

U.S. CUSTOMS AND BORDER PROTECTIONS
(CBP)

COMMERCIAL CUSTOMS OPERATIONS ADVISORY COMMITTEE
(COAC)

QUARTERLY PUBLIC MEETING

Wednesday, September 20, 2023

1:00 P.M. to 3:23 P.M.

By: Chelse Sander

OPENING REMARKS

Felicia Pullam, Executive Director for the Office of Trade Relations, opened the meeting and welcomed COAC Members and all the public attendees. The roll was called, and all members were present.

CBP Commissioner Troy Miller welcomed attendees and highlighted the presence of key CBP and DHS officials, including John Leonard, who will be retiring in April, and others joining both in-person and virtually. Miller expressed gratitude for the valuable recommendations received from COAC during the 16th term and looked forward to continued collaboration. He acknowledged returning COAC members, emphasizing their crucial role in improving customs operations and appreciating their leadership and expertise.

Moving on, several important items were discussed, starting with the ongoing efforts to combat the flow of fentanyl and other illegal substances within small packages. He mentioned the continuation of work by the De Minimis Working Group, focusing on developing compliance solutions and enhancing trade community education. He also highlighted the establishment of the Center of Excellence Working Group, noting the success of CBP's nationwide account-based processing model and the importance of maintaining open dialogue between CBP and COAC.

Further, Commissioner Miller addressed the comprehensive plan being developed to target and enforce against illegal customs practices harming American textile manufacturers, a priority issue for CBP. He emphasized the serious consequences for violators, including loss of preferential duty treatment and potential penalties. He outlined new bond requirements to ensure compliance and protect revenue, with specific liquidated damages for non-presented merchandise designated for examination.

Continuing, he provided updates on the status of two notices of proposed rulemaking, one for low-value shipments and another for the rail electronic export manifest, indicating they are in the final stages of review. He concluded by thanking participants and announcing upcoming meetings, including the next public meeting on June 26 and the 2024 Trade Facilitation and Cargo Security Summit in Philadelphia, which offers virtual participation options.

Dan Paisley, Attorney Advisory for the Office of Tax Policy expressed his gratitude to the attendees and commending the efforts that went into preparing the program. Although he did not have significant updates beyond those provided by the Commissioner, he conveyed his eagerness to hear the ideas presented during the event.

Further, Mr. Paisley apologized for not being able to attend in person and shared his fondness for Charleston's Custom House, a historic building designed before the Civil War. He then mentioned personnel changes within the Treasury Department, noting that Tom West had left the department, but assured everyone that the department remained focused on its customs revenue functions. Lastly, Mr. Paisley expressed hope that new leadership would be introduced by the June COAC meeting and concluded by thanking the participants and looking forward to their contributions.

Deputy Assistant Secretary of Trade and Economic Security Tasha Hippolyte expressed her gratitude to Commissioner Miller and Felicia for hosting the COAC meeting in South Carolina and emphasized her appreciation for the ongoing partnership with the department on critical trade issues. She highlighted two key points from the DHS perspective.

First, she discussed the efforts of the newly established Supply Chain Resilience Center, focusing on maritime security, and emphasized the importance of stakeholder engagement as the center matures. Assistant Secretary Chris Dowski recently highlighted these issues during a hearing on maritime port security.

Second, Deputy Assistant Hippolyte underscored the implementation of the Uyghur Forced Labor Prevention Act, praising CBP's enforcement efforts and emphasizing the importance of transparency and predictability. DHS is focused on streamlining the process of adding new entities to the Act's Entity List to support robust enforcement. She reiterated the centrality of stakeholder engagement in both the Supply Chain Resiliency Center and the implementation of the Uyghur Forced Labor Prevention Act, and she acknowledged the COAC as a valuable resource for developing strong solutions.

Deputy Assistant Hippolyte concluded by looking forward to continued engagement with the private sector to ensure supply chain resilience. Michael Ball, Deputy Assistant Director for Homeland Security Investigations,

Katrina Berger, the Executive Associate Director for Homeland Security Investigations , outlined her role overseeing HSI's workforce of over 10,000 employees, including special agents, criminal analysts, and support personnel in 235 offices across the United States and 56 countries worldwide. She discussed HSI's strategic priorities for the year, which focus on identifying, disrupting, and dismantling significant transnational networks involved in financial crimes, cyber and emerging technologies, national security threats, opioids, human exploitation, and global trade.

Executive Associate Director Berger emphasized that global trade remains a top priority for HSI due to its mission to oversee and support investigations of US import and export laws to ensure national security, protect public health and safety, and prevent illegal trafficking of weapons and critical technology.

HSI's objectives were highlighted, such as enforcing US customs laws, including pursuing criminal prosecutions, dismantling transnational criminal organizations, assessing civil penalties, seizing assets, and regulating restricted merchandise. It was also noted that HSI's extensive criminal and administrative authorities allow for a broad international reach, making global trade a key focus in HSI's 2024 goals.

Assistant Director Jim Mancuso expressed his gratitude to EAD Berger and the Commissioner for the opportunity to speak. He emphasized that global trade investigations being a priority for HSI is significant given the agency's broad mission of enforcing over 400 laws.

With such a narrow focus on specific priorities this year, the importance of global trade was highlighted further. He noted that HSI, along with CBP, dominates the customs investigation space, unlike other areas like money laundering or drug trafficking, where multiple agencies are involved. This recognition allows HSI to effectively collaborate with CBP and DHS, ensuring that their efforts are focused and aligned.

Concluding, he emphasized HSI's role as investigators and stressed their commitment to addressing traditional customs fraud cases and supporting CBP's priorities.

David Corn, Trade Chair, expressed gratitude to the co-chairs and deputy co-chairs for their participation and acknowledgment of COAC's efforts and highlighted the seamless transition from the 16th term's initiatives to the current term, emphasizing the commitment to maintaining momentum.

Mr. Corn noted the collaborative efforts among COAC members, acknowledging the behind-the-scenes work that goes into preparing for public meetings. He provided updates on the progress made in various subcommittees and working groups, highlighting the formation of new groups such as the Entry Modernization Working Group and the Drawback Task Force..

Felicia Pullam, Executive Director for the Office of Trade Relations, provided some brief housekeeping before introducing the Intelligent Enforcement Subcommittee.

INTELLIGENT ENFORCEMENT SUBCOMMITTEE

Subcommittee Co-Chair Julie Pojar introduced the subcommittee's role in enhancing trade and government practices, policies, and programs. She outlined the three active working groups within the subcommittee: the AD/CVD Working Group, the Forced Labor Working Group, and the Intellectual Property Rights Working Group, noting that the Bond Working Group was placed on hiatus in December.

Ms. Pojar mentioned that the subcommittee met three times during the quarter and indicated that there were no working groups with recommendations for the quarter, but they would provide report outs.

ANTI-DUMPING & COUNTERVAILING DUTY (AD/CVD) WORKING GROUP

Working Group Chair Matthew Zehner outlined the group's focus on building upon recommendations from prior terms, aiming to facilitate imports with compliant importers and enhance importer compliance. They currently do not have any recommendations, but the group is meeting monthly, with one meeting held during the quarter and another scheduled for later in March.

The group's efforts include addressing nonresident importers and improving accuracy with AD/CVD entry filing, with discussions on matters involving Sections 201, 232, and 301. Additionally, he noted plans to discuss enhancements to entry summary filing outlined in a recent Federal Register Notice. Concluding, it was stated that the group currently does not have any recommendations.

FORCED LABOR WORKING GROUP

Mr. Thomas Gould, co-chair of the Forced Labor Working Group, expressed gratitude to his new co-chair, Kerry Novak, and himself. Despite being unable to convene as a full working group this quarter, the leadership team met once to finalize the statement of work. They emphasized their commitment to supporting CBP in intelligent and balanced enforcement, fostering two-way communication with the trade on forced labor-related matters.

The group aims to continue partnering with CBP to identify opportunities for process and communication enhancements throughout the 17th term of COAC. Their priority is to ensure continued progress and closure on recommendation implementation. Currently, they do not have any recommendations.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROCESS MODERNIZATION
WORKING GROUP

Co-Lead Heather Litman stated that while the group doesn't have recommendations for this quarter, they're focused on operationalizing previous recommendations, particularly automation of seizure and detention processes.

They're advocating for a unified identifier for goods throughout enforcement processes, noting the significance of Customs' new ePetition filing portal and enhanced connectivity between ACE and CTPAT. This connectivity is crucial for effective enforcement, facilitating communication among Customs, importers, and rights holders during the enforcement process. Additionally, they received updates on the training web address, a resource for rights holders to share information with Customs, and are exploring further enhancements.

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Deputy Executive Director Maya Kamar warmly welcomed both new and returning members to the Intelligent Enforcement Subcommittee Working Group for the new term, highlighting the thoughtful and achievable recommendations that have been and continue to be made. She also thanked everyone for their contributions.

PUBLIC COMMENT

Executive Director Felicia Pullman opened the floor for public comment.

An anonymous comment was submitted through the Federal Register notice. The comment raised concerns about the spread of tuberculosis by illegal immigrants entering the United States and highlighted a court-ordered report revealing that thousands of migrant children with latent tuberculosis infections are being released into the country without proper treatment. The report indicates that approximately 2,500 infected children were released over the past year in 44 states .

Due to the short time migrant children spend in custody, the Health and Human Services Department releases them to sponsors in the US, relying on local health authorities for treatment. However, notifications to health officials are inconsistent, and migrant children often move before receiving treatment. Complications such as overcrowded shelters and difficulties finding sponsors further hinder treatment efforts.

The comment concluded by calling for the government's quick release of children from custody complicates tracking and treatment, with minors not routinely receiving treatment for latent tuberculosis due to the short average length of stay in resettlement care.

The second public comment states: I filed a case with FDA on a manufacturer sidestepping import alert 99-08 by reregistering. Would this be investigated by CBP; and, if so, can I get an update? Complaint number 1815131.

A third comment was submitted on behalf of Texas International Produce Association. It read: we would like to see this committee address the issue of the fresh produce industry not having visibility of the fresh produce crossings from international producers across US borders within 24 hours. Happy to provide additional information as needed on this issue.

An unidentified COAC member replied to the first comment, stating that it is not in the scope of the charger for COAC.

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NEXT GENERATION FACILITATION SUBCOMMITTEE

Subcommittee Co-Lead, Thomas Gould explained that the subcommittee focuses on enhancing trade processes, policies, and programs to prepare both trade entities and CBP for the future. Currently, it comprises five active working groups. Leveraging these groups and engaging trade stakeholders, the subcommittee aims to offer feedback on challenges faced by CBP and the trade industry, collaborating to assist CBP in achieving its objectives of facilitating trade while ensuring enforcement. The subcommittee will only be presenting one recommendation from the working groups.

AUTOMATED COMMERCIAL ENVIRONMENT (ACE) 2.0 WORKING GROUP

Working Group Co-Lead, Thomas Gould outlines the group's role in advising CBP on enhancing the ACE 2.0 system to streamline the entry process. The group focuses on identifying gaps across various entry-related processes, including manifest, ISF, post-entry, audit, and export. The working group met once this quarter to review the ACE 2.0 concept of operations, particularly in the e-commerce scenario, with plans to assess additional scenarios in subsequent meetings.

The ultimate aim is to support the acquisition of the ACE 2.0 concept of operations. While the development of ACE 2.0 is slated to commence no earlier than fiscal year 2026, the working group has no recommendations for the current meeting.

BROKER MODERNIZATION WORKING GROUP

Working Group Co-Lead Brian Barber highlighted the transition of broker modernization from the Rapid Response Subcommittee to its permanent placement within the Next Gen Subcommittee. Despite the shortened quarter, the Broker Modernization Working Group has been active, meeting four times to discuss modernizing the Customs Brokers Licensing Exam and continuing education for licensed customs brokers.

One recommendation is submitted regarding unifying the registration and site selection process for CBLE candidates, with a minor grammatical correction suggested for clarity.

Mr. Brian Barber asked for a motion to submit the revised recommendation by the Next Generation Subcommittee. A motion was made by Matthew Zehner and seconded by Julie Pojar. and seconded by Jody Swentik. Calling for a vote, the recommendation was unanimously submitted.

Continuing, Mr. Barber highlighted the creation of the Modernization Entry Process Working Group (MEPWG) which was announced as part of the 21st Century Customs Framework breakout, falling within the Next Generation Subcommittee. In the current term, the MEPWG held its initial call and worked through a draft statement of work, which is still under review.

The group's focus is on examining different aspects of the entry process, particularly post-release processes, with an emphasis on cybersecurity incident guidance to brokers provided by CBP. The MEPWG plans to meet monthly, and despite its initial efforts, it has no recommendations to submit during the present meeting.

CUSTOMS INTERAGENCY INDUSTRY (CII) WORKING GROUP

Working Group Co-Lead Craig Seeling stated that during the past quarter, the group convened four times, covering various topics such as upcoming ACE requirements for USDA AMS Organics, EPA HFC, and the CPSC Beta Pilot. Discussions also revolved around entry type 86 de minimis shipments, the accuracy of PGA data, and CBP's expansion of the Global Business Identifier Evaluated Proof of Concept, as announced in the February 12, 2024, Federal Registry notice. The group has no recommendations for this quarter.

PASSENGER AIR OPERATIONS WORKING GROUP

Working Group Lead John Drake stated that the Passenger Air Operations Working Group has held one virtual meeting since the prior meeting. During this session, CBP and industry representatives discussed information related to the arrival of international flights and landing right requests, leading to potential changes to existing regulations. Moving forward, the group plans to explore these regulatory adjustments further. Additionally, they are assessing industry challenges and CBP requirements concerning the landing rights process, with findings to be presented at the next meeting. Currently, the group has no recommendations to submit.

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Brandon Lord, Executive Director of Trade Policy and Programs within the Office of Trade, commended the diverse range of issues addressed by the various COAC subcommittees, covering topics such as ACE 2.0, Customs Interagency, modern entry processes, brokers, and air passenger operations. He expressed CBP's support for the recommendation regarding the consolidation of steps for new brokers registering to take the exam, selecting the exam site, and other related processes.

PUBLIC COMMENT

Executive Director Felicia Pullman opened the floor for public comment.

One comment was submitted online by Marianne Roden (phonetic), and it read: Please advise when CBP anticipates choosing the accredited broker continuing education.

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RAPID RESPONSE SUBCOMMITTEE

Subcommittee Co-Lead Julie Pojar explained they convene to swiftly address CBP's identified needs, focusing on recommendations with quick timelines. Since the last public meeting in December 2023, the subcommittee met once. During this quarter, the USMCA Working Group was put on hiatus, and the Broker Modernization Working Group was transferred to the Next Generation Facilitation Subcommittee. Consequently, there are currently no active working groups within the Rapid Response Subcommittee. However, the subcommittee remains prepared to address emerging topics as directed by CBP.

UNITED STATES-MEXICO-CANADA AGREEMENT (USMCA)

CHAPTER 7 WORKING GROUP

Working Group Co-Chair Julie Pojar stated that they have completed a thorough review of Chapter VII on Customs Administration and Trade Facilitation Provisions in December 2023. Following this, they convened in January to address any remaining issues and submitted their recommendations to the USTR and were also included on the agenda of the Chapter 7.24 Trilateral Committee on Trade Facilitation, involving representatives from all three countries. This accomplishment marks a significant success for the working group, fulfilling one of its primary objectives. Currently, there are no further recommendations from the USMCA Working Group, and it is now on hiatus pending any future requirements.

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Deputy Executive Assistant Commissioner of Trade Policy and Programs John Leonard quickly thanked all the hard work that has been done by the Subcommittee.

PUBLIC COMMENT

Executive Director Felicia Pullman opened the floor for public comment, and none were made.

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SECURE TRADE LANES SUBCOMMITTEE

Subcommittee Co-Lead Steven Simmons explained that the subcommittee oversees seven active working groups focusing on modernization, import-export processes, trade improvement, intelligence enhancement, and efficiency maximization.

These working groups include the Centers, Cross Border Recognition, Export Modernization, de Minimis, Foreign Trade Zones and Warehouse, Trade Partnership and Engagement, and Pipeline Working Groups. Two additional working groups, Inbound and Remote and Autonomous Cargo Processing, are currently on hiatus. Despite meeting only once this year, the subcommittee is set to present five recommendations from two of its working groups.

CENTERS WORKING GROUP

Working Group Co-Lead Heather Litman informed COAC that they are a very active group and have been meeting biweekly. Communication has been pivotal as there is a need for intra-agency and external dialogue, particularly with brokers representing small and midsize importers.

The group aims to enhance understanding and cooperation between centers and ports, acknowledging the ongoing evaluation of this relationship. With four recommendations this quarter, Litman expresses the group's proactive approach and anticipates further developments as they lay the groundwork for future changes.

The first recommendation addresses communication regarding importers' ability to change centers. Originally designed to be commodity-specific, the centers' structure has evolved over time, leading to challenges for small importers in determining their designated center. The group aims to simplify this process, making engagement with and understanding of the correct center more accessible for importers.

The second recommendation focuses on obtaining specific data points within the centers to better understand their operations. The group seeks to acquire information such as the total number of importers handled at each center, the number of partner accounts, and the volume processed. This data would not only benefit CBP but also provide valuable insights for the trade community. Understanding these metrics is crucial for evaluating and improving center operations, and the group emphasizes the importance of transparency in sharing this information with stakeholders outside the working group.

The third recommendation aims to develop programs that enhance visibility and outreach to small and midsize importers, along with the brokers representing them. The group emphasizes the importance of fostering a sense of community within the centers, similar to the camaraderie experienced at ports in the past. They propose initiatives to increase engagement and communication within the center, ensuring that importers and brokers feel included and informed about updates and changes. This approach seeks to create a supportive environment where all members of the center can collaborate effectively.

The fourth recommendation suggests providing adequate resources to the centers for regular outreach efforts. This includes reinstating practices like the old importer interviews, focused on building relationships rather than enforcement. The goal is to foster better understanding between Customs and importers, facilitating improved compliance and efficiency in trade operations. The group emphasizes the importance of Customs being well-acquainted with importers within its center to enhance trade effectiveness and compliance.

Concluding, Ms. Litman affirms the group's commitment to advancing their initiatives swiftly. They express dedication to fostering a sense of community within the center and commend the group's collective effort. They express gratitude to all involved for their contributions.

CROSS-BORDER RECOGNITION WORKING GROUP

Working Group Co-Chair Steve Simmons provides the update on the group, noting that they met twice since the last meeting, both focusing on the commercial crossing closures on the southern border in late 2023 and their impacts on the supply chain and offering recommendations to mitigate such impacts in the future. Moving forward, the group aims to document opportunities to mitigate these impacts to ensure all ports of entry on the southern border remain open and process legitimate trade. The group does not have any recommendations for this meeting.

DE MINIMIS WORKING GROUP

Trade Lead Craig Seeling states that they convened three times in late February, focusing on CBP's findings from Operation Artemis and ongoing discussions on de minimis shipments, particularly regarding the new rules concerning the timing for entry type 86. No recommendations are made by the group.

EXPORT MODERNIZATION WORKING GROUP

Working Group Co-Chair Cynthia Roller outlines the group's activities during the new term, including meetings to discuss progressive filing, the EU's implementation of ICS2, and ongoing efforts related to electronic export manifest (EEM) development.

The launch of the Drawback Task Force was emphasized, and it aims to address various objectives related to drawback claims. From this they are offering one recommendation from within that task force regarding the approval of using the electronic export system for proof of export for drawback claims, emphasizing how this recommendation aligns with the larger goals of the working group and ties into discussions about EEM initiatives.

FOREIGN TRADE ZONES AND WAREHOUSE WORKING GROUP

Working Group Co-Chair Julie Pojar introduces the Foreign Trade Zones Warehouse Working Group and provides background information on the purpose of the working group, which is to advise on challenges related to Foreign Trade Zones (FTZs) and warehouses.

The working group's focus includes identifying and prioritizing areas within Title 19 of the Code of Federal Regulations Part 146, which pertains to FTZs and warehouses. This involves revisiting past recommendations and regulatory packages, enhancing ACE functionality to streamline processes for FTZs, and ensuring CBP oversight and enforcement capabilities. The group also aims to address issues related to forced labor, AD/CVD, sanctions, and trade remedies, among other opportunities for warehouse modernization.

PIPELINE WORKING GROUP

Working Group Chair Mary Hodges expressed that the group's latest meeting took place in February 2024, advancing towards the initiation of the pilot project. Discussions primarily revolved around topics concerning pipelines and drawbacks. The group does not have any recommendations for this quarter.

TRADE PARTNERSHIP AND ENGAGEMENT (TPE) WORKING GROUP

Working Group Co-Lead Angela Cook outlined the focus of the TPE working group on the CTPAT program, encompassing both security and trade compliance aspects, with meetings held biweekly.

Their objectives include ensuring consistency in CTPAT security validation, streamlining the prevalidation documentation process, and identifying concrete benefits for program members. These priorities align with their working group statement of work, and they plan to present recommendations on these topics in future quarters.

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Deputy Executive Director of Cargo and Conveyance Security Dennis McKenzie expressed gratitude to each COAC member for their contributions to addressing major issues facing CBP. He acknowledged that COAC members are busy individuals with demanding day jobs, yet they volunteer their time and expertise to serve on the committee. He then highlighted the dedication of COAC members, emphasizing that they put in hours beyond their regular jobs to contribute to the committee's work and thanked them for their recommendations and expressed his anticipation for collaborating with them in the new term of COAC.

PUBLIC COMMENT

Executive Director Felicia Pullman opened the floor for public comment.

A comment was made by Mr. Mike Mullen. He emphasized the importance of maintaining the De Minimis Working Group's frequent meeting schedule of twice a month. He noted the significant interest in the subject matter from both government stakeholders and the public, highlighting misconceptions surrounding the impact of de minimis shipments on various issues such as the competitiveness of the US textile industry and the opioid crisis. Despite de minimis shipments constituting only 1.4 percent of US imports by value, there are unrealistic expectations regarding their role in addressing broader problems.

Another comment was then made by Arturo Dominguez, who suggested implementing a survey after a call with the Center of Excellence. He proposed including questions such as whether the response time was reasonable and if all questions were adequately answered. This feedback mechanism could help improve the effectiveness and efficiency of interactions with the Center of Excellence.

Marianne Roden asked how long have CBP and COAC been working on electronic export manifests.

Addressing the first comment by Mr. Mullen, Heather Litman stated that it was a terrific idea.

An unidentified COAC Member also responded to Mr. Mullen's comment regarding the high interest in de minimis. They assured that the working group would maintain a continued cadence of meetings focused on this topic. Additionally, they addressed Marianne Roden's comment, indicating that progress is being made on the rail NPRM, with expectations for further advancements in the near future.

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Executive Director Pullam called for a motion to submit the Secure Trade Lane Subcommittee recommendations. A motion was made by Brian Barber and seconded by Angela Cook. Having been unanimously agreed through a roll call vote, the recommendations were submitted. **See the Appendix for the complete recommendation.**

CLOSING REMARKS

Executive Director Felicia Pullman provided a reminder about upcoming events. The Trade Facilitation and Cargo Security Summit is scheduled for March 26 to 28, with virtual registration still available until the 14th. The next COAC meeting is set for June 26, 2024.

She thanked all the participants and adjourned the meeting at 2:39 P.M