety. He is grateful to Dr. Hamburg for all the cooperation and information she has provided him. He learned how critical it is that we figure out smart and effective ways to work together in order to maintain the quality of fruits, vegetables, seafood, and medications coming from outside our borders. It is important that we can identify ways to improve communication. When restrictions are placed on certain commodities coming in that are impacted by FDA regulations, it is important to learn how we can move more expeditiously.

Mr. Kerikowske thanked the One U.S. Government Co-Chairs and the FDA Working Group leaders, Mary Ann Comstock and Susan Hoeger and Scott Boyer for building on the momentum that was already started. He also thanked Domenic Veneziano of the FDA. He commented that he looks forward to working more closely with the Consumer Product Safety Commission and the Department of Commerce who also joined in today's conference. Additional thanks were given to Carol Cave and David Long.

The last item highlighted by Mr. Kerlikowske was the partnership with Immigration and Customs Enforcement and Homeland Security Investigations (ICE/HSI). He stated that the trade enforcement efforts are key to facilitating trade and growth of the economy. He added that he and Tom Winkowski, now acting head of ICE, are committed to building on what has already been accomplished. He thanks Mr. Kubiak who has helped him understand the intellectual property rights. He turned over the floor to Tim Skud.

Opening Remarks by Timothy Skud, Deputy Assistant Secretary Department of Treasury

Deputy Assistant Secretary Timothy Skud gave some brief opening remarks. After he thanked the Commissioner he told the group that the committee has provided useful and important advice and insight into how government ought and not ought to regulate commerce. He expressed thanks for yesterday's tour of the port and for the insights into the challenges that CBP faces in the busy commercial environment.

Mr. Skud expressed thanks to the Greater Miami Chamber of Commerce for the meeting they arranged with members of the Miami trade community. He felt the need of government agencies to work together with the trade community and other stakeholders was reinforced with the benefit of making border operations more effective

and less burdensome for all involved.

Opening Remarks by Ellen McClain, Deputy Assistant Secretary Department of Homeland Security

Deputy Assistant Secretary Ellen McClain began by wishing everyone a happy World Trade Month for the month of May. In recognition of the special month she expressed that it was appropriate to talk about challenges and solutions of trade issues. COAC's strong leadership, guidance, expertise, and fresh perspective has been examined.

She echoed appreciation for yesterday's port tour. It illuminated how challenging the CBP mission is. She said that 400 laws for 40 or so agencies are what we have to deal with.

Ms. McClain touched on three specific matters with which the Office of Policy is engaged. She mentioned that last week the National Export Initiative/NEXT was announced and explained that it is a customer service initiative will help American businesses export to more international markets. She said she will chair one of the working groups focused on making exporting the next international shipment easier and less expensive by streamlining processes and reporting requirements.

She stated that the President's Executive Order of February, Streamlining the Export/Import Process for America's Businesses, expanded the role of the Border Interagency Executive Council (BIEC), which is chaired by Homeland Security's Deputy Secretary Alejandro Mayorkas. Since the executive order was signed, three committees were established: Risk Management, Process Coordination, and External Engagement. Each committee has developed short, medium, and long-term objectives focused on eliminating redundancy and harmonizing processes and streamlining government decision making. Ms. McClain voiced appreciation for the input of the Export Subcommittee to the BIEC subcommittees.

Ms. McClain's final note was to say that the single window and export facilitation goals are key components and key topics for ongoing bilateral and multilateral dialogs under the Trans-Pacific, Trans-Atlantic Trade and Investment Partnership with the European Union (EU), the Multilateral Trade and Services Agreement, and the implementation of the World Trade Organization (WTO) Trade Facilitation Agreement.

Opening Remarks by Kathy Neal Trade Co-Chair COAC

Kathy Neal, COAC Co-Chair, opened by noting that for members of the 12th and 13th COAC terms, this is the first COAC meeting presided by a confirmed commissioner.

She stated that there has been some recent turnover among the CBP Executive Directors who are assigned to various subcommittees. She stated that maintaining continuity and consistency in the strategy development process through co-creation and bidirectional education is important.

Ms. Neal informed the group that the Trade Enforcement and Revenue Collection Subcommittee has worked hard to develop recommendations related to standardization of the Intellectual Property Rights (IPR) information exchange and processes. The trade is interested in improving the Anti-Dumping/Counterveiling Duty (AD/CVD) process and will be working with Cynthia Whittenburg to reengage the AD/DVD working group.

The Trade Modernization Subcommittee has been working with industry representatives to resolve questions and issues related to national permitting. They plan to make recommendations to help define the future permitting process as well as the use of the CBP 5106 form.

Ms. Neal recommended that COAC urge CBP to clarify their plan for the Customs-Trade Partnership Against Terrorism (C-TPAT) program and to increase its outreach to trade members to help clarify some confusion.

The Global Supply Chain Subcommittee Air Cargo Advance Screening (ACAS) Working Group has done a good job developing a process that meets the needs of the trade community. Ms. Neal stated that the group will present recommendations and wait until further action is required from the group. COAC continues to play a role in helping CBP and other government agencies proceed with the single window formulation and helping Partner Government Agencies (PGAs) understand the trade perspective.

Ms. Neal reported that the group touring the Port of Miami yesterday learned about the impact of the new tunnel and the congestion relief that the tunnel will provide to the port as well as tools AT-CET has to combat contraband such as underwater cameras, palette X-ray, van X-ray, mobile VACIS, and canine inspection. The tour group learned about agriculture and IPR inspection processes. She quoted one of the officials who conducted the tour who said, "Bad guys outnumber us out there. We have to work together with other agencies." Thanks were offered to the Commissioner and his team for having COAC venture out of D.C. for this meeting.

Before introducing the Trade Enforcement and Revenue Collection Subcommittee speakers, Karen Kenney and Cynthia Whittenburg, Ms. Boyce announced that 85 people are participating in this meeting through live web broadcast.

Trade Enforcement and Revenue Collection Subcommittee

Karen Kenney announced that the Trade Enforcement and Revenue Collection Subcommittee has opened three working groups and offered updates on each. First, the Regulatory Audit Working Group delivered eight recommendations to CBP about its planned changes to the focused assessments at the last COAC meeting. CBP recently reached out to the COAC for clarification on Recommendation 2-b. CBP asked if the trades' intention was to suggest that CBP complete the PAS and ACT phases within a total of six months or within six months each. COAC clarified today that we recommend CBP complete the PAS phase within six months and then if there is an ACT phase, complete that within an additional six months.

Ms. Kenney informed us that the Regulatory Audit Working Group is now in hiatus until CBP is ready to address additional changes to the focused assessment process.

The IPR Working Group has focused on three key enforcement and facilitation areas since the February 2014 public meeting. The group has worked with CBP to develop a system where violative shipments of low dollar values and high dollar values will be dealt with differently to enable CBP to better focus and allocate its resources to prevent such goods from entering the U.S. marketplace and to facilitate legitimate trade. Ms. Kenney thanked Norm Schenk from UPS for taking the lead on this initiative. Mike Mullen was also instrumental in getting express carriers to give feedback on the initiative for the COAC members.

The second accomplishment of the IPR working group was a recommendation for usage of the Document Imaging System (DIS) by importers to deliver material to CBP at the time of entry to support the authenticity of their goods. COAC is now ready to recommend that CBP pilot a program to provide better targeting data and facilitate legitimate shipments. Thanks went to working group members Neil Vill, Joe Marion, and Lee Sandler for their assistance in mining potential documents to be submitted by the trade.

And finally, the working group reviewed the voluntary disclosure program for IPR that has not been adopted by CBP. COAC plans to make recommendations today that ask CBP to pilot a voluntary disclosure program after feedback is compiled. This program would allow importers who discover they have unintentionally imported violative goods to provide CBP with intelligence for targeting purposes while being assured they would not be targeted because of the violation.

Ms. Kenney announced that after today's meeting the working group expects to open another working group to discuss the voluntary disclosure topic and to address the IPR known importer concept that was reviewed at previous public meetings.

Ms. Boyce requested that the first recommendation be read into the record and voted on. Ms. Kenney complied with her request. First, the COAC recommends that CBP collaborate with its express consignment stakeholders to develop a simplified and mutually beneficial IPR enforcement process in the express consignment environment through which CBP would offer the importer and the U.S. consignee an abandonment option on detention notices for shipments detained by CBP on suspicion of trademark or copyright violations.

The second COAC recommendation is that CBP work with its express consignment stakeholders to finalize the details of the process and leverage the express carriers' existing resources to enhance the facilitation of legitimate shipments, enabling CBP to reallocate resources, to refine and focus IPR targeting and enforcement efforts, preventing violative goods from entering the U.S. marketplace and encouraging the efficient flow of legitimate shipments.

Ms. Boyce then moved for the adoption of the two recommendations which was seconded by Dave Berry. **There were no comments and both recommendations were passed unanimously.**

The next recommendation of COAC is that CBP pilot the use of the document imaging system (DIS) in the Automated Commercial Environment (ACE) within the next 12 months as a means for importers and customs brokers to voluntarily provide information to assist CBP in assessing a shipment's IPR risk. At entry filers would transmit documents not otherwise required at entry and/or digital images supporting the authenticity of the shipment. During IPR targeting CBP would consider this information in determining whether to hold the shipment for examination or release it.

The pilot would test a method for furnishing advanced information about a shipment's IPR compliance and might allow CBP and the trade to determine whether DIS could be used to provide facilitation benefits to legitimate importers.

The second recommendation of COAC was that CBP collect and share pilot results with the COAC offering the COAC an opportunity to further review and comment on the initiative.

Ms. Boyce moved for the adoption of the two recommendations which was seconded by Scott Boyer. There were no comments and both recommendations were passed unanimously.

Ms. Kenney presented three recommendations on the topic of voluntary disclosure. First, the COAC recommended that CBP pilot a voluntary disclosure program for IPR within the next 12 months that will allow members of the trade to provide CBP with intelligence for targeting purposes by voluntarily disclosing violations of the laws

prohibiting importation of goods infringing U.S. registered trademarks or copyrights. The goal of the program should be to enable the trade community to work with CBP to stop infringing items imported contrary to law from being sold or delivered into the commerce of the U.S.

The second COAC recommendation was that CBP open a working group to finalize the details of the pilot program using both the July 20, 2010, document that was co-created by CBP and the COAC as well as stakeholder input as a framework for the discussion and allow the COAC to comment on the final program document before implementation of the pilot.

The third COAC recommendation was that CBP collect and share pilot results with COAC offering the COAC an opportunity to further review and comment on the initiative.

Ms. Boyce moved for the adoption of the two recommendations which was seconded by Carol Hallett. When asked for comments, Mr. Kubiak commented that he appreciated CBP and COAC allowing ICE HSI to be a part of this process. He stated that our ability to discuss the issues and make sure we set up the voluntary disclosure program appropriately to preserve the investigative capability when necessary will be critical to the discussions. He thanked the COAC for this.

Ms. Boyce then took a vote, and the three recommendations were passed unanimously.

Cynthia Whittenburg was introduced by Ms. Boyce. She is the Executive Director for Trade Policy and Programs in the Office of International Trade, who recognized and commended the Trade Enforcement and Revenue Collection (TERC) Subcommittee for the level of effort involved in coming to consensus to present these recommendations which should prove to enhance CBP's enforcement of intellectual property rights.

The Anti-Dumping and Countervailing Duties Working Group will address four key business problems. The first one is to develop a public outreach education plan to counter electronic solicitations to importers to purchase transshipment that seem to be a good deal but the goods are subject to dumping duties. The Working Group plans to identify methods to protect importers from such fraudulent information and to provide greater transparency that would demonstrate the outcome and activities of CBP enforcement efforts. The community should be aware of the efforts CBP has undertaken to combat violative goods with respect to anti-dumping and countervailing duty evasion.

The use of single-transaction bonds to protect against AD/CVD evasion is the second item. This is a major tool we have to protect revenue. We would like the COAC to

further educate the public about the practice and the benefit of using Single Transaction Bonds (STBs).

The third item is our desire to move in the direction of requiring cash deposits versus bonds for new shippers with respect to new dumping cases.

The fourth and final item would be new case coordination to make sure the trade knows about changes and scope with respect to dumping in the cases and the complexity of the cases. We would like to come up with methods to ensure that the trade has the necessary information regarding dumping cases to ensure and help them be compliant in those areas.

Ms. Boyce called on Matthew Fass, President of Maritime Products International to make a comment. Mr. Fass informed the group that after a period of dormancy, the Trade Enforcement and Revenue Collection Subcommittee's current slate of initiatives is terrific. He believes taking outreach to the next level with the trade and CBP working on outreach and communications, and transparency will be beneficial.

Trusted Trader Subcommittee

Ms. Boyce introduced Ms. Augustine Moore, who is now Acting Executive Director for the Cargo Container Security Area with the Office of Field Operations. Ms. Moore said a few words about her background and experience with cargo conveyance and previously worked for an express courier.

Bill Ferguson reported that the Trusted Trader Federal Register Notice (FRN) draft will call for volunteers for a pilot Trusted Trader Program and FDA and Consumer Product Safety Commissioner (CPSC) will be two participating agencies in the pilot program. The Trusted Trader Program has been portrayed as one of the three major trade transformation initiatives for CBP and trade. Mr. Ferguson stated that delays in issuing the FRN for the pilot could lead many to believe the strategy to be uncertain. The COAC is concerned that many in the trade community believe they are indeed trusted traders. The delay in the roll out of the CBP Trusted Trader Program could leave program members in doubt about their role in the new Trusted Trader Program, and Mr. Ferguson recommended that CBP increase outreach to avoid confusion. Mr. Kerlikowske added that the FRN has arrived and is ready for his signature.

Mr. Ferguson stated that the subcommittee agreed with the exporter eligibility requirements in our scope of work. He made it clear that the purpose of the release is to gain feedback from the broader trade and to assist CBP in shaping the export program prior to final release, not to endorse the proposed program as currently drafted.

COAC recommended that CBP release the proposed exporter supply chain security criteria and C-TPAT exporter eligibility requirements within 60 days, that the release of the C-TPAT for export criteria should include a comprehensive list of initial benefits that are measurable and quantifiable, and that after CBP releases a C-TPAT for exporter criteria, they should provide a forum for ongoing dialog with the trade community such as a C-TPAT working group to gain feedback to quantify the efficacy of the program and to identify additional benefits to attract more participants.

Ms. Boyce provided some background and said that 128 responses were received and that CBP is ready to publish the information through the C-TPAT web portal and that CBP looks forward to input from all the community and exporters.

Mr. Iacopella urged the CBP to use a tiered approach so that those sectors that may not be able to participate in the program as presented now might be able to do so in the future. Sectors such as agriculture, forestry, low-value textiles should be included in the ongoing dialog.

Mr. Kennally said a robust communication plan will appear on the public website and in the C-TPAT portal and via brochure. Ms. Kenney said she is in favor of a C-TPAT program for exports, but she recommended that the program be more fully formed before it is implemented in order to have a better chance for success by avoiding a rocky start. After public comments, Ms. Boyce asked for a vote after members brought a motion for the vote. **The recommendation was passed unanimously.**

Mr. Ferguson remarked that the Subcommittee was asked to propose additional benefits for CBP's consideration. He said exporters are unprepared to take on the costs associated with a more secure export supply chain, and the scope of benefits need to be robust in order to ensure significant buy-in. Tangible benefits are needed.

One U.S. Government at the Border Subcommittee

Captain Domenic Veneziano opened and said he is excited that this working group will be working with CBP and COAC with a new working group called the Data Quality Working Group because data quality is imperative to expediting trade.

Cynthia Whittenburg reported excitement for the new momentum as a result of the President signing the Executive Order on February 19th. The order will streamline the export and import processes for America's businesses. The Subcommittee has undertaken an enormous amount of work mapping out the export and import processes. The Executive Order will help provide the foundation upon which agencies that regulate imported and exported goods can identify opportunities to improve coordination of actions regarding the disposition of these goods.

The Border Interagency Executive Council (BIEC) and other departments of agencies are currently working on coming to a consensus on high risk management principles and process coordination principles.

Mary Ann Comstock presented a slide show entitled Import Mapping Group. The Environmental Protection Agency (EPA) Working Group has concluded its work, and the 2013 FDA Working Group has stood down. Our subcommittee is represented at the International Trade Data System (ITDS) Board of Directors' meetings chaired by Tim Skud. The Import Mapping Working Group (IMWG) was tasked with documenting the flow of goods, data, and the documentation of a typical importation. IMWG has brought together a group of subject matter experts to develop process flows for current the import process for five distinct modes of transportation: conventional air, express air, ocean, truck, and rail.

Ms. Comstock told those in attendance that the IMWG has worked to challenges and opportunities. She said the group wants to identify pressure points that occur in the supply chain and identify what they are attributable to. A slide indicated that the FDA Working Group will be working on data validation issues that can occur through mismatches, keystroke errors, or poor databases. After identification of the cause, the group will develop solutions. They are currently collecting Federal Communications Commission (FCC) information at entry summary, but it is expected this will change in the future.

A slide showed that every mode of transportation has different timelines. ACAS and Importer Security Filing (ISF) data have become available to the group. Data about cargo should arrive well in advance of the cargo. Information should be updated and perfected up to the entry payment process. Post summary correction entries can be made as well.

Ms. Hoeger was introduced and began by saying that Subcommittee won't be making any formal recommendations at this meeting, but their work may lead to some potential future recommendations. She stated that the group believes a true single-window concept where a consolidated multiagency data submission results in a single coordinated multiagency release with the Partner Government Agency (PGA) data being submitted in advance of cargo arrival and being acted upon. Mary Ann said that because PGA entry does change, there needs to be a mechanism for doing a full replace of the data when necessary. Document imaging systems have applicability for required documents (Health inspection or pesticide labels) as well as optional documents (FDA end-use letters supporting the admissibility of goods).

Ms. Hoeger said that targeting should be based on data, not documents. After determining how to identify trusted and known traders, cargo can then be expedited. Data bases should be relied on sort of a blanket basis. She suggested that the PGAs

develop and publish informed compliance publications to create a common understanding of the data requirements and lead to port and importer consistency so that there will be less holds and delays due to data quality issues. It would be better to validate importer data outside of the entry process so as not to hold up things. Ms. Hoeger gave an example of bumping data off the PGA system in advance in order to avoid backlogs at the port.

Captain Veneziano commented that he is looking towards the single window approach in terms of preventing duplication or additional burdens to the industry in terms of what has to be done.

Scott Boyer commented that we're discussing concepts such as single entry where all data could be submitted in one burst to cover requirements. He added that the global supply chain is constantly evolving and seeking competitive advantages and that legitimate trade needs to be facilitated at the speed of business. PGAs need to make admissibility decisions at the border 24-7 in order to maintain the flow of goods. Standardization of safe and secure cargo treatment by CBP and the PGAs must be achieved to maintain consistency and predictability to the trade. Legitimate importers need certainty when it comes to their imported products. And, finally, he said that PGA messages to the entry filer must provide clear, concise messages for each PGA line submitted.

Ms. Comstock added one last comment and said that Ms. Whittenburg has talked about One U.S. Skinny Government at the Border, but she thinks it should be One U.S. Efficient Government at the Border.

Brenda Smith updated the committee and said what was done before with previous recommendations and work, was that a lot was learned from the work with the EPA Working Group that took a down in the weeds approach and learned what was required by the forms and the art of the possible terms of streamlining the data and business process. Other lessons have been learned from the piloting of the vehicles and engines form and the ozone depleting substance forms. Transactions have been successfully transmitted into the single window with Food Safety Inspection Service (ISIS), so that was good news on both of the commitments from an automation perspective from the Executive Order.

Ms. Smith said that they have been looking to see what remains from a technical perspective to be built to support the single window. They have identified what each agency requires to technically integrate with the Automated Commercial Environment, and they have put those on a schedule. A lot of cooperation between agencies and the private sector will be required, and the path forward has been identified by a series of milestones for CBP and each agency. Once programming is done, an operational pilot needs to be run to assess that the program does what it is expected to do. Between now and December of 2016 everyone should be moving along.

Ms. Smith said that there will be a need to test for not only COAC but for the trade community and assistance could be used from the trade community in testing the PG message set and the document image system to make sure that transactions are flowing the way they are supposed to. Transactions will need to be submitted and work actually done at the ports of entry to make sure the automation works as expected and to give CBP and government agency personnel the chance to respond and use the electronic data to facilitate trade.

Public Comment Period

Mike Mullen, with Express Association of America, commended everyone engaged in the creation of the Data Quality Working Group with FDA. Several members of the group are involved in the FDA supply chains -- importers, manufacturers, carriers, and brokers, and several of them are interested in participating in the working group. The key goal of the group is to improve the data. Mr. Mullen suggested that the group determine the most commonly recurring errors of the data so there could be ongoing improvement. He said he believes another key goal should be a reduction in the number of fully compliant products that are stopped and put on hold for various reasons. Maria Luisa Boyce stated that the working group should be started sometime in June and that positive results are expected within 60-90 days.

Captain Vincent Veneziano commented that the group wants to reduce the number of things that get manually reviewed and do a better job in expediting releases of compliant products. He added that the work group will bring both industry and CBP together and make the announcement of better transparency of the areas where problems are being found.

Scott Boyer said he believes that there has been substantial improvement in the past two to three years, and he believes it came with improved understanding and application of the PREDICT System and the analysis of that. He hopes to continue the momentum with continuing improvements.

Trade Modernization Subcommittee

After a brief recess, Maria Luisa Boyce called the participants in the Trade Modernization Subcommittee to the front. She announced that Chip Bown, the Co-Chair of the Subcommittee, resigned two weeks ago. She thanked him for his hard work on the Subcommittee.

Jim Phillips was introduced and started by saying the Trade Modernization Subcommittee has been meeting with CBP for role of broker discussions. They have had discussions on ACE. The COAC is very interested in the dates and meeting the dates and timelines of PGA's training, including the trade and the port side. Another project that has come back up is simplified entry. He stated that he will be working with

the work group that will be put together to look at the issue of simplified payment. The ACAS group has stood down. One of the issues that will be discussed later relates to international harmonization.

Jeff Coppersmith, President of Coppersmith Global Logistics and Co-Chair of the Role of the Broker Working Group along with Vince Iacopella, said that the working group was asked by CBP to look at current permitting and see what it needs to be in the future. It was a lively discussion. Mr. Coppersmith and the group have worked to get the best solution and reach a consensus for the needed broker permitting changes. He emphasized that the devil is in the details and that this is going to be the biggest change to the customs brokerage industry in 30 years. Our three recommendations are a good pathway to get the changes started. COAC should be in a position to give a pathway for the future of broker permitting.

Mr. Coppersmith summarized a bit of history going back to the trade conference of 2010 when Commissioner Bersin gave a policy speech outlining his vision of the future for CBP and the relationship with trade. Bersin said CBP hoped that brokers would serve as the Agency's boots on the ground and said we cannot do our job without you (industry).

The recommendations made by COAC are: 1) COAC recommended that CBP enable brokers to operate through a single national permit eliminating the current district permitting requirement. 2) COAC recommended that CBP engage the COAC and all stakeholders as soon as possible to review the existing customs broker management process, related informed compliance publications, and Broker Handbook to ensure that a modern national broker benefit process is developed and implemented prior to CBP moving forward with the proposed changes to the broker national permitting framework. 3) COAC recommends that the new national permit framework include requirements that customs brokerage firms employ an adequate number of licensed brokers to ensure the responsible supervision and control over their customs business and that CBP work with the appropriate stakeholder group to define these new supervision and control requirements and provide the COAC an opportunity to comment on any new framework before implementation.

After Ms. Boyce requested comments, Mr. DiNucci stated that this has been a difficult issue, and he thanks everyone for taking it on because it is absolutely critical we get it right. Ms. Kenney followed by saying she knew it was a difficult conversation with stakeholder involvement. She said we have a framework to move forward and said it's super important because it's critical to our businesses that permitting and regulations keep pace with what's happening with respect to automation. She added that execution is super important. Kathy Neal continued by saying that Jeff and Vince's leadership in bringing the issue to the stakeholders and the brokerage community at large was appreciated because of the importance to all involved parties.

After a vote, the three recommendations were passed unanimously and Ms. Boyce announced Vince Iacopella would speak next.

Mr. Iacopella spoke next on the role of the broker bona fides as it relates to the importer of bona fides and the broker. He said that CBP had made it very clear to the COAC that the role of the customs broker in obtaining bona fides or any additional data was not to vet the importer or the data but to establish the identity of the authorized individual and their relationship to the importer of record. He then provided a historical account beginning when the November 2013 COAC made recommendations on bona fides related to the collection of a valid power of attorney by the Customs broker.

Recently, Mr. Iacopella, continued, the COAC Role of the Broker Working Group revisited the bona fides issue and has reviewed with CBP the new proposed data elements for the CBP Form-5106. The COAC recognizes that many customs brokers already have procedures in place related to the collection of a valid power of attorney that exceeds the regulatory requirements which may help customs brokers establish the identity of the authorized individual and the relationship to the importer of record. Some of these processes and procedures may be common among brokers, but some differ based on the business model and customer base of the broker. He explained that regardless of any process the customs broker may use, the collection of a valid power of attorney is ultimately the responsibility of the importer of record, person, or entity issuing the power of attorney to ensure that the data supplied to the customs broker and the identity of the parties involved is accurate.

Mr. Iacopella continued with the five recommendations: 1) COAC recommends that CBP publish the Notice of Proposed Rulemaking regarding changes of the CBP F-5106 by the end of the 2014 fiscal year in order to solicit comments from the stakeholders on the collection of the proposed 5106 data elements. The additional information will support CBP's effort to combat identity theft, anti-dumping duty evasion, and other fraudulent schemes which undermine our global economy.

2) COAC recommends that consideration should be given to limiting additional information requirements from companies in good standing with an existing CBP F-5106 on file with CBP. 3) COAC recommends that the 5106 information collection process be automated in ACE with consideration for the role of the party providing the information. The COAC recommends that both importers of record and customs brokers should be able to file and query CBP F-5106 data.

4) The COAC recommends no changes be made at this time to the current regulations regarding the collection of a valid power of attorney in 19-CFR-111. 5) COAC recommends that functionality in ACE be built to help prevent corporate identity theft. Proposed functionality should enable the importer of record to control and limit which customer brokers or filers by filer code are authorized to make entry in each port of entry tied to the importer of record number. This could eliminate most possibilities for

corporate identity theft should an Import of Record (IOR) choose to utilize this functionality. Stability would empower the importer of record to use ACE to control the specific ports of entry in which entry can be made and by which customs broker filer codes.

After Ms. Boyce requested comments, Mr. Riley thanked Mr. Iacopella for his feedback on the 5106 form. He said that although the functionality of ACE is not built now, he said he believes we need to definitely investigate and that it is insightful and a brilliant observation by COAC that we should apply and do. Mr. Kubiak added that these are critical vulnerabilities that we see consistently in the large scale investigations, importer identity theft, the use of shell companies, and the fraudulent use of importer of record. He believes this should be tightened up and likes the ideas he has heard.

Vince Iacopella sent a shout out to Mark Herzel at MIQ and the group in Los Angeles that talked about this automated option and brought it to COAC. Brenda Smith stated that she believes the automation is all do-able and that there is functionality related to restricting who is able to use a particular type of bond which is a good model for this in ACE. Jim Phillips said he thinks there is either a TSN requirement which would have been some time ago or a GIF that was submitted on this very topic, so there might be a write-up within Trade Support Network (TSN) documentation.

Ms. Boyce allowed a vote and all five recommendations were passed unanimously. Ms. Smith was recognized next from the Government side.

Brenda Smith wanted to talk about the outreach that has been done via CBP.gov and in other forums since their third deployment in April. According to the ACE plan for seven deployments, with three down, four are left in order to finish ACE in 2016. The next deployment is scheduled for January 2015. She announced that they would like to do some interim deployments in July and October, adding that it doesn't make sense to write good code and have it sit on the shelf for six months. A new deployment schedule will be published and come out on CBP.gov. The last thing Ms. Smith had to say was to ask those who have not done so to please take the ACE survey that's available on the link on CBP.gov. The survey closes on May 23, 2014.

Mr. Riley spoke next regarding the Role of the Broker Work Group. He expressed thanks to the COAC for the discussion last April regarding the broker examination. This discussion resulted in setting up a working group. Mr. Riley said the working group has followed up with another working group on the continuing education piece and said that it is now started and under way with work being done to set up an agenda and going through the different processes of the accreditation issues that will be brought out. He committed to those in attendance that the Role of the Broker for national permitting will start up working groups as well.

After asking for public comments, Ms. Comstock said that she was thinking about this since hearing about it before lunch. She thinks that CBP's decision to do interim deployments in July and October actually makes a lot of sense because the developers will be able to continue working and continue the functionality toward fewer spikes in usage of ACE.

Ms. Boyce agreed with Ms. Comstock that time is passing quickly and there are many deliverables yet to come, so participation and input of CBP and COAC is very important. Tim Murphy was recognized and stated that surety/security agents must also have visibility to see F-5106 data. He said recommendations are on file for such visibility. Mr. Riley agreed that sureties have a responsibility when the importer is not available to actually cover what's owed to CBP and the government. He said he would be happy to continue conversations as progress is made. Ms. Boyce agreed that sureties will continue to be engaged.

Exports Subcommittee

Julie Parks began with an update on the Trade Efficiency Survey that is released on an annual basis. The next survey will be released in the middle of June and will be the third cycle. It will be posted on CBP.gov. The survey provides the trade with an opportunity to communicate on elements such as costs, holds, and Customs priorities. It helps COAC give advice and guidance to Customs consistent with the greater trade community and also helps Customs understand what the cost of a day delay could be. Ms. Parks is hopeful that being the third year, they might produce some trend information now. She asked those who haven't to please respond to the survey.

Ms. Parks reported that they were able to produce some deliverables. The first was a trade survey specifically related to the exports themselves in which carriers, brokers, exporters, and freight forwarders provided comments. The second deliverable was a mapping document that is essentially the same deliverable that the One U.S. Government at the Border group is working to deliver. The group had an opportunity to review and provide comments on the C-TPAT for exporter criteria, and in the last couple of months they had an opportunity to complete an Exports Subcommittee briefing to the Directorate of Defense Trade Controls (DDTC) in an effort to engage them and walk through a more detailed manner some of the work that the Subcommittee has done. The same message was also spread to the greater Border Interagency Executive Council.

Ms. Parks assessed that they are at the point right now where they have deliverables that have been produced and now they have to make sure all the stakeholders understand what the deliverables are and what they are intended to be, and what they're not intended to be, and to field some questions. So with this education piece there is now an opportunity to prioritize the different areas. They need to receive input from the Border Interagency Executive Council in order to establish priorities. She said

that they need to keep an eye on a lot of the ACE developments that are happening with regard to exports and that they did have the Foreign Trade Regulation updates that were generated within the Automated Export System (AES) and have received briefings on.

Ms. Parks is looking forward on the schedule to automation opportunities that will exist. She said she thinks that they have been on the periphery but that in the next session there will be a lot more feedback from the group on how the interaction is working. She said they need to give the government some time to coordinate all the different agencies before being able to actually produce a deliverable that's in alignment with the government's priorities as well as the trade priorities.

Liz Shaver said she likes to give the carrier point of view and is very much in support of export reform and particularly export automation. She stated the main concern is protecting the reliability of the departure operations and the pre-departure environment which is extremely time pressured. Ms. Shaver said their requirements are simple and a matter of securing the early transmission of data for targeting so that shipments are identified for inspection prior to getting into the midst of the warehouse processes. This might not be easy in terms of IT functionality and the regulatory lift that needs to be done to make that happen. Ms. Shaver is looking forward to getting into the work of the Export Process Work Group from the manifest side and figuring out ways with CBP that we can reach our goals.

Mike Mullen commented the IT infrastructure is going to be critical, and the training will be critical, too. Brenda Smith thanked Liz Shaver and Julie Parks for the education they have provided.

Ms. Smith said the work being done is on both the export and the import side. Brenda Smith would like to take the opportunity to talk about a couple lessons learned from the AES deployment at the end of March. One critical thing that was done was to take 80 officers into Virginia had work through the different screens and new capabilities and then send the officers out to the field as trainers to make sure that CBP at large was able to use the system. She said the process was relatively transparent to the trade and the functionality they had in the old AES was relatively the same as they got in the new AES, but in terms of what was able to be done in testing it in a parallel process for a number of months was critical. They plan to use it with air manifest over the next couple of months. Ms. Smith stated that there were some bugs and they expected there would be, but Mr. Armstrong's IT staff worked hard and had the bugs fixed by the end of two weeks after development. She believed that their cooperation with Bureau of Industry and Security (BIS) and Census during the deployment, because there were some regulatory changes made, that BIS and Census were ecstatic about the new capability.

Ms. Boyce commented that Brenda Smith didn't mention the new work group and that she has been partnering with CBP. She said that it's going to be important for all of us to be working side by side with industry when we talk about advanced data and when we talk about risk assessment. Ms. Boyce appreciates the efforts of pulling together the new working group with BIS at the table and hopefully the Department of State and Census which will help in the process.

Global Supply Chain Subcommittee

Jim Phillips began by saying the Global Supply Chain Subcommittee has been looking at several different areas and meeting with Customs. He spoke of data harmonization and said CBP advised that they are looking at an in-transit pilot with Canada Border Services Agency (CBSA) in Canada and looking at how the data might be harmonized related to that. Ms. Boyce interjected to address anyone who might be listening to the meeting on the Canadian side that it's called Domestic In-Transit in Canada and In Transit on the U.S. side. Mr. Phillips continued and said that they are encouraged by the idea of In Transit through Canada being worked on because it has been talked about for a long time. He added that another promising project, also with Canada, is the Peace Bridge Pre-Inspection Pilot. Phase I was successfully rolled out, and they're running trucks and increasing some volume in the second phase. He said there has been talk with CBP about a border fee study which is related to Beyond the Border. The ACAS group was part of the Global Supply Chain Subcommittee and is to sunset, but Liz Shaver will talk about it.

Liz Shaver stressed that the Air Cargo Advanced Screening Pilot has been a success for all stakeholders and that air carriers and freight forwarders strongly support the ACAS project. She said this pilot is an intelligent approach to adding an additional layer of air cargo security that both protects the air cargo business model and is able to respond in an extremely agile manner to threats in the changing threat environment as that occurs in real time. Ms. Shaver said she is grateful that CBP has done an amazing job in international work to promote harmonization, particularly with data elements and submission timelines and to prevent the precipitous drafting of regulations in other countries that were not based on practical pilot experience. She stated that ACAS has been a productive mechanism to analyze critical regulatory policy issues that will help move the pilot into a successful regulatory regime. Detailed and substantively supported recommendations have been drafted and approved by COAC with regard to the establishment of filing regimes and the careful crafting of requirements on data filers in order to secure the earliest possible transmission of data, which is the key factor in making sure that a pre-departure data regime is successful and does not have a negative impact on global supply chain operations.

Ms. Shaver said that there are outstanding items that need to be addressed with regard to interagency cooperation and global supply chain coordination to ensure the

operational success of ACAS. She mentioned the ACAS Working Group has noted the desirability of further alignment of CBP and Transportation Security Administration (TSA) security concepts and programs and of enhanced international cooperation to strive for harmonization of multiple, independently operating pre-departure assessment regimes as well as better interaction with these regimes so that as seamless as possible transition between regimes can take place as a shipment moves through the global supply chain. While these items are critical to the success of ACAS, they also have larger implications for aviation security generally worldwide and on post-departure manifesting regimes as well as pre-departure risk assessment regimes.

Brandon Fried, Executive Director of the U.S. Air Forwarders Association, commented that because close alignment of Customs and security authorities is indispensable to the operational success of pre-departure data risk assessment regimes, he suggests: 1) that it is appropriate to refocus on the joint work of CBP and TSA in the implementation of ACAS, and, in particular, the full Global Supply Chain Subcommittee should be tasked with examination of the alignment of CBP and TSA global security concepts and programs, including but not limited to ACAS, in particular with the identification of areas where the programs are not fully aligned and where one agency's programs can be leveraged to support the other.

Mr. Fried further suggests that: 2) CBP recognize the need for the inter-operability of such systems in the global supply chain. He recommends that the Trade Modernization Subcommittee be tasked with the examination of the current state of the harmonization and inter-operability of the pre- and post-departure reporting systems worldwide and in particular task with the identification of areas of opportunity and potential solutions which may include suggestions for an updated and holistic CBP international advocacy and communication plan.

Jim Phillips began by saying he is limited on what he can say, but he has reached out to TSA on this concern and believes TSA will come to the table for discussions. Mr. Phillips said he believes CBP and TSA will be able to harmonize some of the differences between their restrictions under Safe Port and CBP's requirements under the Trade Act. He explained that where the Trade Act mandates we recognize all entities in the supply chain, the Safe Port Act limits them to work with the carrier.

Ms. Boyce thought it was important to clarify that as the ACAS Work Group sunsets and for the benefit of the public, the rulemaking process has begun, so there can be no talk about ACAS itself. There being no further comments, Ms. Boyce called for a vote and the recommendations were passed. She recalled a former member, Michael Ford, who talked about the fact that we make recommendations, but they go into a black hole and we never see what happens. She stated that she hopes this has changed and thanked Mr. Kennally for his input.

Public Comment Period

Ms Boyce called for public comment at this time. Ms. Fany Flores-Pastor wondered when ACAS will be enforced for the trade. Michael Kennally replied to the question saying that he doesn't know how long it will take but that the Notice of Proposed Rulemaking and the Economic Impact Study are ongoing at this time. He ventured to say it might be six or eight months before it's completed, and then it goes to the Department. He said CBP has proven through past practice that it will be a very slow, measured approach to enforcement. He said if you look at ISF, it went on for five years before an enforcement strategy was implemented, and that happened just last week.

Ms. Boyce announced that 13 COAC members will be finishing their term by February 2015 and Federal Register Notice (FRN) is published for applications for the new COAC term, so everyone is asked to please apply for the new term through June 23rd. She said there are two more meetings and a lot of work to do before the term ends.

Closing Remarks by Commissioner Kerlikowske

Commissioner Kerlikowske thanked everyone and stated that he offered Tim Skud a chance to make a closing statement. He said this would be brief and thanked everyone again and said this is a continuous learning experience. He said he hopes you will continue on with your ability through Maria Luisa, or Patrick Schmidt, or others. or contact him on particular issues and make sure he is aware and that he is engaged and doing what's needed and wished everyone a great day.