



**COMMERCIAL CUSTOMS OPERATIONS
ADVISORY COMMITTEE**

**Recommendations during December 7, 2022
16th Term COAC Public Meeting
National Archives Records Administration, College Park, MD**

**Next Generation Facilitation Subcommittee
21st Century Customs Framework Task Force Recommendations**

010590

COAC recommends that CBP, the 21CCF Focus Group, and any additional PGAs as appropriate, continue to discuss and attempt to finalize the below statutory changes proposed by CBP and separately, by industry.

Industry-Proposed Statutory Changes for Further Discussion (Trade Opportunities):

- 19 USC § 1401 & 1484(a)(2)(D)
- 19 USC § 1484 (a)(2)(C) & 1321(c)
- 19 USC § 1629
- 19 USC § 1484(c)
- 19 USC § 1411
- 19 USC § 4311
- 19 USC § 304 & 305

CBP-Proposed Statutory Changes for Further Discussion (CBP Challenges):

- 19 USC § 1517
- 19 USC § 1623
- 19 USC § 1595a(b)
- 19 USC § 1595a(d)&(e)
- 19 USC § 1592

010591

COAC recommends that CBP, establish a formal COAC Working Group to explore opportunities where CBP's Centers of Excellence and Expertise can deliver centralized trade facilitation processes and explore enforcement modernization concepts originally summarized in the Intelligent Enforcement Modernization White Paper, first published October 2020.

010592

COAC recommends that CBP, bring the following topics to the Forced Labor Working Group to fully evaluate:

- a. CBP's ability to share data with importers to help eradicate and address forced labor and provide for advance notice of detention to streamline an importer's ability to begin assembling evidence to demonstrate compliance; and
- b. When detaining goods on the basis of a Withhold Release Order (WRO) or the Uyghur Forced Labor Protection Act (UFLPA), CBP should identify the specific component or part/parties of concern, instead of requiring an importer to provide documentation for all materials/components from all parties touching the supply chain. This will ensure that any issues of forced labor in the supply chain are addressed, while expediting the review process for CBP and the trade.

Next Generation Facilitation Subcommittee E-Commerce Task Force Recommendation

010593

COAC recommends CBP compile & report, quarterly, statistics of all shipments that receive CBP §321 release via either Manifest Release or Entry Type 86. CBP should segregate statistics by express, postal, non-express air, non-express sea, and non-express truck.

Intelligent Enforcement Subcommittee Intellectual Property Rights (IPR) Process Modernization Recommendations

010594

COAC recommends that CBP automate the agency's detention and seizure process. In automating the process, CBP's systems (ACE, SEACATS, etc.) should be paired, so that they can function together as a single automated system to address all CBP enforcement priorities, which can be appropriately linked to entry and line-item data housed with CBP. Although, this recommendation was developed in the IPRWG, the detention and seizure process encompasses many different enforcement priorities, including IPR, forced labor, restricted goods, and admissibility issues enforced on behalf of other agencies such as the Food and Drug Administration (FDA), all of which must be serviced by a single automated system.

010595

COAC recommends that as a part of this automated system, in the near term, CBP develop and adopt electronic exam/detention/imaging technologies and procedures that can be used by officers to collect data onsite during exam.

010596

COAC recommends that as a part of this automated system, in the near term, CBP develop and adopt the means to generate electronic notices of detention for transmission to interested parties and that those notices include mandatory and standardized data elements, including images as appropriate, to provide meaningful information to interested parties regarding the basis for any detention.

010597

COAC recommends that as a part of this automated system, in the near term, CBP develop and adopt the use of a unique identifier as a reference number. This unique identifier, which should not be subject to the restrictions of the Trade Secrets Act, can then be referenced throughout the process by all interested parties.

010598

COAC recommends that CBP develop and adopt a system for receiving and using email addresses from importers and other interested parties to facilitate communication within this automated process.

010599

COAC recommends that CBP develop a portal that can be accessed via the IPR priority trade issue (PTI) website (Intellectual Property Rights | U.S. Customs and Border Protection Preview (cbp.gov)) to allow for direct and confidential communications between CBP and interested parties such as rights holders, importers, shippers, and others. CBP relies upon information from a variety of sources to make informed decisions on IPR enforcement, and its decision-making will be enhanced through direct communications with those sources in an electronic environment provided that sensitive shared information is maintained as secure and confidential.

010600

COAC recommends that with respect to rights holders, the portal allow for the creation of password protected accounts for rights holders that have recorded their marks with CBP. That portal account should allow:

- ACCESS – rights holders should be able to access notifications and, as appropriate, images from CBP concerning shipments including allegedly infringing merchandise.

- SHARE – rights holders should be able to exchange information and images with CBP relevant to specific enforcement actions that can be tracked utilizing a unique identifier, which can be referenced throughout the enforcement process.
- INITIATE & PROCESS – CBP and rights holders should be able to use the portal to initiate and process CBP activities, including manipulation and abandonment, throughout the enforcement process, including during detention.

010601

COAC recommends that with respect to IMPORTERS AND OTHER INTERESTED PARTIES, the portal incorporate a search mechanism. The search mechanism should allow:

- ACCESS – importers and other interested parties should be able to utilize a unique identifier to access notifications and images from CBP concerning shipments that are detained for allegedly including infringing merchandise.
- SHARE – importers and other interested parties should be able to utilize a unique identifier to exchange information, images, and file responses and/or petitions with CBP relevant to specific actions throughout the entire enforcement process.
- INITIATE & PROCESS – importers and other interested parties should be able to utilize a unique identifier to initiate and process CBP activities, including manipulation and abandonment, throughout the enforcement process, including during detention.

Intelligent Enforcement Subcommittee Forced Labor Working Group Recommendations

010602

COAC recommends that CBP publish a series of visual ‘Fact Sheets’ to help and empower U.S. Importers of all sizes to understand better the operational processes to comply with UFLPA and WRO enforcement. COAC recognizes that Fact Sheets are an important mechanism to provide expedited and practical clarity to the trade community prior to the development of a Forced Labor Informed Compliance publication as recommended in the 15th term (Recommendation 10421).

The fact sheets should describe in a flowchart format CBP’s operational processes including:

- a. Detention to release, exclusion or Import entry rejection (both for WROs and UFLPA).
 - i. The Fact Sheets should outline the step-by step coordination between the ports, CEEs, CBP HQ and the Importer.
 - ii. The Fact Sheets should provide clarity to the importer on what to do next (e.g., who to contact, contact information, when to notify and how to notify involved parties,

etc.) and what to expect after receiving a detention notice from CBP.

- iii. The Fact Sheets should also clarify steps importers should take if they wish to seek an exception to the UFLPA or request an applicability review (determination that the detained goods are not subject to the UFLPA) or seek an admissibility review (determination that the goods are not subject to a WRO) by CBP. This should include the mechanism for how importers can best and most efficiently transmit supply chain documentation to CBP in support of these requests (email, drop box, etc. given the large number of documents that may need to be transmitted).
- iv. The Fact Sheets should also include the process that importers must follow when additional shipments that have identical supply chains to those that have been reviewed previously and determined to be admissible by CBP, to facilitate proactive information sharing with CBP and streamline the release process.

b. Ruling process flow to request a determination from CBP that a specific commodity, import does not fall under the UFLPA or active WRO:

- i. Fact Sheets should include where the importer should file the ruling request (including contact information) and how to utilize the ruling for future imports of the identical supply chain.

c. The fact sheets should be available on CBP's Forced Labor Webpage and linked to CBP's UFLPA Webpage as appropriate. The operational fact sheets should also be added to the existing 'slick sheets' section in CBP's webpages.

010603

COAC recommends that CBP develop a mechanism to receive additional questions and requests for new FAQs from the public, periodically review the posted FAQs, and publish updated FAQs as continuous training/awareness to the trade community. For instance, CBP could establish an email address to receive 'other questions' that are not included in the currently published FAQs.

010604

COAC recommends that CBP revamps its Forced Labor and UFLPA Webpages to clearly indicate to the public when updates or changes are made to guidelines, operational processes, fact sheets, FAQs, ACE, or any other relevant information for the trade community. The updates should include a tracking history when the changes are made and be searchable and indexable for simple reference. Additionally, CBP should establish a consistent 'push' communication protocol, using existing tools such as the Cargo System Messaging Service 'CSMS' to quickly maximize outreach to brokers, importers and the trade community when sharing forced labor updates.

010605

COAC recommends that CBP enhance the current quarterly forced labor enforcement statistics that are published to include additional indicators about enforcement activity, not just the number of shipments targeted to increase transparency and bi-directional communication to support the eradication of forced labor. These additional indicators should include the number of detentions, commodity types detained, country of origin of products detained, the number of shipments released, etc.

Secure Trade Lanes Subcommittee Export Modernization Working Group Recommendations

010606

COAC recommends that the CTPAT process be explored by CBP for exports.

010607

COAC recommends that a verification process be explored by CBP for used self-propelled vehicle exports that will be carried out consistently across all ports so that the carrier can be made aware of those vehicles that may not have met the 72-hour prior to export requirement by the exporter. This verification process should include automation with an electronic notification to carriers so that the carrier and CBP can be aware that the vehicle has been presented and verified by CBP, prior to clearance for export.

Secure Trade Lanes Subcommittee In-Bond Working Group Recommendations

010608

COAC recommends that all definitions relating to in-bond cargo be consolidated into title 19 CFR § 18.0(b).

010609

COAC recommends that a definition for “Bonded Party” be added to in title 19 CFR § 18.0(b) and defined as “the party whose bond is obligated on the transportation entry.”

010610

COAC recommends that the definition of an “in-bond” be added to title 19 CFR § 18.0(b) and defined as a “Transaction that permits the movement of cargo through the United States, under customs control, without payment of duty and taxes prior to entry into domestic consumption or a

bonded warehouse, admission into a Foreign Trade Zone, or exportation to foreign countries. In-bond transactions are defined by specific entry type and function.”

010611

COAC recommends that title 19 CFR § 18.1(b)(2) and 18.1(b)(3) related to warehouse withdrawals be stricken due to no longer being valid entry types.

010612

COAC recommends that title 19 CFR § 18.1(d)(2) [Method of submission] be amended, removing the exception for the air mode referencing back to title 19 CFR § 122.

010613

COAC recommends that CBP provide trade with the ability to electronically request in-bond transit time extensions and to amend title 19 CFR § 18.1(i)(2) to reflect electronic capability.

010614

COAC recommends that title 19 CFR § 18.1(j) be amended to require the report of arrival with the option of either within two business days after the arrival of the first portion or the final portion of an in-bond shipment at the port of destination or the port of exportation, within the specified reporting timeframes.

010615

COAC recommends that the following in-bond rule be implemented by CBP and included in title 19 CFR § 18.1.

- a. Report Acceptance. Within two business days after the complete arrival of the in-bond shipment at the port of destination, the recipient of the merchandise must notify CBP via a CBP approved EDI system their receipt of the merchandise and the conditions of liability under its bond. The notification to CBP must include the FIRMS code for the facility that took receipt of the merchandise. The recipient will be held liable under its bond for the receipt of merchandise in the quantity and condition as described on the in-bond, except as modified by a Manifest Discrepancy Report or its electronic equivalent.

010616

COAC recommends that 19 CFR § 18.2(a) be amended to read “Transportation of merchandise in-bond by bonded or non-bonded carriers.”

010617

COAC recommends that 19 CFR § 18.2(a)(1) be amended, replacing “...the responsibility for the merchandise will remain with the common carrier, contract carrier, or freight forwarder that

obligated its bond for that purpose” with “...the responsibility for the merchandise will remain with the bonded party that obligated its bond for that purpose”.

010618

COAC recommends that CBP implement an electronic messaging within existing systems that will notify and allow the receiving bonded party to accept liability for the in-bond cargo upon transfer from another bonded party.

010619

COAC recommends that 19 CFR § 18.3(b) [transfers] be amended to include the following language: “The receiving party may review the bonded merchandise, while holding and safeguarding the in-bond merchandise, may open the container to view, verify and count without causing impairment to the integrity of the product’s original measurement and/or valuation.”