

Commercial Customs Operations Advisory Committee (COAC)

Secure Trade Lanes subcommittee Draft Trusted Trader Recommendations

August 2019

The logo for the Commercial Customs Operations Advisory Committee (COAC) features the letters 'COAC' in a bold, serif font. The 'C' and 'A' are blue, while the 'O' and 'C' are red. The letters are positioned above two horizontal lines, the top one being blue and the bottom one red.

**COMMERCIAL CUSTOMS OPERATIONS
ADVISORY COMMITTEE**

Trusted Trader Working Group
DRAFT Recommendations
Forced Labor Implementation

August 21, 2019

Introduction

Trusted Trader programs are a critical element in trade facilitation and are a proven benefit to both CBP and the Trade. Trusted Trader programs allow companies to demonstrate security and trade compliance and provide the opportunity to establish and maintain a low risk status with CBP in order to increase predictability and consistency in the global supply chain.

As new priority issues arise and the trade environment evolves, the creation of additional components of trusted trader programs is necessary to expand the scope for risk assessment and facilitative purposes. In this vein, the COAC recognizes the need to address forced labor in a trusted trader environment and welcomes the opportunity to participate in the conversation to build a partnership program for a Forced Labor Trusted Trader Strategy incorporated into the future CTPAT Trade Compliance Program.

The Trusted Trader Working Group delivered recommendations on the Forced Labor Strategy document in February of 2019. Based on subsequent working group discussions, we are providing the following additional recommendations around the Forced Labor strategy and future implementation of the CTPAT Trade Compliance program.

Recommendations

1. COAC recommends that CBP design the CTPAT Trade Compliance (CTPAT-TC) program requirements for forced labor and associated benefits to encourage participation to facilitate self-identification of low risk importers. Program benefits for voluntary participation should be measurable, reportable, and off-set the cost of participation. Requirements should be scalable, flexible, and address a company's efforts to combat forced labor in their supply chain. As forced labor is often a subset of a broader corporate social responsibility program, requirements should be limited in focus to forced labor and companies should not be required to provide information beyond the scope of forced labor as defined under 19 USC 1307 and the CTPAT Trade Compliance Program.
2. COAC recommends CBP partner with stakeholders to hold informal meetings in order to learn about typical corporate social responsibility programs, the efforts to combat forced labor, and available program documentation by meeting with a cross-section of companies to review their programs prior to finalizing the CTPAT-TC Forced Labor program requirements.
3. COAC recommends CBP conduct this outreach and bi-directional education prior to finalizing the documents required as evidence of implementation for the Forced Labor component of the CTPAT-TC program.

4. In addition to meeting with importers, COAC recommends that CBP also meet with third party auditing companies who conduct social compliance audits that include the area of forced labor. These companies see a variety of programs and supply chains and could be a valuable stakeholder to consult for a broader viewpoint of effective actions and best practices for combating forced labor in the supply chain.
5. As a baseline, COAC recommends that CBP align the program requirements for the forced labor component of CTPAT-TC with the other compliance and regulatory requirements of the current Importer Self-Assessment (ISA) program, similar to how risk and internal controls are reviewed and assessed for classification, valuation, free trade agreements, anti-dumping, etc. The application, Application Review Meeting (ARM), and Annual Notification Letter (ANL) should be completed once and encompass all components of the CTPAT-TC program including forced labor.
6. Further to the February COAC recommendation #010331¹, and specific to the disclosure process, COAC recommends that CBP provide clear guidelines on the disclosure procedure and reporting requirements that CTPAT-TC members should follow when an incident of forced labor is confirmed in their supply chain. The guidelines should include time of the disclosure (e.g., within 90 days of confirmation of the event, etc.), mode of submission (e.g., through ANL letter, letter to CTPAT, NAM, CEEs etc.), and required elements of the disclosure (e.g., summary of forced labor incident, corrective actions implemented, and any changes to the company's forced labor policies and procedures). The disclosure process should consider different reporting mechanisms depending on the disposition of the goods determined to be manufactured with forced labor (e.g., orders cancelled and not imported into the U.S. or imported into the U.S.).
7. COAC recommends CBP explore the possibility of granting benefits for CTPAT-TC members who provide a prior disclosure (or report) of admissibility violations, including forced labor, that CBP will consider alternatives to seizures, withhold release orders, or other types or enforcement actions. Further, CBP should articulate the guidelines in making such a prior disclosure (or report) for admissibility violations in the CTPAT-TC Handbook. This would encourage CTPAT-TC importers to avail themselves of their right to disclose or report such violations regarding their own importations under 19 CFR 12.42, providing that *any* person who has reason to believe that merchandise produced by forced labor is being, or is likely to be, imported into the United States may communicate his belief to any Port Director or the Commissioner of CBP.

¹ Recommendation # 010331: 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.