

**Commercial Customs Operations Advisory
Committee (COAC)
Secure Trade Lanes Subcommittee**

COAC Partnership Programs and Industry Engagement (PPIE)
Working Group Executive Summary
June 29, 2022

COAC

COMMERCIAL CUSTOMS OPERATIONS
ADVISORY COMMITTEE

The COAC Partnership Programs and Industry Engagement (PPIE) (previously the Trusted Trader) Working Group was formulated during the 15th Term of COAC. Over the last several years, the Working Group has provided advice and recommendations to CBP on how to make the CTPAT Trade Compliance (CTPAT-TC) program most beneficial to importer participants. The partnership in the CTPAT-TC program allows membership-approved importers to assess their own compliance with U.S. Customs & Border Protection (CBP) laws and regulations. The program is intended to build on the knowledge, trust and willingness to maintain an ongoing CBP/Importer relationship that is mutually beneficial to both parties. Importers who are accepted into the CTPAT-TC program receive benefits while allowing CBP to redirect resources to focus on high-risk and unknown importers.

The PPIE Working Group consists of importers representing a broad cross section of U.S. companies motivated to aid CBP in developing the best possible structure of the program and identifying the appropriate benefits for participation. Government participation from CBP includes the Office of Trade Relations (OTR), Customs Trade Partnership Against Terrorism (CTPAT), Office of Field Operations (OFO). The PPIE Working group will continue to provide an opportunity for input on program development and implementation from additional trade members with broad subject matter expertise, socialize upcoming changes, and assist in achieving greater visibility of the PPIE Program.

The PPIE Working Group currently has 27 pending recommendations from previous COAC terms. However, with the forthcoming publication of the new CTPAT-TC Handbook and the inclusion of Forced Labor requirements in that document, the PPIE Working Group has focused our immediate attention on reviewing those proposed requirements. Further review and discussion of the existing 27 recommendations made by previous COAC terms will be conducted once the Forced Labor Requirements are finalized.

The COAC PPIE WG fully supports the eradication of forced labor in the supply chain and understands the necessity of including these requirements in the CTPAT-TC program. In the nature of a partnership program, we ask that CBP ensure training is delivered to all members, related to these new requirements, in addition to training for all CBP National Account Managers (NAM) on the expectations of the CTPAT-TC members. This will help ensure consistency in implementation of the new requirements and understanding of those requirements by all members.

The COAC PPIE WG has developed the following summary of challenges and recommendations related to the CTPAT -TC Forced Labor requirements presented to the Working Group for review. These challenges and recommendations incorporate prior COAC Trusted Trader Working Group recommendations, COAC public comments and feedback from the PPIE Working Group, where applicable.

Business Mapping

COAC recognizes that all importers, including those members of the CTPAT-TC program, are beholden to forced labor regulations under a WRO and the UFLPA requirements and wish to ensure no forced labor exists in their supply chain as a whole. As an already established and approved “trusted partner” COAC PPIE WG believes a requirement for additional detailed

mapping of the importer's entire supply chain back to raw materials is excessive and punitive. In many cases, this requirement creates significant additional burden to CTPAT-TC partners – the most trusted of CBP's trade partners.

1. COAC recommends that CBP guidance should support that CTPAT-TC members follow a risk-based approach for supply chain mapping. The PPIE WG recommends that the business mapping requirement be further defined to include mapping of only those regions, suppliers, etc. that importer feels pose the most risk for forced labor.

In addition to the mapping requirement, CBP intends to require a mission statement which reflects the commitment to supply chain tracking, business mapping and efforts to end forced labor. The COAC PPIE WG believes the mission statement is somewhat duplicative of the Code of Conduct requirement also defined in the CTPAT Forced Labor requirements.

2. COAC recommends the Mission Statement requirement be modified and included as part of the Code of Conduct requirement.

Code of Conduct

COAC agrees with the proposed Code of Conduct requirement as part of the CTPAT-TC Forced Labor Requirements. As stated above, we recommend that the Mission Statement requirement defined in the Business Mapping requirement, be combined as a component of the Code of Conduct. After discussion with CBP regarding the visibility of the Code of Conduct regarding forced labor and social compliance, the COAC agrees that having the Code of Conduct available on the importer's website is appropriate and clearly demonstrates the CTPAT-TC member is fully opposed to the use of forced labor.

Evidence of Implementation

COAC has previously suggested (COACR-331) 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. The current term COAC agrees with this recommendation and suggests it be incorporated into the CTPAT-TC Forced Labor Requirements.

Further, as recommended in previous COAC terms, COAC recommends (COACR-330) that 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. There are concerns with CBP's intention to only accept unredacted audit reports as these documents may include unrelated information not fit for release outside of the company. Privacy concerns/issues should be addressed on a case-by-case basis and agreement regarding redaction of details made between the CTPAT-TC and the CBP NAM. Through the PPIE WG discussions with CBP, both parties agreed that there is no set number of audits required and that it will be at the discretion of the importer to identify the number of appropriate audits to perform, based on their supply chain risk.

Due Diligence and Training

During discussions with CBP it was understood that training can include different formats, delivery methods, etc. so long as the message to the business partner is clear regarding the forced labor requirements.

3. COAC recommends that CBP clarify in writing the type of training required/accepted for business partners to ensure enforcement consistency across CBP and the CEE/NAMs. COAC also recommends CBP provide documented implementation guidance and training on the finalized Forced Labor CTPAT Trade Compliance minimum requirements to ensure understanding and consistent interpretation amongst Importers, CBP Port staff, National Account Managers and Centers of Excellence and Expertise. Following training sessions, CBP should provide training documentation publicly, for future reference and review by participants in the CTPAT Trade Compliance Program and/or those considering applying.

Within Due Diligence and Training requirements defined by CBP, a requirement is for business partner implementation of the same importer Code of Conduct regarding forced labor.

4. COAC recommends that the portion of the requirement dictating that partners incorporate the same Code of Conduct as their CTPAT-TC member, be removed. Business partners should be permitted to develop their own Code of Conduct to meet the forced labor requirements so long as the Code of Conduct clearly demonstrates that the business partner understands the forced labor requirements.

Remediation Plan

COAC PPIE fully supports COAC-333 recommended in a previous term and asks CBP ensure that in the spirit of a mutual partnership, program members who disclose forced labor discoveries within their supply chain, as expected, must be met with protections from penalties for such disclosures. If statutory and/or regulatory changes are required to provide these protections, these must be addressed as appropriate. Any information disclosed under this requirement must be considered business confidential and not disclosed to the public record in any form.

Program Benefits

As identified in the CTPAT-TC Forced Labor Requirements, there are additional steps partners must implement as part of the core requirements to continue participation in the program. The PPIE WG has an expectation that CBP will respond in like to these requirements with defined and measurable benefits.