

**Commercial Customs Operations Advisory Committee
Next Generation Facilitation Subcommittee
21st Century Customs Framework Task Force
Draft Recommendations**

June 2023

COAC

**COMMERCIAL CUSTOMS OPERATIONS
ADVISORY COMMITTEE**

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Draft Recommendations

1. COAC recommends CBP include language that codifies the Border Interagency Executive Council in CBP's 21CCF Package which is intended to:
 - a) facilitate the development of common risk management principles and methods to inform agency operations associated with the review and release of cargo at the border;
 - b) facilitate the development of policies and processes to coordinate, improve, and accelerate agency review of electronic trade-related documentation or information transmitted or otherwise made available through relevant systems and provide coordinated and streamlined responses back to users to facilitate trade and support compliance with applicable law and international agreements;
 - c) identify opportunities to leverage documentation or information pertaining to the importation of merchandise, including documentation or information provided prior to the arrival of merchandise in the customs territory of the United States or the filing of an entry of merchandise with CBP, to facilitate the priority processing and expedited release of such merchandise from customs custody and to reduce redundancies in the trade data that parties in a supply chain must provide;
 - d) identify opportunities to streamline Federal Government systems and reduce costs through the elimination of redundant capabilities and through enhanced utilization of the Automated Commercial Environment's (ACE) or any successor systems' capabilities as a means of improving supply chain management processes;
 - e) identify opportunities to enhance whole-of-Government trade processing capabilities, including cargo manifest, collection of advance import and export data, uniform cargo admissibility and release, entry summary, and cargo financial data in the ACE, or any successor systems, which conform with the criteria for the admissibility of merchandise of all participating agencies;
 - f) enhance uniformity, consistency, and transparency, by facilitating the development of, where practicable and consistent with applicable law, a standard nomenclature across and within the Federal agencies listed in subparagraph (a)(3)(B) of this section for parties to the supply chain and events related to the importation and exportation of goods;
 - g) engage with and consider input from the trade industry and other relevant stakeholders regarding opportunities to improve supply chain processes and the processing of imported and exported merchandise, with the goal of promoting economic competitiveness through enhanced trade facilitation and enforcement so that it can encourage other countries to develop similar trade processing capabilities, including single window systems, to facilitate the sharing of relevant trade data, as appropriate, across governmental systems and with trading partners; and
 - h) assess opportunities to facilitate electronic payment of duties, taxes, fees, and charges imposed under Federal law upon entry or importation of merchandise.
2. COAC recommends that CBP pursue an Executive Order to drive meaningful engagement and accountability of all Participating Government Agencies (PGAs) involved in cross border admissibility and clearance activities while also supporting legislation to codify the BIEC.

3. COAC recommends CBP propose amended language to 19 USC § 1484 in CBP's 21CCF Package to introduce the ability for facilitative data transmissions, provided in a manner that is progressive over time, as long as such provision concludes prior to the conversion into an entry filing or determines admissibility and is appropriately certified, which may include documentation or information that is also provided to CBP.
4. COAC recommends CBP propose amended language to 19 USC § 1484 that provides facilitative priority processing and expedited release of merchandise from customs custody; reduces redundancies in the trade data that parties in a supply chain must provide; allows for the opportunity to resolve requests for additional information prior to departure or arrival of the merchandise; and reduces the need for redelivery to customs custody.
5. COAC recommends CBP propose amended language to 19 USC § 1484 so that in cases of merchandise with respect to which the determination of admissibility is vested in an agency or agencies other than U.S. Customs and Border Protection, the Homeland Security Secretary will coordinate with the representatives of appropriate agencies on the Border Interagency Executive Council.
6. COAC recommends CBP propose statutory language that establishes a framework to ensure proper justification of any incremental data requests by CBP and extend the authority of the government to collect new data from new parties. Such language should define parameters and conditions to be met to support collection of incremental data.
7. COAC recommends that CBP propose amended language in 19 USC § 1517 to provide a mechanism to terminate an investigation and render interim measures obsolete. Such a mechanism could be used where the Importer of Record (IOR) identifies, validates, and provides evidence that its supply chain has been adjusted to ensure compliance.
8. COAC recommends that CBP consider different enforcement mechanisms for importers who know they are under investigation and purposefully change their IOR number to avoid interim measures.
9. COAC recommends CBP amend proposed language in 19 USC § 1623 to include language formalizing the administrative process of bond amount review, establish the U.S. Court of International Trade (CIT) as the court of venue for judicial review of the administrative process, and the judicial standard of review will be based on the administrative record and whether CBP abused discretion.
10. COAC recommends CBP amend proposed language in 19 USC § 1623(b)(2) to better define the sets of information to be shared with sureties. This includes material information to make informed decisions, take informed actions, and to adjust bond claims without a surety having to submit a FOIA request to learn why the claim arose, etc.
11. COAC recommends that CBP rely on its existing statutory and regulatory process with regard to assessing interest on overdue debt.
12. If proposed changes to 19 USC § 1623 include assessing interest on overdue debt, COAC recommends that CBP request Congress to strike 19 USC § 580 entirely and statutory language in 19 USC § 1623 requiring that CBP promptly and electronically document all claims secured by a bond.
13. COAC recommends that if CBP proceeds with the amended language proposed for 19 USC § 1595a(b), that CBP include a "knowledge" standard, limit potential penalties to amounts that cannot exceed the domestic value of the allegedly violative import and that CBP seek discretionary authority to issue a penalty in lieu of a seizure or forfeiture.

14. COAC recommends that CBP modify proposed language in 19 USC § 1595a(d)&(e) to simply deny the export versus issuing a penalty in lieu of seizure (in alignment with Commerce, State Department and Treasury).
15. COAC recommends that CBP engage with Commerce, the State Department and Treasury to ensure roles and responsibilities related to export enforcement and penalty authorities are properly aligned to ensure that CBP export penalties are not duplicative of the other export agency penalties.
16. COAC recommends that CBP withdraw all of its proposed revisions to 19 USC §1592 particularly noting a lack of due process with CBP's proposal to circumvent the administration process for fraud cases.