

Commercial Customs Operations Advisory Committee  
(COAC)

U.S. Customs and Border Protection  
Quarterly Public Meeting  
Executive Summary

February 27, 2019

1:00 p.m. - 5:00 p.m.

Mr. Bradley Hayes opened the meeting with a roll call, mentioning circumstances that prevented some members from attending. The following COAC members were not in attendance: Warren Hastings, Erika Faulkenberry, Michael White, and Amy Magnus.

**Opening Remarks**

Commissioner Kevin McAleenan welcomed and acknowledged interagency government colleagues, COAC Co-Chairs, and two COAC members who stepped down in 2018. Noting the government shutdown, he applauded the efforts the committee put forth during that time. He then

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highlighted some top priorities for CBP leadership and requested the COAC's assistance with issues and problems in Central America, soliciting participation in a COAC Northern Triangle Working Group. In conclusion, he spotlighted a public hearing of the 21st Century Customs Framework.

Mr. Timothy Skud was delighted to see output from the Regulatory Reform Working Group. Mr. Michael Dougherty's representative made mention of the knowledge and expertise of the meeting's attendees. Ms. Sarah Baerwald discussed work being done to combat trade fraud and intellectual property theft, investigations, provided statistics and results, and outlined future efforts. Mr. Lenny Feldman and Ms. Lisa Gelsomino discussed the COAC's objective and its recent and future activities as well as their desire to assist with the Northern Triangle Working Group.

### **The Secure Trade Lanes Subcommittee**

Mr. Mike Young discussed the final rule for in-bond, explaining three perspectives the working group

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examined. He provided a brief overview of the group's 10 recommendations in areas such as visibility, bond obligation, clarity from manipulation, proof of export, and bond updating and obligation and accountability. Mr. James Swanson noted a twofold goal for the group: to get new regulations implemented and to build and control a 21st century in-bond process. After comments and discussion, the committee voted to accept the recommendations.

Ms. Alexandra Latham presented background on the Trusted Trader Working Group, including its purpose, make-up, and recent and future activities, and then outlined the group's nine recommendations. These included: offering guidelines for a forced labor strategy, a clear definition of "forced labor," an opt-in or opt-out option for the forced labor component, documentation recommendations, guidance on enforcement actions, and continued implementation work. During the public comments period, Mr. Jeff Gifford submitted a question via the webinar, questioning if the forced labor requirement would be added to C-TPAT in all

areas. Lisa Gelsomino also commented on how high of a priority the forced labor strategy was for the Commissioner. Importers need to make a heavy investment to identify forced labor in their supply chains so it's important for CBP to implement the recommendations and help more of the trade get on board. After discussion, the committee approved the recommendations. Mr. Manny Garza stated that at this time the recommendation we have for forced labor is going to be a requirement within the trade-compliance piece.

Ms. Gelsomino provided an update on the Pipeline Working Group, explaining the group's activities and how it arrived at seven recommendations, which were around standardization of the process and continued engagement in pertinent areas; including a Standard Operating Procedure (SOP) for pipeline movements that was incorporated as an Appendix to the recommendations. After discussion, the committee approved the recommendations.

### **The Next Generation Facilitation Subcommittee**

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Ms. Cindy Allen summarized the three active subcommittees: the Regulatory Regulation Reform Working Group, the E-Commerce Working Group, and Emerging Technology. The Emerging Tech Working Group had no recommendations.

Ms. Madeleine Veigel provided a background on the Regulatory Reform group and how they arrived at their ten recommendations, which were categorized into communication, clarity, consistency, consolidation, and compatibility. After discussion, the committee accepted the recommendations. Lenny Feldman noted how the review of the working group identified over 150 outdated sections of the regulations that could be removed.

Ms. Elena Ryan and Ms. Alice Kipel commented on prioritizing efforts towards regulatory reform and possible difficulties.

Mr. Vincent Annunziato discussed blockchain, highlighting some key points from an assessment

completed in December, commenting on possible future uses of blockchain, and discussing two ongoing studies. He also updated the COAC on intellectual property rights.

Ms. Allen then explained the group's one recommendation on e-commerce: CBP's use of a map of e-commerce.

During the public comments period, Mr. Mike Mullen questioned the amount of effort CBP put into regulation reform analysis versus action taken as a result of those efforts.

Mr. James Genario asked about the availability of the e-commerce map. After discussion, the committee accepted the recommendations.

### **The Intelligent Enforcement Subcommittee**

Ms. Heidi Bray gave an overview of the activities of the four working groups under the Intelligent Enforcement Subcommittee. Ms. Jody Swentik and Ms. Amy Smith gave a background of the IPR Working Group, its recent activities, and then explained the group's six

recommendations, including recommendations on data elements, small-package shipments, automation, regulation, collaboration, and e-recordation. After discussion, the committee accepted the recommendations. The meeting was then adjourned.

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**COAC Public Meeting  
Final Recommendations  
February 27, 2019**

**SECURE TRADE LANES SUBCOMMITTEE**

**IN-BOND RECOMMENDATIONS**

**The following recommendations were unanimously adopted by the COAC members present at the meeting.**

**010314**

1. COAC recommends that CBP enhance ACE Reports to allow bond owners to access as much data as legally allowed, for every bonded movement of cargo that has obligated their bond. This will enable bond owners to effectively manage legal obligations that are created by the use of their carrier or custodial bonds, based on below requirements:
  - Regardless of the mode of transportation in which a bond was initiated
  - At a minimum the report should display information that will identify the physical shipment i.e. arriving carrier, bill of lading, pieces and weight as well as the party that has obligated their bond.

**010315**

2. COAC recommends that ACE functionality be developed to send push notifications to the party whose bond has been obligated when a shipment is nearing the 30 day maximum time, similar to the ACE General Order clock functionality that generates 1R/1S-type notifications, in anticipation of the enforcement of a strict maximum 30-day In-Bond total transit time.

**010316**

3. COAC recommends that visibility to CBP cargo status be given to both the carrier and broker as soon as possible and earlier than is currently done. Today, visibility to the CBP status of cargo moving under bond is not provided to the carrier until messages are received by CBP that report the arrival of the cargo at the In-Bond destination port, precluding the ability to effectively manage delivery within the In-Bond facility free time

**010317**

4. COAC recommends that CBP clarify and standardize what constitutes the legal boundaries that are allowed for the purpose of verifying content and piece count of In-Bond merchandise. In-Bond merchandise is frequently opened in order to verify the piece count and detailed specifications (make, model, serial number, etc.) of the goods prior to being exported. CBP periodically issues liquidated damage claims alleging unauthorized manipulation of the In-Bond merchandise. Since there is no definition of manipulation in the regulations, trade stakeholders lack the opportunity to know with certainty what actions are prohibited when verifying In-Bond merchandise.

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**010318**

5. COAC recommends that holds placed by CBP or a Participating Government Agency (PGA) on all cargo, including cargo moving In-Bond, should include disposition codes that identify the hold status of cargo by communicating what PGA has held the cargo, the reason the cargo has been held, the location the cargo must be moved to for inspection, and/or if the cargo is required to be exported or destroyed.

**010319**

6. COAC recommends that CBP develop a capability, through the ACE portal or other electronic means, to provide real-time notice to the trade when a FIRMS code is activated or deactivated. This will ensure visibility to trade in the correct assignment of the required FIRMS codes for arrivals.

**010320**

7. COAC also recommends that the requirement for inclusion of a FIRMS code for all In-Bond cargo movements be deferred until there is mutual agreement to the capability and requirement for FIRMS application on all In Bond movements, including a suitable transition period to allow Trade to implement this new requirement.

**010321**

8. COAC recommends that CBP provide the ability to amend In-Bond transactions rather than the current process of having to delete and re-add full details of an In-Bond record. Efficiencies would be gained by both the trade and CBP with this additional functionality.

**010322**

9. COAC recommends that CBP publish clear and specific guidelines that explain what acceptable and adequate documents and/or procedures will satisfy CBP's Proof of Export requirements. Until an automated solution is available, suggested processes are to continue to allow CBP, upon request, to stamp CBPF-7512 or similar document containing the In-Bond number, outbound bill of lading, an official foreign government entry document or its electronic equivalent.

**010323**

10. COAC recommends that CBP work closely with industry stakeholders to develop a comprehensive Information Technology (IT) plan across ACE modules to facilitate In-Bond automation. The principles informing the development of this plan should include the following:
  - i. Carriers in all modes should be provided with the necessary functionality to accomplish all carrier related In-Bond automation requirements in the Automated Manifest System (AMS) and not be required to access the Automated Broker Interface (ABI) for such functions.

- ii. The timing to develop/implement new ACE functionality to allow efficient implementation of the final rule automation requirements should determine the effective date of a given automation requirement.
- iii. Automated solutions should be developed on a systemic basis to ensure stakeholders do not have to engage in manual workarounds to implement partial functionality.
- iv. CBP should leverage existing ACE automation projects, such as truck refactoring and automated export manifest, to the maximum extent to develop full In-Bond automation capabilities for both import and export across all modes.
- v. A timeline of no later than December 31, 2019 should be established by CBP to require all facilities that handle In-Bond freight to automate their In-Bond processes.

## **SECURE TRADE LANES SUBCOMMITTEE TRUSTED TRADER**

**The following recommendations were unanimously adopted by the COAC members present at the meeting.**

### **010324**

1. COAC recommends that CBP adopt a Forced Labor strategy and continue to develop a Forced Labor component of the future CTPAT Trade Compliance program that allows companies who have a Corporate Social Responsibility or Compliance program to demonstrate compliance and self-identify as low risk in the area of forced labor, expanding their trusted trader scope.

### **010325**

2. COAC recommends that CBP include a definition of the term Forced Labor in the strategy document.

### **010326**

3. COAC recommends CBP allow companies that have forced labor programs the option of opting in or opting out of the Forced Labor component of the future CTPAT Trade Compliance program to be in line with the voluntary nature of CTPAT for security and Importer Self-Assessment (ISA) for trade compliance, and similar to existing ISA programs for Product Safety and Drawback.

### **010327**

4. COAC recommends CBP clearly identify the program requirements, participant qualifications, and detail documents required as “evidence of implementation” by stage of participation such as the initial application and review, an annual notification and a periodic validation, as appropriate. Existing standards, such as the California Supply Chain Transparency & Disclosure Act, should be reviewed for sufficient evidence of implementation to leverage efforts and programs companies already have in place.

### **010328**

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5. COAC recommends wherever possible, a standard of sharing account information such as a company's internal controls to minimize forced labor risk and remediation procedures is preferred over requiring prescriptive documents such as audit reports, corrective action plans, etc.

**010329**

6. COAC recommends that when documents such as audit reports or corrective action plans are provided, the information should only be related to forced labor and importers should be allowed to redact or omit sections related to other corporate social responsibility areas.

**010330**

7. Regarding the proposed strategy criteria on "Remediate Violations", COAC recommends that, as is the case with other product admissibility or compliance components e.g., intellectual property or commercial negligence, CBP provide guidance regarding the potential enforcement actions such as issuing a detention, redelivery or seizure notice or a monetary penalty when CBP suspects or a program participant discloses a violation.

**010331**

8. COAC recommends that CBP detail the disclosure process and the mitigation that could be afforded to participants as program benefits when forced labor violations occur and are voluntarily disclosed.

**010332**

9. COAC recommends CBP continue to work with the Trusted Trader Working Group (TTWG) on the requirements, development, and implementation of the specific criteria and benefits of the strategy to achieve the objectives of the overall Trusted Trader Strategy Framework to include alignment with current Trusted Trader programs as well as achieving a balance of requirements, investment, and benefits for participants.

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**SECURE TRADE LANES SUBCOMMITTEE  
PIPELINE**

**The following recommendations were unanimously adopted by the COAC members present at the meeting.**

**010333**

1. COAC recommends that CBP develop a Standard Operating Procedure (SOP) for Pipeline movements that will standardize entry filing procedures and provide uniformity at all ports of entry. To help collaborate on this effort, the Pipeline Working Group has created an SOP Appendix to these recommendations to capture key points and issues that should be included in this SOP.

**010334**

2. COAC recommends that CBP standardize data reporting requirements that allows for monthly reporting of Pipeline movements as outlined in the SOP Appendix.

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**010335**

3. COAC recommends that CBP develop standard reporting requirements for Pipeline Operators, which will resolve variability among port practices as outlined in the SOP Appendix.

**010336**

4. COAC recommends that CBP automate the filing of the 7512 for in-bond pipeline movements across land borders to meet Census and data collection requirements as outlined in the SOP Appendix.

**010337**

5. COAC recommends that CBP confirm the appropriate Merchandise Processing Fee (MPF) procedures for natural gas and other products moved in continuous pipeline stream.

**010338**

6. COAC recommends that CBP review the bond requirements for Pipeline Operators with the Bond Working Group to provide uniformity in the Customs Bonds required and liability created for Pipeline Operators.

**010339**

7. COAC recommends that CBP place the Pipeline Working Group on hiatus to allow CBP to develop the SOP to respond to these recommendations and continue ongoing dialogue with the Petroleum Center of Excellence and Expertise. If there are technology and/or regulatory issues to be addressed, COAC recommends these be addressed with the Trade Support Network or COAC Regulatory Reform Working Group as necessary.

**See supporting documentation to these recommendations (Appendix A)**

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**NEXT GENERATION FACILITATION SUBCOMMITTEE  
REGULATORY REFORM**

**The following recommendations were unanimously adopted by the COAC members present at the meeting.**

**Communication:****010340**

1. COAC recommends that CBP provide for the use of automated and electronic forms of notification whenever possible.

**Clarity:****010341**

2. COAC recommends that CBP should simplify filings, promoting the use of automated and electronic submissions as practical to eliminate the need for paper forms and multiple copies.

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**010342**

3. COAC recommends that CBP eliminate irrelevant or obsolete documents and data wherever applicable and practicable.

**Consistency:****010343**

4. COAC recommends that CBP remove lists embedded within the text of the regulations whenever possible to prevent reliance on potentially incorrect/outdated information. Instead, CBP should consider placing these lists on CBP.gov as a reference page or document.

**010344**

5. COAC recommends that whenever amending Sections or Parts of the regulations that CBP also take the opportunity to eliminate in those regulations, language and references for antiquated communication methods and obsolete programs or agreements that are no longer active.

**Consolidation:****010345**

6. COAC recommends that CBP consolidate references and information related to a topic to the greatest extent possible.

**Compatibility:****010346**

7. COAC recommends that CBP identify mandatory certificates, certifications, or additional product information and allow, to the extent provided by law, filers to supply them electronically, as well as to supply them upon request using an account-based approach, rather than having to automatically submit them with each transaction.

**010347**

8. COAC recommends that where practicable, CBP should implicitly grant permission for certain routine activities unless CBP expressly states otherwise.

**010348**

9. COAC recommends that CBP should grant full extension periods instead of requiring multiple extension requests, particularly where CBP routinely grants them anyway.

**010349**

10. COAC recommends that CBP reduce regulation and control regulatory costs by eliminating the approximately 170 sections in Section 19, Code of Federal Regulations that the Regulatory Reform Working Group identified as appropriate for repeal.

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**See supporting documentation to these recommendations (Appendix B)**

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**E-COMMERCE**

**The following recommendation was unanimously adopted by the COAC members present at the meeting.**

**010350**

1. COAC recommends that CBP review and adopt the multi-modal supply chain mapping that it developed with the trade when considering future e-commerce policy, automation development, enforcement postures, facilitation programs and education efforts.

**See supporting documentation to this recommendation (Appendix C)**

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**INTELLIGENT ENFORCEMENT SUBCOMMITTEE**

**INTELLECTUAL PROPERTY RIGHTS**

**The following recommendations were unanimously adopted by the COAC members present at the meeting.**

**010351**

1. Additional Data Elements and Metrics: Building on the information already provided in CBP's annual IPR Enforcement Statistics, COAC recommends that CBP collect the following statistical data by mode and provide metrics regarding (1) seizures and (2) detentions which do not result in seizures:
  - a) types of IPR violations by mode
  - b) number of shipments by mode
  - c) country of origin for such shipments,
  - d) port of export for such shipments, and
  - e) type of commodity for such shipments.

**010352**

2. Small Package: Whereas the small package arena has been noted by CBP publicly to be a concern for potentially containing illicit shipments of IPR infringing products, and whereas the express industry and rights holders have an interest in participating with CBP to explore avenues for better detection, interception, and prevention of each illicit shipment, COAC recommends:
  - a. CBP develop, with the partnership of rights holders, importers and/or consignees, the postal service, and the express industry, a mapping exercise that depicts the specific risks or concerns within the small package industry for IPR violations,

which are different from traditional trade, so that those specific concerns can be prioritized and addressed.

- b. Based on the mapping exercise, COAC recommends that CBP develop a specialized, efficient process for targeting, detaining, inspecting, seizing, destroying, and/or releasing small parcels, specifically related to the shipment's value and overall risk. The process should be specific to counterfeit goods and take into account the resources available to CBP, importers and/or consignees, and rights holders.
- c. As rights holders have noted a deficiency in the type and amount of information available to them related specifically to the small package arena, COAC recommends that CBP, in partnership with relevant stakeholders, examine avenues for information exchange between rights holders, law enforcement, and CBP to facilitate dissemination of intelligence related to supply chains and trends in IPR infringing materials in the small package arena. CBP should consider establishing a separate channel, such as a public communication and quarterly meetings with the stakeholders to facilitate reporting and information exchange on a consistent basis concerning small packages containing IPR infringing products. This will ensure that the proper stakeholders are engaged and aware of such trends and data, as rights holders can use this information to focus their resources depending on the trends shown.

### **010353**

3. Automation: As the current process for notification and information exchange is a paper/manual process, COAC recommends that CBP explore the establishment of an electronic means to notify and share as many data points as possible along with relevant documents at the time of shipment seizure or detention.

### **010354**

4. Regulatory: COAC recommends that CBP evaluate existing regulations related to counterfeits and suggest modifications that would streamline the process of seizure, forfeiture, detention, and abandonment for IPR enforcement.

### **010355**

5. Donation Program: COAC encourages collaboration between CBP and the private sector to enable the detection of counterfeit products and enforce IPR by allowing donations of hardware, software, equipment and similar technologies as well as accept training and other support services from the private sector for the purpose of enforcing IPR.

### **010356**

6. eRecordation: COAC recommends that CBP improve communication with the ports of entry through the designated CBP Centers when onboarding new rights holders who

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register their brand through the eRecordation process. This should encourage participation in the eRecordation program by avoiding unnecessary delays, detentions or seizures.

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