

**Advisory Committee on
Commercial Operations of Customs and Border Protection (COAC)
Subcommittee on Exports
Status Report
October 2015**

Background:

The Export subcommittee (“subcommittee”) was established on March 6, 2013, during the 13th term of the Commercial Operations Advisory Committee (COAC), with its objectives and scope consistent with the official charter of COAC. The 14th term COAC, at its first quarterly meeting on April 24, 2015, determined that the Exports subcommittee would continue its work during the 14th term.

COAC: Heidi Bray, Member and Elizabeth Merritt, Member
CBP: Rich DiNucci, Executive Director, Cargo and Conveyance Security, Office of Field Operations
Deborah Augustin, Acting Executive Director, ACE Business Office, Office of International Trade

14th Term Subcommittee Update – October 2015:

The Export Subcommittee’s work is generally divided into commodity and manifest, although the significant overlap between the topics addressed in these two divisions is kept in mind at all times, and the necessary information exchange is accomplished by ensuring sufficient crossover in membership between working groups. The Subcommittee’s 14th term work is proceeding as follows:

Option 4 Work Group

- The Option 4 Work Group, after a brief hiatus, is being relaunched with a slightly adjusted work plan based upon the recommendation approved at the July COAC meeting. The work group will first examine in depth the export risk environment and the potential “tools in the toolbox” – both existing and to-be-developed – that could reduce/mitigate each risk identified. Both the trade participants and CBP have provided initial risk documentation, and the work group will shortly begin work on harmonizing these documents to develop an agreed upon risk and risk mitigation framework. With regard to mitigation, a recommendation is put forth below regarding trade’s perspective on key elements that should be considered when designing the Option 4 solution. Particular attention will be paid to how the advance manifest initiative (discussed in more detail below) can be leveraged to preserve fully post-departure AES transactional filings, and avoid the unnecessary additional burden that a “two-touch” transactional filing system would impose.
- A strong overlap between Option 4 filing and the advance export manifest initiative has been identified by Option 4 work group participants, particularly in the air and ocean environments. A general consensus has been reached that manifest developments may

have both positive and negative impacts on Option 4 filers. On the positive side, the data provided via the manifest may be leveraged for pre-departure risk targeting in the eventual Option 4 solution(s), along with the provision of account-based, pre-departure predictive data provided by filers. On the negative side, the data elements and timelines that will be established as mandatory in the new manifest regime might impose considerable burdens on Option 4 filers that “cancel out” the benefits provided by post-departure commodity filing. Therefore, the work of the Option 4 group will focus closely on manifest developments, and Option 4 filers have been incorporated into the Export Manifest Work Group.

- Further work will focus on co-creation of an Option 4 solution, or more likely, solutions, as the wide variety of exporters currently approved for Option 4 who wish to remain post-departure filers – ranging from defense contractors to agricultural exporters – will likely eliminate any possibility of a “one size fits all” single solution.
- As the Option 4 Work Group embarks on its work in examining the risk environment, we recommend that CBP and trade pay special attention to the role of the following approaches might play in mitigating any risks posed by Option 4 filings:
 - A new, rigorous validation to become eligible to utilize post-departure or Option 4 filing to ensure the exporter understands licensing and other requirements, and is at a low risk for violations of the export control regime;
 - An account-based predictive data set to be provided annually to CBP by Option 4 exporters that is periodically updated to provide notice of the general scope of an entity’s commodities that would be eligible for export using Option 4 filing;
 - Use of an identifier to designate Option 4 shipments on electronic manifests to provide real-time, pre-departure visibility; and
 - Post-departure auditing of Option 4 transactions, combined with random pre-departure inspections, to identify Option 4 exporters of concern.

Manifest Work Group

- The manifest work group, consisting of representatives from the air, ocean, rail and truck modes of transport, as well as commodity-filer representatives, has commenced an intensive schedule of bi-weekly calls. The work group’s first priority has been in-depth discussion of the FRNs for the air, ocean and rail export electronic manifest pilots in order to provide any necessary recommendations to COAC.
- Air has just finished its initial review of the FRN data elements and timelines. The group’s work has been quite productive, and general consensus has been reached by CBP and industry on the operational modifications that should be made to the FRN language in order to enable a robust test of the progressive filing model. This consensus is reflected in the 6 specific air recommendations below that will be put forth for COAC approval at the October meeting.
- Discussion of ocean issues is also underway, identifying areas of concern in specific data elements that were not part of any Implementation Guides or prior subcommittee discussions, as well as some process issues that may not be workable within the ocean environment, both under the pilot structure and beyond into production.
- The truck mode will be beginning its work in earnest in the near future. Most of the CBP-industry joint work related to the rail pilot is taking place outside of the COAC

framework, but rail representation is included in the manifest work group to ensure that any multi-modal issues are identified and addressed.

- The following concerns regarding components of the air export manifest FRN were raised at the previous COAC meeting in July 2015:
 - The data elements list and timeline requirements were not delineated according to “shipment data” versus “transport data” to allow the progressive filing model to be tested, nor were the requirements divided according to what data should be provided by forwarders versus carriers.
 - The single timeline set forth by CBP in the FRN is not achievable in the air cargo environment, nor is it compatible with the progressive filing model, nor was it discussed in advance with the trade via the COAC mechanism.
 - New export data elements not currently required on Form 7509 were introduced without advance trade discussion to determine feasibility or impact. Also, mandatory elements that are not applicable to the air environment or to an electronic reporting environment were newly introduced or carried over from the paper regime.
- Based on the above, and on the industry/government consensus reached via the manifest work group’s intensive work over the past several weeks, the following six recommendations will be presented to the full COAC at the October 2015 meeting:
 1. We recommend that CBP formally recognize in its air export pilot documentation the fundamental difference between house air waybill – or “shipment-level” – data, and master air waybill – 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 below, which includes elimination of the imprecise terms “consolidator” and “deconsolidator”.
 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 timeframe.
 3. Per the concept of decoupling shipment data from transport data, the effectiveness of which has been proven by over 5 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 timeframe, 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 AWB transmission should be set earlier than the deadline for AES filing.
 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 a participating freight forwarder, while master bill data and flight data should be provided by the carrier.
 5. Finally, recognizing that industry and CBP may have different opinions regarding what cargo information, per the Trade Act’s mandate, is “reasonably necessary to

enable high-risk shipments to be identified for purposes of ensuring cargo safety and security”, and recognizing that industry was surprised by several new data elements that were introduced in the FRN for the air export manifest pilot without any 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 an optional designation, the pilot will provide sufficient information to determine the necessity of the new data elements for risk assessment, to be weighed against the burden that 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 air waybills – is an unnecessary element in an electronic reporting system, and therefore both of these elements should be removed from the list.

6. Based upon the above 5 recommendations, we recommend that CBP disposition the data elements from the air export manifest FRN as follows (items listed in the order found in the FRN list):

FRN list #	Data Element Name	Recommended Disposition
1	Owner/Operator	<i>Existing Data Element:</i> Per recommendation #2, designate as a flight-level data element to be provided post-departure
2	Marks of nationality and registration	<i>Existing Data Element:</i> Per recommendation #2, designate as a flight-level data element to be provided post-departure
3	Flight number	<i>Existing Data Element:</i> Per recommendation #2, designate as a flight-level data element to be provided post-departure
4	Port of lading	<i>Existing Data Element:</i> Per recommendation #2, designate as a flight-level data element to be provided post-departure
5	Port of unloading	<i>Existing Data Element:</i> Per recommendation #2, designate as a flight-level data element to be provided post-departure
6	Scheduled date of departure	<i>Existing Data Element:</i> Per recommendation #2, designate as a flight-level data element to be provided post-departure
7	Consolidator	<i>Existing Data Element:</i> Eliminate per recommendation #1 (see items 14 and 15 below)
8	De-consolidator	<i>Existing Data Element:</i> Eliminate per recommendation #1 (see items 14 and 15 below)
9	Air waybill type	<i>New data element;</i> Per recommendation #5, designate as “optional” for pilot
10	Air waybill number	<i>Existing Data Element:</i> Per recommendation #1, divide by “master-level” and “house-level” . Per recommendation #3, designate as a pre-departure data element. Per recommendation #4, designate the house-level as an element to be provided by freight forwarders participating in the pilot.
11a	Number of pieces	<i>Existing Data Element:</i> Per recommendation #1, divide by “master-level” and “house-level” . Per recommendation #3, designate as a pre-departure data element. Per recommendation #4, designate the house-level as an element to be provided by freight forwarders participating in the pilot.
11b	Unit of measure	<i>New data element;</i> Per recommendation #5, designate as “optional” for pilot
12	Weight	<i>Existing Data Element:</i> Per recommendation #1, divide by “master-level” and “house-level” . Per recommendation #3, designate as a pre-departure data element. Per recommendation #4, designate the house-level as an element to be

		provided by freight forwarders participating in the pilot.
13	Number of HAWBs	<i>Existing Data Element:</i> Eliminate per recommendation #5 – this element is not applicable in an electronic environment
14	Shipper name and address	<i>Existing Data Element:</i> Per recommendation #1, divide by “master-level” and “house-level” . Per recommendation #3, designate as a pre-departure data element. Per recommendation #4, designate the house-level as an element to be provided by freight forwarders participating in the pilot. <i>Note, at the master level, the shipper takes the place of the “consolidator” – FRN item 7.</i>
15	Consignee name and address	<i>Existing Data Element:</i> Per recommendation #1, divide by “master-level” and “house-level” . Per recommendation #3, designate as a pre-departure data element. Per recommendation #4, designate the house-level as an element to be provided by freight forwarders participating in the pilot. <i>Note, at the master level, the consignee takes the place of the “deconsolidator” – FRN item 8.</i>
16	Cargo description	<i>Existing Data Element:</i> Per recommendation #1, divide by “master-level” and “house-level” . Per recommendation #3, designate as a pre-departure data element. Per recommendation #4, designate the house-level as an element to be provided by freight forwarders participating in the pilot.
17	AES Info	<i>Existing Data Element:</i> Per recommendation #1, designate as a “house-level” data element . Per recommendation #3, designate as a pre-departure data element. Per recommendation #4, designate as an element to be provided by freight forwarders participating in the pilot.
18	Split AWB indicator	<i>Existing Data Element:</i> Per recommendation #2, designate as a flight-level data element to be provided post-departure
19	Hazmat indicator	New data element: Per recommendation #5, designate as “optional” for pilot
20	UN Number	New data element: Per recommendation #5, designate as “optional” for pilot
21	In-bond Number	<i>New data element:</i> Per recommendation #5, designate as “optional” for pilot
22	Mode of transportation	<i>New Data Element:</i> Eliminate per recommendation #5 – this element is not applicable in the air environment

Subcommittee 13th Term Accomplishments:

- Given the statement of work, past subcommittee findings, and pending export regulatory changes, the Export Subcommittee began with the basics of export process mapping for each unique export type, producing an Education Package that identified pain points, areas of opportunity and potential solutions.
- Engaging a variety of members across the government and trade, a Master Principles Document was produced for One U.S. Government at the Border Cooperation for Exports. With the key concerns of the trade in mind, the document was designed to ensure the efficient management of cross border issues in a manner that reduces the cost of doing business. The principles establish a government/trade foundation upon which to build the future of data exchange, the determination of engagement expectations, and the development of a cooperative approach to achieve the appropriate risk-based strategies and standards that secure cargo movement and facilitate trade at the speed of business.
- The Export Process Work Group was established and charged with further analyzing the process flows and areas of opportunity identified in the export mapping exercise, and

with providing specific recommendations for consideration by the subcommittee. The EPWG was designed to address the 3 commodity types (licensed, non-licensed, and “Option 4”) and the 4 modes of transport (air, ocean, rail and truck) mapped in the 2013-14 exercise.

- The licensed commodity sub-group completed its work and delivered 18 specific recommendations (all approved) during the 13th Term final COAC Quarterly Meeting on February 11th , 2015.
- The air manifest sub-group began its work during the 13th Term, delivering one recommendation (approved) regarding freight forwarder participation in the electronic export manifest pilot during the 13th term COAC quarterly meeting on October 7, 2014, and will deliver additional recommendations during the 14th term.