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**ADVISORY COMMITTEE ON COMMERCIAL OPERATIONS OF
CUSTOMS AND BORDER PROTECTION**

COAC Trade Modernization Subcommittee

Chair:

Jim Phillips, General Motors

May 2014

Introduction

Since February 2014, the COAC Trade Modernization Subcommittee has continued to focus on the role of the broker through the Role of the Broker Working Group (ROBWG). Discussion also took place on COAC engagement regarding the Automated Commercial Environment (ACE) and Centers of Excellence and Expertise (CEE).

Role of the Broker Working Group (ROBWG)

Bona Fides:

Background: Beginning in July 2013, the Role of the Broker Working Group met to discuss possible recommendations on importer bona fides. The discussions within the working group had been centered on what, if any documentation or data is of significant value to this purpose and is readily available to the importer which they can provide to the customs broker, and that the customs broker, in turn, can furnish to CBP upon request. CBP had made very clear to the COAC and the Role of the Broker Work Group at that time that the role of the customs brokers in obtaining bona fides or any additional data is not to vet the importer, nor the data, but to establish the identity of the authorized individual and their relationship to the importer of record. In November 2013, COAC made recommendations on bona fides, related to the collection of a valid power of attorney by a customs broker, and specifically stated that the COAC would revisit the bona fides issue after reviewing any new proposed data elements with CBP for any revision of CBP Form 5106. In that recommendation the COAC recommended that CBP continue to pursue information collection to improve their admissibility determination via the proposed revisions to the CBP Form 5106.

Recently, the COAC Role of the Broker Work Group revisited the Bona Fides issue, and has reviewed with CBP the new proposed data elements for the CBP Form 5106. The COAC believes now, as it did then, that CBP and the trade could leverage additional data collection through a new and revised CBP Form 5106 to address risks associated with traditional challenges related to AD/CVD, IPR, and other enforcement issues. Regarding bona fides related to the collection of a valid power of attorney, the COAC recognizes that many customs brokers already have procedures in place that exceed the regulatory requirements, which may help the customs broker establish the identity of the authorized individual and their relationship to the importer of record. While many of these processes and procedures may be common among brokers, some differ based on the business model and

customer base of the broker. The COAC also recognizes that regardless of any procedure or process that a customs broker may employ in the collection of a valid power of attorney, the responsibility is on the importer, 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. In light of these and other observations the ROTB Working Group will continue their work on bona fides and may yet submit recommendations for the May 22, 2014 meeting as well as possible recommendations at future COAC meetings.

Broker Permitting:

Background: Speaking at a trade conference in 2010, former Commissioner Bersin gave a policy speech outlining his vision for the future of CBP and its relationship with the trade. In that address, Commissioner Bersin said that CBP hopes that brokers will serve as the agency's "boots on the ground". "We can't do our job without you," Bersin said.

As the COAC carefully considers the balance between 21st century entry processing and the long history the Customs broker community has in partnering with CBP in executing on its public safety, security and revenue protection missions, it's important to recognize the critical role Customs brokers play as a force multiplier for CBP and the broker industry's commitment to its responsible supervision and control mandate. In acknowledgement of the need to modernize processes while ensuring the industry continues to support CBP's mission, the COAC makes the following recommendations:

1. COAC recommends that CBP enable brokers to operate through a single, national permit, eliminating the current district permitting requirement. COAC understands that CBP must modernize its permitting framework for Customs brokers to align broker permitting with the challenges and opportunities of 21st century electronic entry processing through such programs such as Automated Commercial Environment (ACE), Remote Location Filing (RLF), the Centers of Excellence and Expertise (CEE) and eBonds.
2. COAC recommends 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 handbooks to ensure a modern, national broker management process is developed and implemented prior to CBP moving forward with the proposed change in the broker national permitting framework. COAC recognizes that today's current broker management process does not support a new 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 responsible supervision and control over their Customs business and that CBP work with the appropriate stakeholder groups to define these new supervision and control requirements and provide the COAC an opportunity to comment on any new framework before implementation. COAC understands the value the Customs broker license brings to CBP and the importing community.

Automated Commercial Environment (ACE)

On April 4, 2014 Stephen Hilsen, Director, Business Transformation, ACE Business Office, Office of International Trade provided an update on ACE development and deployment. Steve referenced information posted on www.cbp.gov and provided an overview. A few points of interest include:

- The ACE schedule is posted on www.cbp.gov.
- AES was successfully re-hosted.
- CBP is working hard to try to make technical data available 18 months in advance of required usage as recommended by COAC.
- Significant work is being done with Partner Government Agencies (PGA). CBP is closely engaged with the BIEC and is engaging the TSN ITDS Committee.
- Deployments of PGA functionality will take place as soon as possible.
- COAC requested additional detailed information on the deployments (which is understood to be in process)
- COAC requested details on plan for Free and Secure Trade (FAST), Rail AMS Line Release and BRASS in ACE. FAST “NCAP” and Rail AMS Line Release are programs that if changed would have a major impact on several large companies’ operations and costs to import.
- ACE outreach is to take place according to the following schedule:
 - April 21 & 22, 2014: Laredo, Texas
 - April 23 – 24, 2014: El Paso, Texas
 - May 19 – 20, 2014: Buffalo
 - May 21 – 22, 2014: Detroit, Michigan
 - June 16 – 17, 2014: Minneapolis, Minnesota (AAEI Conference)
 - June 19-20, 2014: Chicago, Illinois

Centers of Excellence and Expertise (CEE)

On April 22, 2014 the Sub Committee discussed the current status of the CEE and whether or not the CEE was delivering today what was envisioned by COAC. CBP provided the current status of the CEEs and documents from previous meetings were reviewed. In general committee members were very positive of CEE results to date. CBP is preparing for expansion of the CEEs and has agreed that it is important to continue to engage Customs brokers in this process.