

**Commercial Customs Operations Advisory Committee
Next Generation Facilitation Subcommittee
21st Century Customs Framework White Paper**

June 2023

COAC

COMMERCIAL CUSTOMS OPERATIONS
ADVISORY COMMITTEE

**Commercial Customs Operations Advisory Committee (COAC)
June 2023**

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Table of Contents

Executive Summary:..... 3

COAC Position on Legislative Trade Facilitation Opportunities Endorsed to be Included in CBP’s 21CCF Package 5

 19 USC § XXXX – Codify Border Interagency Executive Council5

 19 USC § 14846

COAC Position on Remaining CBP Challenge Areas:..... 8

 19 USC § 15178

 19 USC § 16238

 19 USC § 1595a(b).....9

 19 USC § 1595a(d)&(e).....9

 19 USC § 159210

COAC Recommendations:..... 11

APPENDIX A – COAC Legislative Trade Opportunities 14

 Trade Opportunity 1.1 – Streamlining Data Transmission, Expediting Cargo Release, Driving Accountability & Security15

 Trade Opportunity 1.2 – Protecting Confidential Business Information17

 Trade Opportunity 1.3 – Enhancing Trusted Trader Program Benefits and Funding19

 Trade Opportunity 2 – Realizing a True 1USG through Uniform Processes & Partnership14

 Trade Opportunity 3 - Export Modernization that Supports Economic Security20

 Trade Opportunity 4 - Exercise Practical, Responsible, Transparent Duty Collection & Enforcement20

APPENDIX B - COAC Position Summary of CBP Challenge Areas:..... 22

 CBP Challenge Area 1: Limited Data Collection22

 CBP Challenge Area 2: Restricted Data Usage23

 CBP Challenge Area 3: Narrow Visibility and Accountability25

 CBP Challenge Area 4.1: Preventing Loss of U.S. Revenue26

 CBP Challenge Area 4.2: Streamlining Enforcement Avenues that Protect U.S. Intellectual Assets and American Consumers26

 CBP Challenge Area 4.3: Driving Trade Compliance through Expanded and Streamlined Penalties28

Executive Summary:

COAC published three 21st Century Customs Framework (21CCF) reports in 2022 ([June 2022](https://www.cbp.gov/document/report/coac-next-generation-subcommittee-21st-century-customs-framework-report-june-2022)¹, [September 2022](https://www.cbp.gov/document/report/ngf-21ccf-white-paper-september-2022)², and [December 2022](https://www.cbp.gov/document/report/ngf-21st-ccf-white-paper-dec-2022)³). Each report provided an executive summary, a timeline of activities, and described the status of and COACs position with respect to specific proposed changes to select U.S. Customs and Border Protection (CBP) enforcement statutes. Those reports also provided overviews and proposals for Legislative Trade Facilitation Opportunities. This report captures COAC’s final position concerning the remaining CBP Statutory Challenge Areas and explains the status of the Legislative Trade Facilitation Opportunities discussed.

The CBP draft legislative concepts reviewed and discussed among the COAC as “CBP Challenge Areas” were largely viewed as a means to streamline and enhance enforcement authorities for CBP with limited facilitative impact for trade. The last two years of engagement with CBP have resulted in increased mutual understanding and revised legislative proposals that COAC sees as more palatable to the trade community than those originally presented. The collaborative effort between CBP, the Task Force, and the Focus Group was robust and productive. All of the parties learned much from each other, and these efforts produced numerous beneficial ideas.

However, COAC and the broader trade community cannot endorse CBP’s modified 21CCF package in the absence of meaningful legislative trade facilitation measures. Legislative Trade Facilitation amendments are essential for the success of Customs & Trade Modernization in the 21st Century. We appreciate CBP’s endorsement and support of enhanced facilitation and clearance through advance data filing concepts under 19 USC § 1484 and the formal codification of the Border Interagency Executive Council (BIEC) as part of their 21CCF package. However, this represents only five of nineteen Legislative Trade Facilitation Opportunities advanced by COAC throughout the process and summarized in the [December 2022](https://www.cbp.gov/document/report/ngf-21st-ccf-white-paper-dec-2022) report. The remaining Legislative Trade Facilitation concepts were either not included by CBP in its 21CCF package or were found to be beyond CBP’s authority.

Efforts to modernize the Customs laws have now moved on. Members of the trade community have established their own coalitions to advance Legislative Trade

¹ <https://www.cbp.gov/document/report/coac-next-generation-subcommittee-21st-century-customs-framework-report-june-2022>

² <https://www.cbp.gov/document/report/ngf-21ccf-white-paper-september-2022>

³ <https://www.cbp.gov/document/report/ngf-21st-ccf-white-paper-dec-2022>

Facilitation Opportunities they support and to advocate that their proposals are included in any Customs Modernization legislation that is advanced by Congress. COAC encourages members of the public to join and participate in such coalitions and/or pursue these issues directly with Congress.

We appreciate CBP including COAC and the extended 21CCF Task Force and Focus Group in its legislative drafting process. The deliverables scoped under the original statement of work are completed and it would seem appropriate to sunset the Focus Group and Task Force in June 2023. During the December 2022 meeting, COAC recommended that CBP advance the sub-statutory modernization opportunities that have been identified. As the Focus Group and Task Force are sunset, the COAC proposes an immediate transition to the sub-statutory modernization opportunities to be formed within existing COAC working groups that include, but are not limited to:

1. Entry Processing and Systems
2. Drawback
3. Foreign Trade Zones
4. Trade Automation
5. Center Uniformity / Consistency

We look forward to partnering with CBP to evaluate these modernization opportunities, discuss challenges, and contribute to meaningful recommendations.

COAC Position on Legislative Trade Facilitation Opportunities Endorsed to be Included in CBP's 21CCF Package

19 USC § XXXX – Codify Border Interagency Executive Council

Trade Opportunity:

- Codify Border Interagency Executive Council (BIEC) as outlined in [Executive Order 13659](#)⁴, define its purpose; participation, leadership, and oversight; functions and expand upon them.
- Establish delegated authority where resources are constrained.
- Properly fund BIEC program through authorization of appropriations.

Discussion Points:

- Acknowledgment that properly defining and harmonizing data requirements across government agencies will be a challenging exercise and require interagency commitment.
- Discussion around proper oversight, transparency, and engagement with trade via existing Federal Advisory Committee Act (FACA) with COAC or another federal advisory committee with the proper jurisdiction.
- U.S. needs to establish international leadership in advancing a true IUSG and simplified single window processes and technology.
- Proper funding for resources and IT infrastructure to ensure ongoing support (i.e., recurring funding).
- Further discussion is necessary to determine if CBP or the Department of Homeland Security is the proper agency to oversee and direct the activities of the BIEC.

Recommendation:

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;

⁴ <https://www.govinfo.gov/app/details/DCPD-201400104>

- 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.

19 USC § 1484

Trade Opportunity:

- Amend the statute to allow for facilitative data transmissions from traditional and non-traditional parties as it materializes in the supply chain.
- Provide for pre-departure, pre-arrival release and/or resolution, and minimizes redundancy in data requirements for entry.
- Properly define the applicable standards of care and clarify the point at which data becomes considered an entry or determines admissibility, requiring a party to have the "right to make entry" and treated as "Customs Business."

Discussion Points:

- Terminology defining pre-entry transmissions could help clarify distinction between entry data and advanced electronic data that is transmitted as it materializes in the supply chain.

- CBP addressed the ask to include language that adds definitions and clarity around data transmission processes in the 21CCF future state.

Recommendation:

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.

COAC Position on Remaining CBP Challenge Areas:

19 USC § 1517

CBP is seeking to clarify CBP's authority to:

- Permit CBP to expand an Enforce and Protect Act (EAPA) investigation to other entities not named in the underlying EAPA investigation, in those situations where the investigation develops evidence demonstrating that additional evasion has occurred.
- CBP addressed COAC's request to ensure that any new entities named to the EAPA investigation receive the same level of due process, including timetable, as the entity originally named.

Trade Comments:

- The proposed language does not address the Trade's concerns regarding those situations where traders modify supply chains to become compliant, but interim measures are still applied.

Recommendation:

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.

19 USC § 1623

CBP is seeking to clarify CBP's authority to:

- Create a regulatory regime for information sharing with sureties; and
- Ensure that duties, taxes, and fees are fully secured by bonds.
- CBP addressed the COAC request to strike unlimited bond liability for sureties and provided information that the surety industry requested.

Trade Comments:

- The proposed language fails to address COAC's request to formalize the administrative process for bond amount review and allow for a streamlined judicial review process.
- The proposed language, which establishes a "clear and convincing" standard for review at the administrative level is completely inappropriate.
- The Surety industry strongly opposes inserting any new language in § 1623 requiring that overdue bonded debt bear interest until paid, and that any accrued interest is not charged against the bond amount. CBP already collects interest under § 1505. Bonds to secure risk must be consistent with surety and underwriting standards and commercial reality.

Recommendation:

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.

19 USC § 1595a(b)

CBP is seeking to clarify CBP's authority to:

- Assess penalties for unlawful imports regardless of whether a seizure has occurred and regardless of whether the underlying violation is related to the conveyance of the goods.

Trade Comments:

- CBP addressed COAC's request and added proposed language to (b) clarifying that any penalties assessed under 19 U.S.C. §1595a(b) must be directly related to the underlying violation.
- CBP rejected a request to insert a 'knowledge' requirement in § 1595a(b). CBP's basis for rejection was the agency's claim that requiring that an alleged violator have acted 'knowingly,' would conflict with the statutory language for certain predicate violations, many of which are laws enforced by PGAs.
- CBP addressed COAC's request and modified 19 USC § 1595a(b) to establish a limit on potential penalties by clarifying that such penalties cannot "exceed the domestic value" of the allegedly violative import.

Recommendation:

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.

19 USC § 1595a(d)&(e)

CBP is seeking to amend the statute to:

- Clarify that CBP's seizure and forfeiture authority for unlawful exports is discretionary

- Empowers CBP to assess penalties for unlawful exports.

Trade Comments:

- Trade opposes expansion of CBP authority to assess export penalties under section 1595a without clear limits on CBP’s penalty authority.
- CBP is not open to inserting a knowledge standard in § 1595a(d) and (e). CBP’s basis for rejection was the agency’s claim that requiring that an alleged violator have acted ‘knowingly,’ would conflict with the statutory language for certain predicate violations, many of which are laws enforced by PGAs.
- CBP explained that the penalty provision would be specific to customs-related activity and non-PGA based.
- CBP attempted to address COAC’s request and modified their position to establish limitations on potential penalties by inserting language that any such penalties could not “exceed the export value” of the allegedly violative shipment.
- CBP also agreed to request modification to 19 USC § 1595a(g) to provide CBP with discretion to issue a penalty in lieu of a seizure or forfeiture.

Recommendation:

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.

19 USC § 1592

CBP is seeking to greatly expand its authority to penalize those who are alleged to have facilitated the import of goods and knowingly or negligently deprived the government of revenue by:

- Eliminating ‘gross negligence’ as a level of culpability; and
- Eliminating pre-penalty notices for fraud cases, while providing CBP with the discretion to directly commence such actions in court rather than administratively.

Trade Comments:

- The overwhelming consensus of trade was that 19 USC § 1592 does not require revision.

Recommendation:

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 administrative process for fraud cases.

COAC 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 administrative process for fraud cases.

APPENDIX A – COAC Legislative Trade Opportunities

Trade Opportunity 1 – Realizing a True 1USG through Uniform Processes & Partnership

In its current form, Congress’ vision articulated in the Customs Modernization Act and Trade Facilitation and the Trade Enforcement Act (TFTEA) to coalesce the cross-border administration of the nearly fifty (50) partner government agencies (PGAs) through a true 1USG at the border has not been achieved. While some PGAs have enhanced connectivity to the import and export process within the ACE system, for others it is limited or even non-existent. Legislative provisions and regulatory provisions, including scope definitions, should be reviewed with a 1USG consideration to align import and export requirements, as appropriate, to further support uniform processes.

Traders remain confounded by inconsistent and non-uniform “hold” and “release” messaging only to find disparities between how the PGAs interpret such terms. Further, critical definitions for parties to, and actions within, the supply chain are incongruent.

While TFTEA mandated PGA benefits through partnership programs this, too, has yet to be realized. While PGAs should be encouraged to implement their independent programs, CTPAT provides the optimal platform for the PGAs to solicit and vet supply chain security and compliance information from importers and exporters and grant them appropriate facilitative benefits.

While the Border Interagency Executive Council established by [Executive Order 13659⁵](#) is a step in the right direction, its support has waned over the years due to shifting political priorities. Therefore, a statutory mandate should be made to successfully enhance 1USG clearance and admissibility process.

19 USC § 1411

Trade Opportunity:

1. Codify Border Interagency Executive Council (BIEC) as outlined in the Executive Order, define its purpose; participation, leadership, and oversight; functions and expand upon them.
2. Establish delegated authority where resources are constrained.
3. Properly fund the BIEC program.

Discussion Points:

4. Acknowledgment that properly defining and harmonizing data requirements across government agencies will be a challenging exercise and require interagency commitment.
5. Discussion around proper oversight and engagement with trade via existing Federal Advisory Committee Act (FACA) with COAC.
6. U.S. needs to establish leadership in advancing a true 1USG and simplified single window.
7. Proper funding for resources and IT infrastructure to ensure ongoing support (i.e., recurring funding).

Outcome:

⁵ <https://www.govinfo.gov/app/details/DCPD-201400104>

- CBP including the concept in the CBP 21CCF Package

19 USC § 4311

Trade Opportunity:

- Provides for development of PGA CTPAT programs with benefits.
- Provides for authorization of appropriations for CTPAT – PGA programs via CTPAT portal.

Discussion Points:

- PGAs open to consider existing trusted trader structure of CBPs CTPAT partnership and trade compliance programs and exploring potential benefits from a combined approach.
- Need to ensure there is flexibility for PGAs to analyze the requirements and risk criteria related to their mission.
- Concerns highlighted related to data and systems issues between agencies and must ensure there is a mechanism for sharing of data.

Outcome:

- COAC recommends that the trade community, its members, and associations seek opportunities to advance the concept directly with Congress.

Trade Opportunity 2.1 – Streamlining Data Transmission, Expediting Cargo Release, Driving Accountability & Security

CBP has indicated it lacks a complete data picture until goods arrive or are close to arriving at the border, which poses security risks. In response to this challenge area, it has proposed that parties upstream in the supply chain provide advance documentation or information. However, delays and unnecessary costs will continue if unnecessary, duplicative, and even expanded data requirements persist. To reflect a modernized clearance process, CBP must recognize pre-departure and pre-arrival clearance and in doing so, cargo release should be presumptive except in cases of where goods previously released pose imminent health, safety, or security threats.

To enhance accountability and security, CBP should allow merchandise shipped from U.S. foreign trade zones to qualify for section 321 de minimis duty free treatment instead of encouraging fulfillment abroad outside of customs control and custody.

19 USC § 1484 (a)(2)(C) & 1321(c)

Trade Opportunity:

- Provides for pre-departure, pre-arrival release and/or resolution and minimizes redundant data requirements for formal entries and de minimis informal entries.

Discussion Points:

- CBP and PGAs acknowledged potential value of minimizing redundant data requirements.
- Concept requires interagency coordination, potential for the implementation of new systems and operational changes in order to fully realize the opportunity.
- CBP committed to seeking COAC advice on language for pre-entry data in 21CCF future state that enables advanced communications and expedited decision-making for departures and releases.

Outcome:

- COAC recommends that the trade community, its members, and associations seek opportunities to advance the concept directly with Congress.

19 USC § 1629

Trade Opportunity:

- Directs CBP to create a cargo preclearance process at foreign ports of departure and to authorize preclearance of goods without the need to negotiate an international agreement or station CBP officers abroad.
- Trade wants to ensure this is not meant to provide an enhanced vehicle for CBP to hold/detain merchandise abroad above and beyond current authority (e.g., no load message if no ISF).

Discussion Points:

- Discussed whether section § 1629 is the appropriate place for this change.
- Preclearance is a two-step process which requires authority at points of origin such as authorized treaty or executive agreement.
- Discussed operational challenges of inspection/release in foreign countries.
- Expressed need to explore pre-departure in lieu of preclearance to ensure it does not invoke extraterritorial memorandums of understanding, agreements in the pre-clearance ambit.

Outcome:

- COAC recommends that the trade community, its members, and associations seek opportunities to advance the concept directly with Congress.

19 USC § 1484(c)

Trade Opportunity:

- Provides for release of merchandise unless recalled due to imminent threat.
- Seek modification to allow for penalty mitigation when redelivery is not possible.

Discussion Points:

- CBP and PGAs need to preserve redelivery authority for certain cases.
- CBP and PGAs share concerns with use of “imminent threat” and “recall” since these are clearly defined and applied via existing statutes and regulations.
- PGAs emphasized need for high-quality data from the trade in order to make decisions in a timelier manner.
- CBP has a need for redelivery when the admissibility issue “cannot be remediated” (i.e., the product itself is tainted, adulterated, unsafe, etc.) and not for a license, permit, labelling that would bring the product into compliance.

Outcome:

- COAC recommends that the trade community, its members, and associations seek opportunities to advance the concept directly with Congress.

19 USC §1321(a)(2)(C)

Trade Opportunity:

- Allows merchandise shipped from U.S. -based Foreign Trade Zones (FTZs) to be eligible for de minimis entry.

Discussion Points:

- Would require adequate resources to address operational needs.

- There is no established basic process for FTZ de minimis entries – new processes, technologies, entry types, resource shifts, etc. are required in order to execute.
- Consultation with the U.S. Foreign Trade Zones Board is required to advance the concept.
- CBP and PGAs would require further discussion with U.S. Trade Representative (USTR), Commerce, and CBP on the concept.
- Based on discussion with CBP and views expressed by Census, USTR, and Commerce, COAC does not believe this proposal will be included as part of CBP’s 21CCF package.

Outcome:

- COAC recommends that the trade community, its members, and associations seek opportunities to advance the concept directly with Congress.

19 USC § XXXX

Trade Opportunity:

- Creates framework to ensure proper justification of any incremental data requests by CBP.
- Defines parameters and conditions to be met to support collection of incremental data.
- Codifies Trade Act language related to advanced electronic data additionally in the context of advance documentation or information transmissions prior to entry.

Discussion Points:

- There are existing parameters within § 1484/1321 statute themselves and such a framework could hinder issuance of regulations.
- Government not allowed today to collect data beyond those points already defined in the statute.
- Secretary must be defined as Department of Homeland Security (DHS) and/or Treasury.

Outcome:

- COAC recommends that the trade community, its members, and associations seek opportunities to advance the concept directly with Congress.

Trade Opportunity 2.2 – Protecting Confidential Business Information

Advance electronic information by way of Importer Security Filings and Air Cargo Advance Screening as well as cargo manifest data, continue to play a critical role in monitoring security as well as compliance risks. However, data breaches threatening these very objectives have become more commonplace, severe, and consequential.

Recent public statements did not accurately represent the COAC process, intentions, history, and broader context of manifest confidentiality. COAC members and the industries we represent abhor the use of forced labor in all forms. The individual members of the COAC do not desire to undermine the U.S. Government or civil societies efforts to end forced labor. Broad consensus exists across U.S. government, business, civil society, and elsewhere that all efforts should be pursued to prevent and remedy instances of forced labor, slavery, and human trafficking. [COAC’s July 2020](#) report summarizes the significant efforts of the COAC Forced Labor Working Group and highlights existing collaborative initiatives, widely adopted best practices used to detect and address labor practices, constraints at the time of publication, and potential solutions for businesses, civil society, the government to consider.

Members of the trade raised the vessel manifest confidentiality proposal to the COAC 21CCF process due to long standing concerns regarding diminished cargo security for controlled goods, sensitive commodities, potential tampering of goods, as well as potential commercial targeting. The Trade Act of 2002 transitioned to the use of precise cargo descriptions, banning more generic descriptions of goods. Intellectual property issues are also an important concern; manufacturer and product data are often mined and used by competitors, including foreign countries, to undermine and reverse engineer supply chains.

Reporting of advance electronic information data breaches and confidentiality of vessel manifest data will remedy these mounting concerns.

19 USC 1431

Trade Opportunity:

- Treat manifest data of all transportation modes as private and confidential business information.

Discussion Points:

- Previously recommended for further discussion by COAC in June and September 2022 to address longstanding concerns related to vessel manifest data.
- Some parties are attempting to advance erroneous perceptions that the request is intended to evade identification of goods imported using forced labor, despite clear record to the contrary.
- Confidential treatment of manifest data in no way changes visibility or disposition of the manifest information for the government.
- Trade has identified significant supply chain security and IPR concerns with the public sharing of manifest data.

Outcome:

- COAC recommends that the trade community, its members, and associations educate policymakers on manifest data and seek opportunities to advance the concept directly with Congress.

19 USC 1415(a)(3)(G)

Trade Opportunity:

- Require that CBP provide notification of data breaches to impacted parties.
- Trade members also want to consider other statutes that are beyond 1415.
- Proper and timely reporting is important to trade to avoid breaches of confidentiality and to promote safety and security.

Discussion Points:

- CBP's privacy and diversity office manages existing protocols.
- Trade needs to clarify language around which parties need to be notified and consider that the party who provided the information directly to CBP and/or the PGA and the party whom CBP and/or the PGA holds responsible for the data be informed.

Outcome:

- COAC recommends that the trade community, its members, and associations seek opportunities to advance the concept directly with Congress.

Trade Opportunity 2.3 – Enhancing Trusted Trader Program Benefits and Funding

Over the years, the Customs-Trade Partnership Against Terrorism (CTPAT) program has grappled with identifying sufficient benefits to incentivize trusted partners, especially importers and licensed customs brokers that are validated under both the CTPAT security and trade compliance (formerly Importer Self-Assessment) programs. It follows that CBP should expend less resources in processing such accounts. Accordingly, CBP should provide such trusted partners with a quantifiable, financial benefit through Merchandise Processing Fee reductions.

Additionally, CBP Centers of Excellence and Expertise (CEE or Centers) increasingly play a critical role in post entry processing and adjudication; however, they have not yet realized their full potential. While the Centers have enhanced post entry and, in some cases, pre-entry, communication particularly in cases of cargo holds or delays, costly admissibility issues persist and have grown. This warrants enhanced Center intervention, particularly in the case of trusted partners.

19 USC § 58c

Trade Opportunity:

- Provides CTPAT validated members with merchandise processing fee (MPF) reduction.
- Provides language to ensure funds collected are properly allocated to fund CBP operations.

Discussion Points:

- Trade to work on making a clear business case for reduction on the basis that CTPAT members are using fewer services as a result of lower exams and targeting by CBP.
- Trade to consider benefits for other CTPAT members who are not importers.
- Treasury would need to evaluate and understand which accounts would be impacted by the proposal.
- USTR seeks to evaluate any potential concerns with GATT Articles VIII and World Customs Organization (WCO) instruments as well as any concerns with trading partners in the WTO.

Outcome:

- COAC recommends that the trade community, its members, and associations seek opportunities to advance the concept directly with Congress.

19 USC § 4317

Trade Opportunity:

- Encourages enhanced Centers of Excellence and Expertise (CEE) access and consistency for importers and their customs brokers to address admissibility and forced labor enforcement procedural issues.

Discussion Points:

- Could be achieved through CBP operational changes
- Trade concerned about admissibility and forced labor enforcement procedural issues as an underlying Center principle.

Outcome:

- COAC recommends that the trade community, its members, and associations seek opportunities to advance the concept directly with Congress.

Trade Opportunity 3 - Export Modernization that Supports Economic Security

A comprehensive trade framework must also encompass export modernization that supports economic security. As should be the case for imports, clearance delays and data redundancy that increase costs must be minimized. Shipment and transportation documentation and information available in the pre-departure environment should be leveraged to streamline such processes.

Additionally, as was the case in the Customs Modernization Act for imports, export filing laws must recognize demonstrated clerical errors and mistakes of facts as a defense to penalties, unless part of a pattern of violative conduct. The trade and CBP unnecessarily expend resources adjudicating such cases because the export laws do not recognize such actions as non-violative as they do for imports.

19 USC § 304 & 305

Trade Opportunity:

- Provides for streamlined export process that reduces data redundancy.
- Recognizes clerical errors or mistake of fact may not constitute violations.

Discussion Points:

- Concerns raised using the term “mistakes of facts” and the need to seek alternative or strike altogether.
- Need to consider leveraging existing mitigation guidelines to recognize that clerical errors would not constitute a violation.
- Need to explore ability to also address routed transactions.

Outcome:

- COAC recommends that the trade community, its members, and associations seek opportunities to advance the concept directly with Congress.

Trade Opportunity 4 - Exercise Practical, Responsible, Transparent Duty Collection & Enforcement

Today’s laws do not provide for practical, responsible, and transparent duty collection and enforcement particularly concerning antidumping and countervailing duty (AD/CVD) collection and forced labor admissibility.

A March 2021 Government Accountability Office (GAO) report provided that CBP should strengthen trade enforcement, particularly noting CBP’s communication with other federal agencies and non-federal stakeholders lacks transparency. Providing traders, particularly trusted partners, with enhanced and, where practicable, advanced communication regarding forced labor will minimize response times to exclusions, detentions and seizures and consequently port costs and congestion. Many traders intending to fully comply with forced labor prohibitions continue to remain challenged by the current lack of information flow.

Regarding antidumping and countervailing duties (AD/CVD), a [July 2016 GAO report](#) estimated that about \$2.3 billion in AD/CVD duties owed to the U.S. went uncollected between 2001-2014. This largely is due to the unique retrospective U.S. system where importers are expected to pay exorbitant increases to estimated AD/CVD deposits paid months if not years earlier. The result: companies simply dissolve and/or CBP issues collection actions that remain unresolved. If appropriately implemented, a prospective AD/CVD system can adequately protect domestic

industry, while forcing importers to find alternative sources, allowing CBP to utilize its resources more productively and effectively.

19 USC § 1307

Trade Opportunity:

- Directs CBP to share data with importers to help eradicate and address forced labor and provides for notice of detention to streamline an importer's ability to begin assembling evidence to demonstrate compliance.
- 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.

Discussion Points:

- Discussion around potential conflicts with Trade Secrets Act and ability to provide information subject to investigation.
- COAC recognizes the need for CBP to safeguard the integrity of its investigative process and the safety of impacted individuals.

Outcome:

- COAC recommends that the trade community, its members, and associations seek opportunities to advance the concept directly with Congress.

19 USC § 1671, 1673

Trade Opportunity:

- Directs CBP and Commerce to impose antidumping and countervailing duties prospectively.
- The U.S. is the last country in the world to administer this program retroactively.

Discussion Points:

- Further discussions are required to seek input with Commerce.

Outcome:

- COAC recommends that the trade community, its members, and associations seek opportunities to advance the concept directly with Congress.

APPENDIX B - COAC Position Summary of CBP Challenge Areas:

CBP Challenge Area 1: Limited Data Collection

Increases in trade volumes and parties that facilitate cross-border transactions, particularly in the small package environment, compound existing blind spots that leave supply chains vulnerable to forced labor, counterfeit goods, and other violations.

19 USC § 1484

CBP is seeking to amend the statute to clarify CBP's authority to:

- Require the electronic filing of all entry data, unless exempt.
- Require all entry data to be filed in a single filing.
- Enable earlier data collection.
- Collect data related to entry, but prior to filing for release or entry, from persons other than the Importer of Record (IOR) or broker.
- Collect additional data elements from parties throughout the supply chain.
- Hold parties in the IOR's supply chain providing data to CBP responsible for the accuracy of data; and
- Utilize data collected from the Trade for any lawful purpose.

Trade Needs:

- A "reasonable knowledge and belief" standard for advance documentation and information.
- Elimination of any requirement for independent verification of such advance data to reflect a commercially realistic standard.
- Ability to include mitigation language for 19 USC § 1484 and 19 USC § 1321 (19 USC § 1618)

Outcome: CBP to include amended language in the CBP 21CCF Package

- CBP addressed COAC ask to ensure an appropriate standard of knowledge is included in (a)(2)(D)(ii) and modified to "best of."
- CBP clarified application of the scope of proposed § 1595a penalties.
- CBP addressed COAC ask to include a reference to mitigation guidelines under 19 USC § 1618.
- Trade and CBP will continue to evaluate opportunity to develop facilitative filing concept and include a statutory level for 19 U.S.C. §1484, §1431, and §1415.

19 USC § 1498

CBP is seeking to amend the statute to clarify CBP's authority to:

- Codify the roles and responsibilities for parties eligible to make entry under the regulations.

Trade Needs:

- Divergence of perspective among the Trade - concerns that for de minimis, including PGA restricted commodities: a.) excluding consignee as a party with the right to make informal (de minimis) section 321 entry could prevent some express

and other carriers from making entry, but to the contrary b.) not limiting the right to make such entry to owner, purchaser or customs broker (like formal entry) opens the door to non-licensed, non-regulated parties, including foreign parties, to make entry.

- Consider how best to address this potential change to existing practices and identify language that would support current business models while promoting efficiency and security.

Outcome: CBP to include amended language in the CBP 21CCF Package

- CBP clarified that submission of advance data may be treated differently than the filing of an entry and advance data may be filed by parties other than those qualified to make entry.
- CBP struck the statutory language identifying other parties eligible to make entry. This enables CBP with trade input to specify such parties in the regulations rather than codify at the statutory level, but conversations persist at statutory level.
- Codify that brokers are the only party able to make entry on another party's behalf.

19 USC § 1321

CBP is seeking to amend the statute to clarify CBP's authority to:

- Collect necessary information from all relevant parties related to merchandise seeking to qualify for an administrative exemption, including de minimis.
- Utilize data collected from the trade industry for any lawful purpose; and
- Impose penalties on parties who knowingly submit incorrect information.

Trade Needs:

- Establish a "reasonable belief" standard for filers of advance documentation and information.
- Remove the \$5K and \$10K penalty regime as excessive to value of shipments.

Outcome: CBP to include amended language in the CBP 21CCF Package

- CBP clarified that advance data is separate from the entry filing and may be filed by parties other than those qualified to make entry.
- CBP accepted Focus Group recommendation to lower penalty amounts from \$5K/\$10K to \$1K/\$2K for advanced data.

CBP Challenge Area 2: Restricted Data Usage

Limited and inefficient data sharing impedes the effectiveness of proactive efforts to root out counterfeiting and other violative supply chain practices at the source.

19 USC § 1415

CBP is seeking to amend the statute to clarify CBP's authority to:

- Use advance electronic data for any lawful purpose.

Trade Needs:

- Permit advance data to be used only for U.S. government purposes and limit overuse or over-sharing of data.
- The “reasonably verifiable” standard from 19 USC § 1415 (3)(B) should be applied in the proposed text.
- Trade data should be treated as private property and protected as confidential.
- Trade seeks increased transparency from CBP on Customs Mutual Assistance Agreements (CMAAs) and CBP should ensure each is linked to the CBP website.
- Modify language to limit the scope of ACAS, ISF, and advanced data from being used for “any lawful purpose” and seeking language that will require CBP to provide notification to a party when there is knowledge that their data has been breached.

Outcome: CBP to include amended language in the CBP 21CCF Package

- CBP addressed trades concerns and added language to limit the scope of ACAS data from being used for “any lawful purpose” and added a reference to information sharing protections under 19 USC § 1628.
- COAC recommended modification to 19 U.S.C. § 1431(c) during the June 2022 Public meeting so that it automatically treats manifest and Customs declaration data of all transportation modes as private and confidential business information.
- Trade and CBP seeking opportunity to develop facilitative filing concept and include at the statutory level for 19 U.S.C. §1484, §1431, and §1415.

19 USC § 1628a and § 1628b

CBP is seeking to amend the statute to clarify CBP’s authority to:

- Provide information to supply chain parties regarding violative merchandise and its packaging; and
- Share shipment information with persons/entities who can help to ensure compliance with Customs laws, including, but not limited to, marketplaces or platforms that facilitate or are otherwise involved in the sale of imported goods.

Trade Needs:

- Assurance that a written record will be provided to parties receiving compliance or enforcement information for clarity and transparency.
- Clarification regarding liability for receiving data and what action is required of the recipient.

Outcome: CBP to include amended language in the CBP 21CCF Package

- CBP addressed COAC ask to replace “suspect” standard in (a) with “reasonable suspicion.”
- CBP addressed COAC ask to better clarify the reasoning and expectations for sharing information with industry (e.g., promote compliance with Customs laws vs. ensure compliance).

- CBP addressed COAC ask to include notification of information transmitted in accordance with regulations prescribed by the Secretary.

CBP Challenge Area 3: Narrow Visibility and Accountability

Increasingly complex global supply chains hinder visibility for Government and Trade alike, masking unethical and illegal trade practices.

19 USC § 1508

CBP is seeking to amend the statute to clarify CBP’s authority to:

- Expand the parties that are required to retain records for import transactions; and
- Clarify which parties may be required to produce records and subject to recordkeeping penalties.

Trade Needs:

- Noting that additional, non-traditional parties will be covered, limit required documents to those kept in the ordinary course of business as well as those relative to the party’s role in transaction.
- Given the expansion of responsible parties, incorporate reasonable care and knowledge-based standards to avoid strict liability for entities unable to comply with document demands.

Outcome: CBP to include amended language in the CBP 21CCF Package

- CBP addressed COAC ask to limit required documents to those kept in the ordinary course of business as well as those relative to a party’s role in transaction.

19 USC § 1509

CBP is seeking to amend the statute to clarify CBP’s authority to:

- Clarify parties covered by CBP’s summons authority and to allow CBP to summon persons to produce records required under § 1508 that pertain to the importation of prohibited merchandise, or to the nonpayment of duties, taxes, and fees.

Trade Needs:

- Limitations on language presented by CBP, which would appear to allow anyone within CBP to issue a summons. Unchanged, this language could have serious unintended consequences and ramifications whereby individuals without appropriate training and authority could issue a summons.

Outcome: CBP to include amended language in the CBP 21CCF Package

- CBP agreed to revise the language to ensure that no delegate of the Secretary below the rank of port director, Center director, or field director of regulatory audit or special agent in charge may issue a summons, consistent with current CBP regulations.
- Additionally, CBP has replaced language reading “not acting to the best of such person’s ability” with the phrase “make reasonable efforts” as the standard for applying an adverse inference where there is a failure to provide such documents.

CBP Challenge Area 4.1: Preventing Loss of U.S. Revenue

High-risk actors, like those who are suspended/debarred, jeopardize rightfully owed duties, taxes, and fees.

19 USC § 4320, § 1321, and § 1498

CBP is seeking to amend the statutes to clarify CBP's authority to:

- Exclude persons suspended or debarred under the Federal System for Award Management ("SAM") from participating in the Importer of Record program.
- Exempt imports caused or facilitated by suspended and debarred persons from duty and tax administrative exemptions in the de minimis environment; and
- Create special rules for the declaration and entry of imports caused or facilitated by suspended and debarred persons.

Trade Needs:

- Trade envisions a system that prohibits importing rights due to egregious CBP, import related infractions, related to an inability or refusal to pay duties, taxes or fees.
- Modify language that requires a secondary due process step, prior to importer of record suspension when SAMS exclusions are not at the direction of CBP.
- CBP to build ACE flag to make monitoring of suspended or debarred entities easier for the trade.
- CBP to maintain and publish "denied parties list" separate from the SAM exclusion list.

Outcome: CBP to include amended language in the CBP 21CCF Package

- CBP addressed COAC ask and modified language that requires a secondary due process step, prior to importer of record suspension when SAMS exclusions are not at the direction of CBP. Doing so limits the qualifying abuse actions to federal, import related issues, particularly related to the financial inability or refusal to pay duties, taxes, or fees.
- CBP addressed COAC ask and modified 19 USC § 4320(b)(6)(i) to "and circumstances of importers ..."
- CBP provided an overview of regulations and processes related to suspension and debarment to 21CCF TF Members.
- 19 USC § 1498 allows CBP to create regulations (subject to NPRM) to evaluate whether individuals excluded may be able to import under 19 USC § 1321.
- CBP removed 19 USC § 1321 amendment that was originally submitted.

CBP Challenge Area 4.2: Streamlining Enforcement Avenues that Protect U.S. Intellectual Assets and American Consumers

Lengthy seizure timelines exacerbate the challenges of facilitating enforcement in the growing small package environment.

19 USC § 1526(e), § 1595a(f), and § 1607

CBP is seeking to amend the statutes to clarify CBP's authority to:

- Develop regulations providing alternatives to seizure and allow CBP to summarily forfeit, without notice, certain IPR-infringing and other goods.
- Prevent counterfeit exports from reaching the U.S. market.
- Permit CBP to summarily forfeit Schedule III, IV, and V narcotics.
- Permit CBP to summarily forfeit products not in compliance with the Federal Food, Drug, and Cosmetic Act and Drug Cosmetic Act or the Public Health Service Act; and
- Summarily forfeit counterfeit merchandise.

Trade Needs:

- Trade strongly opposes CBP authority to summarily forfeit without due process (i.e., proper notice, petition, detention, etc.)
- Trade seeks modification to ensure that proposed streamlined summary forfeiture procedures (with notice to carrier only) are restricted to de minimis shipments and ensure that some level of due process and notice are mandated when informal entry types are used.
- Trade would limit their risk and exposure by choosing to enter merchandise under standard informal entry procedures, which require CBP to follow existing due process requirements.

Outcome: CBP to include amended language in the CBP 21CCF Package

- CBP addressed COAC ask and modified language to limit application of summary forfeiture to the de minimis environment for imports and under \$800 for the aggregate value of the shipment for exports.
- Trade would limit their risk and exposure if entry types 01 and 11 are used which would require CBP to follow existing due process requirements.

19 USC § 1499

CBP is seeking to amend the statute to clarify CBP’s authority to:

- Exempt imports entered subject to an administrative exemption under 19 USC § 1321(a)(2)(C) from deemed exclusion procedures under 19 USC § 1499(c)(5).
- Promulgate regulations related to notices of detention for de minimis shipments; and
- Dispose of detained de minimis imports after a 15-day period of no response.

Trade Needs:

- COAC supports CBP’s proposed discussion draft language.

Outcome: CBP to include amended language in the CBP 21CCF Package

- Seek to clarify that the USG will be the party to take possession and destroy.

19 USC § 1514(a)(4)

CBP is seeking to amend the statute to clarify CBP’s authority to:

- Exclude CBP enforcement decisions related to exclusion orders issued by the U.S. International Trade Commission issues under Section 337 from the scope of decisions that are administratively protest able.

Trade Needs:

- COAC supports CBP’s proposed discussion draft language.

Outcome: CBP to include amended language in the CBP 21CCF Package

CBP Challenge Area 4.3: Driving Trade Compliance through Expanded and Streamlined Penalties

Current penalty authorities do not allow for the parties most culpable to be penalized for their actions.

19 USC § 1526(f)

CBP is seeking to amend the statute to clarify CBP’s authority to:

- Apply penalties consistently throughout the supply chain.

Trade Needs:

- Change from strict liability to knowledge standard, noting that additional, non-traditional parties are being covered.

Outcome: CBP to include amended language in the CBP 21CCF Package

- CBP declined to place “knowingly” standard in this statute as there is not a “knowingly” standard related to the underlying violation.
- CBP addressed COAC ask to strike “is in any way concerned with any unlawful activity” from proposed statute changes.
- CBP addressed COAC ask to reinsert “aids and abets.”
- Must ensure that statutory interpretation of “interdiction” includes notice so that the Trade is aware of inadmissibility and can address non-compliance.

19 USC § 1436

CBP is seeking to amend the statute to clarify CBP’s authority to:

- Penalize any person who is directly or in any way concerned with certain carrier-related violations, including violations related to conveyance entry and the production of manifests.

Trade Needs:

- Change from strict liability standard to a knowledge standard, noting that additional, non-traditional parties are being covered by penalty provision.

Outcome: CBP to include amended language in the CBP 21CCF Package

- CBP accepted recommendation to insert a knowledge standard for parties, other than the party in charge of the conveyance, who provide carriers incorrect information.

- CBP clarified the parties and their respective responsibilities as well as the applicability of penalties to those parties.

19 USC § XXXX

CBP is seeking to create a new statute to clarify CBP's authority to:

- penalize parties who intentionally destroy, hide assets, or alter evidence during an investigation.

Trade Needs:

- Trade does not see the need for a new civil provision penalizing parties that intentionally destroy, alter, or conceal evidence and would rather see CBP continue to address it through the criminal statutes under Title 18.

Status: CBP and COAC Agree to Disagree

- CBP provided an edited version to clarify that the proposed new statute is meant to apply only to those entities that intend to obstruct an investigation.
- Trade does not support the introduction of this new statute and believes CBP already has appropriate authority.