

Commercial Customs Operations Advisory Committee Rapid Response Subcommittee

December 2022

The logo for the Commercial Customs Operations Advisory Committee (COAC) features the acronym "COAC" in a large, bold, serif font. The letters "C", "A", and "C" are blue, while the "O" is red. Below the acronym are two horizontal lines, the top one blue and the bottom one red.

COMMERCIAL CUSTOMS OPERATIONS
ADVISORY COMMITTEE

**Commercial Customs Operations Advisory Committee (COAC)
December 2022**

**Report of the Work of the COAC
Subcommittee on Rapid Response**

Co-Chairs

Brian Barber - Willson International, Inc.
Julie Pojar - Kohler Co.

Rapid Response Subcommittee Members

Angela Cook, David Corn, John Drake, Jose D. Gonzalez, Tom Gould, Kerry Novak, Cynthia Roller, Stephen Simmons, Jodi Swentik, John Van Wallaghen, Erika Vidal-Faulkenberry, Brian White, and Kathy Wilkins.

Background

The following working groups make up the Rapid Response Subcommittee:

- 1) Broker Modernization Working Group, or co-chaired by Brian Barber and John Van Wallaghen
- 2) Domestic Manufacturing and Production Working group, co-chaired by Angela Cook and Julie Pojar
- 3) U.S.-Mexico-Canada Agreement (USMCA) Working Group, co-chaired by Kerry Novak and Kathy Wilkins

All subcommittee objectives and scope are consistent with the official charter of COAC.

Summary of Work

The Rapid Response Subcommittee has the responsibility of aligning Working Groups with CBP's Trade Strategy 2020. This strategy focuses on three areas aimed at modernizing import/export processes, improving trade intelligence, and maximizing efficiencies.

The Rapid Response Subcommittee met three times over the fourth quarter. This past quarter, the Rapid Response Subcommittee received updates from the CBP co-chairs regarding the progress and next steps for the Broker Modernization Working Group, the Domestic Manufacturing and Production Working Group and the U.S. – Mexico – Canada Agreement (USMCA) Working Group.

Broker Modernization Working Group:

Under the 16th term, the COAC has consolidated the Customs Broker Exam Modernization and Broker Continuing Education Working Groups with the previously active Title 19 part 111 Re-write Working Group and formed the Broker Modernization Working Group (BMWG).

This group met three times this quarter, during which it defined the group's statement of work and reviewed the status of each of the focus areas. On October 18th, 2022, CBP published the

final rule relating to Modernization of the Customs Broker Regulations. The BMWG reviewed the final rule and offered input to CBP for two trade facing webinars which were held in October and November. Continuing Education for Licensed Customs Brokers remains in proposed rulemaking and comment review; subsequently the group is restricted from discussing but will continue work on once authorized. The group has spent considerable time offering input for the October Customs Broker Licensing Exam. The BMWG completed user acceptance testing (UAT) and provided feedback to CBP on the platform and user experience. Additionally, the Broker Modernization Working Group continues the process of reviewing COAC recommendations that relate to the legacy working groups.

Domestic Manufacturing and Production (DMAP) Working Group:

The working group met twice during the fourth quarter. During those meetings, the DMAP WG focused on several topics that directly impact U.S. manufacturers and producers including perspectives on the impact of the strong U.S. dollar on import trade trends and CBP trade enforcement, de minimus and clarification around the Section 321 data pilot, and the accuracy of trade statistics published with regards to de minimus shipments.

During the October 26, 2022, the working group reviewed the statement of work (SOW) to ensure the group covered everything that was expected of them in terms of areas of concerns that CBP has authority over and that the robust conversations were escalated into the appropriate COAC subcommittees/working groups (including the IPR WG and E-Commerce WG). The working group determined that all areas indicated in the SOW were covered. In addition, the working group was polled prior to the meeting and again during the meeting as to whether there were any additional opportunities to be discussed. No new opportunities were raised. At that time, the working group voted unanimously to place the DMAP WG on hiatus.

The DMAP WG met a total of 10 times since its inception and viewed the harmful effect of counterfeit goods on domestic manufacturers a priority topic. Manufacturers in the United States are deeply concerned about imports of fake and counterfeit products, which are estimated to cost the U.S. economy hundreds of billions of dollars, and hundreds of thousands of jobs, every year. CBP plays an important role in the effort to stop the importation of counterfeit goods, which is strongly appreciated by domestic manufacturers.

To address this, the DMAP WG provided a recommendation at the June public meeting to the IPR Working Group to ensure these concerns are addressed. This could be accomplished either through a review and reminder to CBP of existing and open recommendations that address this topic or through incorporation of a new recommendation specifically addressing the harm to domestic manufacturers and producers into the work of the 16th COAC term within the IPR Working Group.

Additional high priority topics discussed were harmful impacts caused by the current de minimus treatment for low value imports, the Entry Type 86 and Section 321-Data pilot and data requirements, and the impact of ecommerce on importers. These topics were discussed at length, including with the E-Commerce WG and representation from the CBP E-Commerce team speaking at one of the DMAP WG meetings to provide program information and updates.

At the September public meeting, the DMAP WG supported the continuation of the 321-Data Pilot and the Entry Type 86 Pilot to understand if leveraging new tools and/or an enhanced entry will work to increase CBP's ability for enforcement measures with de minimus shipments, including IPR violations, what tools may provide the most enforcement opportunities, and feasibility for importers.

The Working Group fully supported the issuance of a NPRM for the public to have an opportunity to provide feedback on enhancing CBP's enforcement tools by including a few additional manifest data elements for de minimus imports.

U.S. – Mexico – Canada Agreement (USMCA) Working Group:

As announced during the June 29th public meeting, the USMCA Working Group has begun meeting to review Chapter 7, the Customs Administration and Trade Facilitation provisions of the US – Mexico – Canada Agreement (USMCA). The US-Mexico CEO Dialogue team joined the working group discussions and provided a draft of their initial recommendation list for review. The working group will continue to meet bi-weekly for review of the Chapter 7 provisions and will provide focused feedback and a final report of the key areas of impact to industry.

Conclusion

The Rapid Response Subcommittee will continue to work closely with CBP on all issues related to Brokers, Domestic Manufacturing, and USMCA as appropriate.