

**The Advisory Committee on Commercial Operations  
Of Customs and Border Protection (COAC)  
Comments from the  
Trade Enforcement and Revenue Collection Subcommittee  
February 2015**

**Background**

At the March 6, 2013, meeting of the 13<sup>th</sup> Term Commercial Operations Advisory Committee (COAC) in Washington, D.C., the Committee established the Trade Enforcement and Revenue Collection Subcommittee, a blending of the Intellectual Property Rights, Bonds, AD/CVD Subcommittees from the 12<sup>th</sup> Term COAC, and adding Regulatory Audit. The objectives for the Subcommittee are to generate advice and develop recommendations pertaining to improving enforcement of the trade laws of the United States and the collection of duties and fees. Enforcing U.S. trade laws adds not only to the security of the global supply chain and our nation, but expedites products into the marketplace. Identifying and expediting compliant trade by enforcing our trade laws adds to both our national security and facilitation efforts. With compliant trade identified and appropriate fees and duties assessed, CBP can then focus its limited resources on non-compliant and higher risk commerce.

Given the above objectives, COAC's Trade Enforcement and Revenue Collection (TERC) Subcommittee developed a Statement of Work which outlines its focus for this term.

**Outline of Work**

It is expected that, during the lifespan of this Subcommittee, the focus will be on providing advice and recommendations that covers, but will not be limited to, the following areas: Intellectual Property Rights, Anti-Dumping and Countervailing Duties, Bonds and Regulatory Audit.

Each of these issues will be further refined and discussed in its Working Group that in turn will report back to the larger Subcommittee. These Working Groups will be supported by a broad range of stakeholders and the advice provided will incorporate the views and address the concerns of industries impacted by the projects.

**Summary of Work**

Since the initial launch of the TERC Subcommittee, four Working Groups have been opened including a Regulatory Audit Working Group, an Intellectual Property Rights Working Group, a Bond Working Group and an Anti-dumping / Countervailing Duty Working Group.

## **Regulatory Audit Working Group**

At this time, the Regulatory Audit Working Group is on hiatus until such time as CBP presents the COAC with additional topics for review.

## **Intellectual Property Rights Working Group**

### ➤ Voluntary Disclosure Recommendation

The Intellectual Property Rights Working Group (IPRWG) continued its work on the Voluntary Disclosure recommendation that was made at the May 2014 public meeting, focusing specifically on the 2<sup>nd</sup> recommendation:

2. The COAC recommends 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 that discussion and allow the COAC to comment on the final program document before implementation of the pilot.

After consideration of the working group's comments and CBP's response to those comments, the COAC will be offering a recommendation at the February 2015 public meeting that CBP should not pilot the program. Some of the challenges discussed included:

- Concerns from CBP and the trade about potential litigation
- Lack of sufficient benefits for the trade from the program
- Program would not be open to all industry segments, specifically parallel importers

## **Bond Working Group**

At this time, the Bond Working Group is on hiatus until such time as CBP presents the COAC with additional topics for review.

## **Trade Enforcement & Revenue Collection Subcommittee – 13<sup>th</sup> Term Highlights**

- The IPR Work Group vetted distribution chain management as a tool to better segment risk; specifically, the group assessed the feasibility of using GS1 standards as an indicator of IPR compliance; ultimately the COAC determined that the initiative could prove costly and burdensome to the trade until industry more widely adopts similar protocols
- The IPR Work Group developed and recommended a simplified abandonment process for handling violative shipments in the express / small package environment that CBP is now piloting
- The IPR Work Group recommended the use of the Document Imaging System by importers to deliver material to CBP to support that their shipments are IPR compliant; CBP is now piloting this program

- The IPR Work Group reviewed the Voluntary Disclosure Draft that was developed during the 2010 COAC. The COAC will be presenting a recommendation at the February 2015 COAC meeting that because of the potential litigation risks and lack of benefits to the trade, a pilot of the program is not viable
- The COAC provided CBP with informal feedback about the trade's use of ACE to file AD/CVD entries that proved helpful in CBP's assessment of its goal to advance the use of ACE for type 03 entry filing
- The COAC provided CBP with 8 detailed recommendations regarding its proposed changes to the Focused Assessment process that helped shape CBP's internal training and external outreach as it implemented the changes
- The Regulatory Audit Work Group provided feedback to CBP that it used to fine tune its proposed enhancements to the Focused Assessment process and the accompanying Internal Technical Guidance document
- The Bond Work Group discussed and provided advice to CBP on the centralization of single transaction bonds, on ACE e-bond functionality, the mapping of the e-bond process, ACE software development and on e-bond FAQ's

### **The Future of the Trade Enforcement & Revenue Collection Subcommittee**

In the new COAC term, the departing COAC subcommittee members make the following suggestions regarding the future scope of the Trade Enforcement and Revenue Collection Subcommittee as the trade and CBP continue their efforts to collaborate to improve facilitation, enforce US trade laws and promote full collection of all duties and fees:

#### **AD/CVD – COAC Subcommittee discussion**

- Continuation of the discussion of a prospective vs. retrospective system

#### **AD / CVD – non-COAC Work Group discussion points**

- We suggest that CBP stand up a work group comprised of a wide range of stakeholders (importers, brokers, domestic industry, consultants, etc.) to act as a standing forum of subject matter experts that can be called together by CBP when any issues arise to solicit feedback and advice from the trade; regular calls might be held to discuss on-going challenges and to brainstorm new initiatives to help with enforcement and revenue collection that could later be raised to the COAC for consideration
- Integration (continued) of AD/CVD into the Centers; better coordination, communication, uniformity across ports, sharing of expertise, etc.
- Communication & education – continue discussions about how CBP, Commerce and the trade can work together to implement more effective communication and education tools to improve enforcement and facilitate legitimate AD/CVD importations

- We note that balance on this work group is important. There are many stakeholders, all of whom should be adequately represented

### **Regulatory Audit**

- This group would continue to stay in hiatus until CBP is ready to work on the next aspect of the Focused Assessment process

### **Bonds**

- This group would remain in hiatus until the new bond regulations are available for discussion by the COAC

### **IPR**

- We suggest that the COAC explore whether an IPR Known Importer program would offer CBP better targeting and the trade some facilitation benefits; we suggest this might be best done through the Trusted Trader Subcommittee
- We suggest that CBP stand up a work group comprised of a wide range of stakeholders (importers, brokers, carriers, consultants, etc.) to act as a standing forum of subject matter experts that can be called together by CBP when any issues arise to solicit feedback and advice from the trade; regular calls might be held to discuss on-going challenges CBP faces in combatting counterfeit goods and to brainstorm new initiatives to help with enforcement and facilitation that could later be raised to the COAC for consideration; these sorts of exchanges / discussions were the basis of some of the success we had in the past with initiatives like the Simplified Abandonment initiative, as an example

Respectfully submitted:  
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