

**Advisory Committee on Commercial Operations of
Customs and Border Protection and Related Functions (COAC)
13th Term – 2014 Private Sector Annual Report**

Background:

In accordance with the Omnibus Budget Reconciliation Act of 1987, the members of the 13th Advisory Committee on Commercial Operations of the United States Customs Service (hereafter “COAC”) submit the following report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. This report provides an overview of COAC’s activities during calendar year 2014.

Scope of Activities:

During the reporting period, the majority of the 13th COAC’s work took place within the following six subcommittees, each of which was led by a government co-chair and at least one private sector co-chair:

- Global Supply Chain
- One US Government at the Border
- Trade Enforcement and Revenue Collection
- Trade Modernization
- Exports
- Trusted Trader

These subcommittees produced recommendations which were brought for a vote to the full COAC during four public meetings.

Summary:

A great deal of the COAC’s efforts continued to be focused on supporting the ambitious “trade transformation” efforts of Customs and Border Protection (CBP), in the spirit of “co-creation” carried forward from the 12th COAC and the first year of the 13th COAC. Of note, a great deal of COAC’s work was focused on assisting CBP and the Participating Government Agencies as they lay the foundation for mandatory use of ACE for all entry filings. Detailed summaries of each subcommittee’s major activities during 2014 are included in this report, as are the recommendations brought forward at each public meeting during the reporting period (included as Appendix 1). A listing of the members of the 13th COAC is included as Appendix 2.

The members of the COAC would like to thank CBP for their high levels of support and engagement during 2014. The COAC also extends its thanks to the Department of Homeland Security, as well as to the Department of the Treasury and the Bureau of Immigration and Customs Enforcement, for their assistance during 2013.

Respectfully Submitted,

Ted Sherman, Target Corporation
Kathy Neal, Regal Beloit Corporation

COAC One U.S. Government at the Border Subcommittee

2014 Annual Report

Co-Chairs:

**Mary Ann Comstock - UPS Supply Chain Solutions and
Susie Hoeger - Abbott Laboratories**

Objectives and Scope of Activities:

The One US Government at the Border Subcommittee conducted monthly conference calls during 2014 in support of the following goal:

“That CBP pursue interagency partnership programs following the principles and standards set forth in the One US Government Master Principles Document and progress toward completion can be measured via CBP reporting quarterly back to COAC on progress being made to implement programs that align with these principles, principally through the Border Interagency Executive Council (BIEC)”

Subcommittee Activities:

During 2014, the Subcommittee formed three principle workgroups in support of the One US Government Master Principles concept for a Single Window, those being an FDA Workgroup, an Import Mapping Workgroup and a Process & Messaging Workgroup. Within the Workgroups, a broad range of stakeholders were engaged to ensure their views were incorporated and that the concerns of all industries impacted were addressed as CBP and the Partner Government Agencies move toward the Single Window through the International Trade Data Set (ITDS) and the Partner Government Agency (PGA) Message Set. The FDA Workgroup specifically engaged with the US Food & Drug Administration while the other Workgroups engaged with Partner Government Agencies as needed.

The FDA Workgroup (FDA WG) was comprised of representatives from the pharmaceutical, medical device, and food sectors, as well as express carriers and brokers. FDA also participated, along with CBP, in several of the WG meetings. The primary goal of the FDA WG was to develop recommendations that would help improve the quality of data submitted to FDA in advance of the Single Window implementation and reduce the number of rejects that don't pass the automated screening process in PREDICT. The FDA WG developed recommendations in the areas of data quality, processes and procedures, information technology, and communication (both in terms of transactional messaging, and outreach and informed compliance).

In addition to the 11 formal recommendations that were brought to vote and unanimously adopted by the full COAC, the IUSG subcommittee also took the opportunity to present 21 supplementary recommendations and suggestions, not voted on, directly to FDA. The subcommittee also drafted a white paper for FDA, providing a more narrative description of the drivers and issues behind the recommendations, and putting them in better context for an improved understanding of the root causes. The FDA WG also prepared a separate report for the Border Interagency Executive Council (BIEC), including 18 of the 32 recommendations that were identified as broadly applicable to all Partner Government Agencies (some with minor wording changes). These were summarized in a separate report to the BIEC, along with additional narrative to provide context.

The Import Mapping Workgroup met by conference call ten times to develop education packages related to the import processes in the Ocean, Rail, Truck, Air Cargo and Express Courier environments, to be used as a tool to educate members of the various Border Inter-Agency Executive Council member agencies as to how the trade community operates. The group also developed a Roles & Responsibilities document that detailed reporting timelines, identified the parties in the international movement of goods, and detailed the parties' responsibilities and financial interest in the goods. The work product was presented to the BIEC Process Coordination Committee on July 29, 2014. The findings of the Work Group were presented at the October 7, 2014 COAC Public Meeting.

A Process and Messaging Workgroup was set up in late October 2014 to address the pressing need to understand the message sets between the trade community, CBP and the Partner Government Agencies. To this end, a Statement of Work was established:

“The Purpose of the COAC I USG Process and Messaging Working Group (IUSG PMWG) is to facilitate a dialogue between key partner government agencies (PGAs), CBP and the broader trade community on the flow of information from the PGAs to CBP to the trade, ensuring the messages are clear, concise, and if need be, actionable by all parties involved in the information exchange.”

A draft Message Dictionary with definitions of key terms was established, and should be expanded as ACE and the message sets are put into use. The use of Release and Hold messaging was standardized across all partner government agencies, recognizing that not all agencies will utilize all types of messages. Three types of Process and Messaging Scenarios were envisioned and mapped. At the February 2015 COAC Public Meeting, the One USG Subcommittee presented six recommendations to the full COAC for adoption.

The One US Government at the Border Subcommittee also participated in the Third Annual COAC Trade Survey, submitting focused questions on IUSG activity and analyzing the trade community's responses. The One USG recommendation was to share the findings about PGA satisfaction with Partner Government Agencies. Several internal recommendations on changes to future trade surveys were made by the IUSG Subcommittee for consideration in 2015. One US Government Subcommittee members also attended International Trade Data System (ITDS) Board meetings and provided an overview of the work being done by the Subcommittee. Topics discussed included the following:

- Feedback from the ITDS Board on seven (7) November 2013 COAC recommendations. The board suggested that we ensure CBP pass the PGA message set data to PGAs upon receipt, recognizing the value of early data submission for risk assessment and targeting purposes.
- The Subcommittee also recognizes that data at time of entry release, not entry summary, is the optimal time for effective data screening by the Partner Government Agencies.
- The discussions at the ITDS Board meetings were the impetus for standing up the Process & Messaging Workgroup, as there was clearly a need to address this topic and provide clarity and standardization in the ACE entry filing process.

Planning for the work to be done in 2015, the Subcommittee identified a number of potential activities:

- Request response to the 1 USG at the Border request made October 29, 2014 to CBP and the ITDS Board of Directors for written guidance to the trade community on the hold authority of CBP as well as those Partner Government Agencies whose regulations permit pre-emptive authority at the border.
- Bi-directional information sharing and training between the subcommittee, CBP, ITDS Board and the BIEC.
- Assistance in developing a list of Frequently Asked Questions (FAQ's) on the Single Window for both Imports and Exports, concentrating on the integration of information required by CBP as well as the PGAs, and the documentation of individual processes and requirements for the various PGAs.
- Further work in mapping or documenting each PGA's import process, including anticipated message sets and procedures that will aid the importing community in navigating the significant changes that will occur with full implementation of the Single Window concept.
- Work with CBP and the PGAs to identify and drive efficiencies in the import process, through concepts such as Trusted Trader, Simplified Entry Summary, and other initiatives that contribute to a robust, thriving U.S. economy. The United States must be a global leader in development and expansion of single window initiatives through the World Customs Organization and the international sector. Harmonization with our significant trading partners on document (data) production and information sharing will further improve the global movement of goods.

The One US Government at the Border Subcommittee adopted an informal guiding principal that reads: *It is imperative that the trade community and government agencies establish mutual understanding for the future of data exchange, engagement expectations and cooperate to*

achieve the appropriate risk based mitigation standards that secure cargo movement and facilitate trade at the speed of business.

The FDA Workgroups, the Import Mapping Workgroup and the Process and Messaging Workgroup all completed their assigned tasks by the end of the 13th COAC term, with eighteen significant recommendations adopted by the full COAC. The Subcommittee will reconvene in the 14th Term COAC and begin its work supporting the One US Government at the Border single window concept.

Trade Modernization Subcommittee

2014 Annual Report

Co-chair:

Jim Phillips - General Motors

As a result of deliberation and discussion between CBP and the COAC, a subcommittee on Trade Modernization was created. The objectives for the subcommittee were to generate advice and develop recommendations pertaining to the strategic modernization of CBP's operational and automated support systems. The areas of focus for this subcommittee were:

- Centers of Excellence and Expertise
- Various ACE Development Activities including but not limited to:
 - ACE development plan
 - Simplifying ACE Cargo & Entry Processes
- Role of the Customs Broker

Significant discussion took place and recommendations were passed on these topics.

Highlights included:

Centers of Excellence and Expertise (CEE)

The subcommittee reviewed and provided feedback on a Centers of Excellence and Expertise (CEE) customer satisfaction survey. The survey provided useful feedback from the broader trade community and elicited improvement recommendations from current and future CEE participants. The results were favorable to the Centers, which received a "very satisfied" rating from 74% of the respondents, with 96% of respondents reporting that their issues were resolved by contacting a Center.

Significant discussion took place on CEE performance and metrics. Although survey results to date show that the Centers are highly rated by most initial participants, both CBP and the COAC agree that metrics should be created to monitor performance on an ongoing basis (from the standpoints of both the trade and government). This will be particularly important as the transactions of a significant number of additional companies are processed by the CEE's.

As stated on www.CBP.gov, Centers of Excellence and Expertise were "established to increase uniformity of practices across ports of entry, facilitate the timely resolution of trade compliance issues nationwide, and further strengthen critical agency knowledge on key industry practices." Metrics that capture benefits to the trade and CBP will help determine if the CEE's are succeeding. Examples of benefits include reductions in processing times, reductions in forms required to be processed, and implementation of the CEE as a single point of contact (versus working separately with each port). Further, questionnaires to individual companies may be the best method to collect this data.

ACE

The ACE Work Group delivered the results of a useful ACE software vendor survey in time for a National Customs Broker and Forwarder Association of America (NCBFAA) sponsored, ACE software vendor conference that was held on May 21, 2013. The survey dealt with current ACE participation, anticipated ACE participation from those respondents not currently participating, communication preferences, awareness of CBP's utilization of the Agile software development methodology, a 26 week release cycle and challenges to the transition to ACE.

The subcommittee also provided significant feedback on a CBP Stakeholder Strategy Matrix. The matrix helped Customs and Border Protection (CBP) develop a road map of stakeholder requirements, a list of industries that would be impacted by ACE, and stakeholder expectations during the course of the development and delivery of the Automated Commercial Environment (ACE).

Role of the Broker

The Role of the Broker working group worked hard during the 13th term to complete some of the recommendations presented in the 12th term. During this term, the Role of the Broker working group was able to make several recommendations that will move the brokerage industry and oversight into the future.

Some of the highlights of recommendations for this term include:

Permitting: The process of Remote Location Filing with a National Permit has changed the business model for Customs Brokers but the requirement for "proper supervision and control" is still critical to CBP and the entry process.

Broker Management: Changes in how Customs Business is conducted and how the Customs Broker is managed mean that CBP Broker Management must be updated to reflect current business practices. Changes and updates to CBP Broker Management will be beneficial for both CBP and Customs Brokers, as the industry evolves.

Continuing Education: With the tremendous amount of changes happening in the importing process along with modernization of requirements and skills, Continuing Education for licensed Brokers is critical to industry professionalism and compliance.

Identity of Importers of Record (IOR): One of the many challenges for the sub-committee was identifying ways to improve the process for identifying legitimate importers of record and how a Customs Broker could help in preventing illegal imports and fake importers. The subcommittee took the approach of a three legged stool, attacking the problem from three sides. The subcommittee was able to make progress in this effort, bringing forward two of three recommendations to help prevent this problem.

First, the importer must be known to CBP - this has been addressed with a new Customs and Border Protection Form 5106. Second, the COAC recommended that importers have the ability in their ACE Portal to identify the Broker(s) that are authorized to clear their goods. Unfortunately the subcommittee struggled to come to an agreement as to how the importer can identify themselves to the Customs Broker with an acceptable form of "Bona Fides" (the third leg of the "three legged

stool”). That issue will carry over to the 14th term. Even without resolution of the Bona Fides issue, the subcommittee made great progress in preventing illegal imports.

Simplified Entry Summary and Payment

Another topic that led to considerable discussion was Simplified Summary and Entry Summary Payment. Although detailed work remains on how this process would work in practice, the subcommittee believed it was important to bring recommendations to the full COAC for review while the proposed process is in development. Members discussed both possible benefits and possible challenges to the success of the program, and developed a set of recommendations that were brought forward and voted on at the February 2015 COAC meeting.

Global Supply Chain Subcommittee

2014 Annual Report

Co-chair:

Jim Phillips, General Motors

After deliberation and discussion between CBP and the COAC, it was decided that a subcommittee on Global Supply Chain would be created. The objectives for the subcommittee were to generate advice and develop recommendations pertaining to the safe and expedited movement of cargo through the Global Supply Chain.

During the lifespan of this subcommittee, advice and recommendations were provided in the following areas:

- Air Cargo Advance Screening (ACAS) pilot
- Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness
- 21st Century Border Framework

Highlights of the subcommittee's work include:

ACAS

The ACAS Work Group (WG) prioritized its activities to focus on the issues considered most pressing— namely, those that would be included in CBP's ACAS rule-making and would involve changes to the language of Title 19, Code of Federal Regulations.

The WG's analyses, commentary and recommendations were thus directed toward the fundamentals of the ACAS filing regime – both the overall governing philosophy of the regulations and key concrete details, including: the required data elements, the prerequisites for filing, the categories of filers, the regulatory responsibilities of each filing category, and the filing mechanisms most appropriate for the four most common air cargo business models.

The two “single filer” models – express carrier-filed shipments moving on express carrier aircraft, and conventional carrier-filed shipments moving on conventional carrier aircraft, are relatively straightforward. Conversely, the two “dual-filer” models – express carrier-filed shipments moving on conventional carriers, and freight forwarder-filed shipments moving on conventional carriers – present far greater complexity, and the mandatory implementation of ACAS in these models carries a much greater risk of operational disruption, added costs, and negative impacts on legitimate trade. The ACAS working group spent over 10 months carefully discussing and analyzing the dual-filer models, with the latest commentary on this topic delivered to CBP at the end of January.

The COAC ACAS WG drafted recommendations with the goal of promoting the most secure and efficient system possible, a minimally-disruptive mandatory implementation in the United

States, and the ability to use ACAS internationally as the model for other countries considering similar initiatives. The Work Group drafted and delivered to CBP a total of eight detailed and substantive documents addressing the issues outlined above (four of which have been made publically available in redacted versions on the COAC website), and put forth a total of six formal recommendations to the COAC Global Supply Chain Subcommittee, all of which were presented to the full COAC and approved.

Although the mandate given to the ACAS WG was fulfilled in terms of providing trade input prior to the drafting and publication of an NPRM, outstanding bigger picture items remain to be resolved that, while critical to the success of ACAS, also have larger impacts in terms of securing the global supply chain and promoting trade modernization. In particular, there is a need for greater CBP/TSA cooperation to better align security concepts and programs, not only in regard to the resolution of ACAS selectee screening holds, but also to promote a more efficient supply chain approach to air cargo security. There is also a need for expanded CBP advocacy and leadership on harmonization and inter-operability initiatives in the international arena, which are applicable not only to pre-departure risk assessment programs, but also to existing and planned post-departure manifest systems.

Beyond the Border / 21st Century Work Group

Discussion and input was provided on a number of initiatives. Examples include:

Prince Rupert Pilot: Excellent analysis led to several comments, including:

- 1) The improved flow of data has enabled the perimeter screening of cargo resulting in high risk cargo being inspected in Prince Rupert.
- 2) The flow of lower risk cargo, moving on pilot trains, is saving time while still meeting security requirements.
- 3) Based on current constraints, International Falls is the best place to perform inspections other than security related examinations.
- 4) Based on the current constraints, there is not a compelling reason to move the inspections to Prince Rupert other than security related examinations.

Peace Bridge Pre-inspection Pilot: An historic pilot of an idea that has been discussed for many years. The pilot proved that processes could be put in place for pre-inspection close to the border that facilitates clearance into the USA. It is noted that in addition to automation it is clear that personnel on the bridge who help to manage traffic add significant value.

In-Transit Pilot: Input was provided on minimizing data elements and suggestions on how to reach agreement on data elements problematic to the trade. It is encouraging to hear that a pilot is expected in the near future.

Several recommendations were submitted regarding the Beyond the Border and 21st Century Work Group (see Appendix A).

Trusted Trader Subcommittee

2014 Annual Report

Co-chairs:

Bill Ferguson, NYK Line North America

Bill Earle, National Association of Beverage Importers

For the 2014 cycle the subcommittee met by way of group conference calls. Other inputs to the subcommittee came during in-person meetings of the entire COAC when updates were provided to COAC members and CBP leadership.

Tasks for this term of the subcommittee centered on input to and monitoring of the Trusted Trader Pilot and refinement of C-TPAT for exports. At the end of the 2014 term CBP had completed the work necessary to launch the pilot and was screening applicants for participation.

Briefings by CBP subject matter experts and program coordinators informed the subcommittee members on the status of both of our monitored program areas. As these initiatives evolved, we interacted on the more holistic developments in the areas of Mutual Recognition and AEO activity. The subcommittee determined that these areas are ripe for further development and consideration as we better define and populate the internationalized concept of a “trusted trader.”

One headwind to more rapid subcommittee work, permanent CBP advisory leadership for the subcommittee task areas, had been resolved as 2015 started. With permanent executives in place, forward progress should move on a more predictable and sustainable timetable.

Subcommittee member dialogs within and among the trade were brought to our discussions and considered for expanding or perhaps better defining the mandate to this subcommittee. This is a practice that should be continued and encouraged by the next committee.

Several of our monitored CBP programs are at the advanced engagement stage or have been launched. Active monitoring of the Trusted Trader pilot should move smoothly to the succeeding subcommittee participants, building on the efforts of the 2014 cycle subcommittee members.

We received updates from the CBP program owners throughout the year. We also received more clarity on the characteristics of future initiatives such as Aqua Lane, MRAs with partner governments, and the selection of CBP program office leaders. We anticipate that several of these programs that are closely linked to the Trusted Trader subcommittee mission will evolve into operational status into 2015.

In the spirit of our mandate, as the eyes and ears of the Trade community, subcommittee members analyzed trusted trader initiatives from various sources. We evaluated these ideas

throughout 2014. This falls within the perceived charter of the subcommittee to harmonize the trusted trade badge with the more general understanding of the trade and the public of that term. A view in this area may include a consideration of how AEO programs in partner governments mesh with Trusted Trader.

As the membership of the COAC moves through the normal two year personnel transitions we hope there will be better definition toward the best use of the subcommittee resources to support CBP in an advisory role. The work of the subcommittee could not have been accomplished without the insights, advice and counsel of CBP staff. Ultimately the contributions of the COAC trade professionals who made up the membership of this subcommittee carried the work forward throughout 2014. Their honest and knowledgeable inputs served the subcommittee well and created a solid base for the 2015 cycle.

COAC Trade Enforcement and Revenue Collection Subcommittee

2014 Annual Report

Co-Chairs:

Karen Kenney, Liberty International
Kevin Pinel, Microsoft
Matt Fass, Maritime Products International

Objectives and Scope of Activities:

At the March 6, 2013, meeting of the 13th Term Commercial Operations Advisory Committee (COAC) in Washington, D.C., the Committee established the Trade Enforcement and Revenue Collection Subcommittee, a blending of the Intellectual Property Rights, Bonds, and ADD/CVD Subcommittees from the 12th Term COAC, and adding Regulatory Audit. The objectives for the Subcommittee were to generate advice and develop recommendations pertaining to improving enforcement of the trade laws of the United States and the collection of duties and fees. Enforcing U.S. trade laws adds not only to the security of the global supply chain and our nation, but expedites products into the marketplace. Identifying and expediting compliant trade by enforcing our trade laws adds to both our national security and trade facilitation efforts. With compliant trade identified and appropriate fees and duties assessed, CBP can then focus its limited resources on non-compliant and higher risk commerce.

Throughout 2014, the IPR, Bonds, Anti-Dumping & Countervailing Duty and Regulatory Audit Work Groups held conference calls to address the challenges facing both CBP and the trade, engaging on new topics and continuing the work completed during 2013.

Regulatory Audit Work Group (RAWG):

The RAWG held several conference calls early in 2014 to discuss the pre-decisional draft Focused Assessment (FA) Pre-Assessment Survey (PAS) Audit Program document CBP provided to the COAC in December of 2013. These discussions resulted in 8 recommendations from the COAC to CBP at the February 2014 public meeting on topics such as: 1) concern about consistency in Focused Assessments under CBP's new "flexible" approach and ensuring CBP will maintain an acceptable range of variation, implementing a process through which importers can seek recourse if they feel the variation in approach on their Focused Assessment is not acceptable, 2) increase in sample sizes and the need for CBP to share the details of those changes with the trade as quickly as possible, 3) the need for audit plan changes to be subject to supervisory review, 4) the need for CBP to give the importer sufficient time, roughly 30 days, to put together written documentation and written responses after initial request with an opportunity for additional extensions as appropriate, 5) the need for CBP to collaboratively develop Informed Compliance Documents with the trade to clearly outline CBP's expectations that will lead to a successful result from a Focused Assessment, 6) the need for CBP to focus special attention during its auditor training in several areas, for example GL best practices, collaborative training with the trade and others, 7) the need for trade compliance and CBP's

audit strategy by industry, and 8) the need for the trade and CBP to regularly meet to review results once this new process is implemented.

At a subsequent COAC public meeting in May of 2014, the COAC clarified one of its recommendations to indicate that the trade was recommending that both the PAS and ACT phases of the Focused Assessment should be completed within 6 months.

Subsequent to these recommendations, CBP actively communicated with the COAC, provided updates about its internal training efforts and involved the COAC in its trade outreach on the topic.

The trade and CBP then agreed to suspend future work group meetings while CBP trained its auditors, engaged in trade outreach and until any further proposed changes to the Focused Assessment are put forward by CBP.

Intellectual Property Rights Work Group (IPRWG):

This workgroup continued the work of the 12th COAC's IPR Subcommittee, recognizing the need for a practical, layered approach to IPR enforcement while ensuring those layers are affordable for brand owners and legitimate importers. During regular conference calls, the workgroup explored 3 key enforcement and facilitation areas.

First, the COAC continued to explore a simplified abandonment process for handling violative shipments in the express / small package environment to enhance facilitation of legitimate shipments, enabling CBP to refine its targeting and enforcement efforts, preventing violative goods from entering the U.S. These discussions included an outreach meeting for the express carriers to brainstorm the concept, answer questions and resolve concerns. CBP moved forward to implement a simplified abandonment process based on the COAC's recommendation regarding this initiative at the May 2014 public meeting.

Second, the COAC explored the use of the Document Imaging System (DIS) by importers to deliver material to CBP as a potential IPR Enforcement/Facilitation "layer" through which importers might voluntarily furnish CBP with advanced evidence of the authenticity of their goods. At the COAC's May public meeting, two recommendations were put forward to CBP to move forward with a pilot of the program and to share results of the pilot with the trade. CBP announced a pilot of this initiative in October of 2014.

Third, the COAC worked with CBP on a Voluntary Disclosure Program for IPR that would allow members of the trade to provide CBP with intelligence for targeting purposes by voluntarily disclosing violations of the laws prohibiting importation of goods infringing U.S. registered trademarks or copyrights. The COAC put forward 3 recommendations at the October 2014 public meeting, recommending that CBP work group the concept. As a result of that work group's discussions, the COAC subsequently recommended that CBP not move forward to pilot the program because of concerns from CBP and the trade about potential litigation, lack of sufficient benefits for the trade and the exclusion of certain industry segments from the program.

At the end of the 2014 COAC year, the IPRWG trade co-chairs suggested to CBP that the COAC continue its discussions on the IPR Known Importer program and stand up a work group comprised of a wide range of stakeholders to act as a standing forum of subject matter experts to solicit feedback and brainstorm new initiatives to help with IPR enforcement and facilitation in 2015.

The Bonds Workgroup:

The Bonds work group held regular calls to discuss bond automation and centralization including e-Bond process maps as a basis for the new eSTB (single transaction bond), resulting B2B business rules changes and eBond FAQ's to help the trade navigate the transition. Regular updates were given to the working group by CBP on the development of ACE e-bond, the development of CATAIR Technical User Guide updates and the development of a Frequently Asked Questions document. The Bond work group provided feedback regarding the FAQ's and key points of concern to CBP and collaborated on the final work product that served as a tool for the trade during the transition.

The work group then suspended future work group meetings until CBP was ready to present the new bond regulations to the COAC for discussion.

AD/CVD Workgroup

The AD/CVD Working Group was expanded in both size and scope during 2014. Earlier in the 13th COAC term, this working group operated with only COAC members and helped address specific questions from CBP such as concerns about a lower-than-expected number of AD/CVD filings using ACE. However, this working group was expanded in July 2014 in an effort to address some of the larger and continuous challenges that plague this area.

The working group was formed by a large and diverse range of stakeholders – private industry and experienced practitioners representing both petitioners and respondents and a range of perspectives as well as government officials from the wide range of agencies involved in AD/CVD cases. It was discussed from the start that this group would not focus on the “prospective vs. retrospective” issue of AD/CVD application and enforcement as this topic has been the subject of specific recommendations from both this COAC and the previous COAC term. While that remains an extremely important issue, this working group focused on a number of other areas in line with the ongoing mission:

- Strengthen partnerships between CBP and the trade community to promote compliance with AD/CVD laws and policy,
- Improve the effectiveness of AD/CVD risk assessment through better identification of high and low risk shipments and/or entries,
- Identify effective approaches for deterring AD/CVD violations, and
- Support other steps to enable more effective administration and enforcement of AD/CVD operations.

Working group discussions took place over the course of several months in the form of weekly conference calls and culminating with a group meeting in Washington, D.C. in early 2015. The specific topics included detailed discussions of the following:

- Impact of requiring cash deposits vs. bonds for new shippers,
- Effectiveness of the increased use of single transaction bonds,
- Additional outreach and education with particular areas of focus including increased clarity related to the scope of a case as well as whether additional outreach can help counter illicit schemes such as transshipment,
- Increased coordination between CBP and the Department of Commerce as well as other agencies that work on other aspects of AD/CVD cases,
- Better coordination between CBP and the trade in specific ongoing cases,
- Tools to help more quickly and efficiently communicate important changes and information to the importer and broker community, and
- Emphasizing the importance of CBP with intelligence work overseas in ways that can help enhance enforcement.

The Trade Enforcement and Revenue Collection Subcommittee brought several recommendations to the full COAC for a vote at the final meeting of the 13th term. It was expected that the 14th COAC would help move these recommendations forward to implementation.

Finally, the working group urged future COAC terms to maintain an active AD/CVD working group as this remains a challenging and ever-changing issue with great value that can exist with ongoing dialogue and education between CBP and the variety of other stakeholders who operate in this area.

COAC Subcommittee on Exports

2014 Annual Report

Co-Chairs:

**Elizabeth Merritt, Airlines For America
Julie Ann Parks, Raytheon**

Objectives and Scope of Activities:

The subcommittee's goal was to provide advice and recommendations related to export procedures, enforcement, and facilitation. Specifically, the subcommittee supported the priorities and strategies of the President's National Export Initiative, through the following efforts:

- Identify existing programs that could be leveraged, both within the U.S. Government and globally.
- Assess current export policies and the impact of international policies and provide recommendations based on the findings.
- Document current export processes and provide recommendations for a strategy to harmonize systems, streamline data collection, and share information.

Subcommittee Activities:

Given the statement of work, past subcommittee findings, and pending export regulatory changes, the tasking of the Export Subcommittee was to begin with the basics of export education. The methodology was to uniquely discuss primary export types and produce a presentation package containing a current state process map, with potential solutions recommended. The mapping work product was delivered to CBP during the August 2013 meeting, along with four recommendations and a proposed delivery roadmap.

Engaging a variety of members across the government and trade, a Master Principles Document was produced for One U.S. Government at the Border Cooperation for Exports. With the key concerns of the trade in mind, the document was designed to ensure the efficient management of cross border issues in a manner that reduces the cost of doing business. The principles establish a government/trade foundation upon which to build the future of data exchange, the determination of engagement expectations, and the development of a cooperative approach to achieve the appropriate risk-based strategies and standards that secure cargo movement and facilitate trade at the speed of business.

Export Process Work Group

The Export Process Work Group was established and charged with further analyzing the process flows and areas of opportunity identified in the export mapping exercise, and with providing specific recommendations for consideration by the subcommittee. The EPWG was

established to address the three commodity types (licensed, non-licensed, and “Option 4”) and the four modes of transport (air, ocean, rail and truck) mapped in the EMWG 2013-14 exercise. The licensed commodity and air manifest EMWG process work groups started their work in early 2014.

The Licensed Commodities Process Work Group

The licensed commodities process work group consisted of representatives from CBP, Department of Commerce, Directorate of Defense Trade Controls (DDTC), Exporters/Importers, and Brokers/Filers

The work group prioritized and reviewed areas of opportunity. Discussions ensued on all items, most of which were dispositioned with joint government/trade satisfaction; however, timelines for completion require review and prioritization. The work group completed its work and delivered specific recommendations (all approved) during the 13th Term final COAC Quarterly Meeting on February 11, 2015 (see Appendix).

The Air Manifest Process Work Group consists of representatives from CBP, Department of Commerce – the Bureau of Industry and Security, and the U.S. Census Bureau, the Transportation Security Administration, U.S. and foreign air carriers – passenger, express and heavy all-cargo, air freight forwarders – small, medium and large, and other modes of transport – ocean VOCCs and NVOCCs, rail carriers and truck carriers.

As a first step, the work group identified the two key goals of its work:

- Efficient and effective enforcement of the multi-agency U.S. export regulatory regime while supporting NEI NEXT (National Export Initiative),
- Protection of the air cargo business model’s key features – speed, flexibility and reliability – and the minimization of costs and negative impact on the flow of legitimate trade.

Five guiding principles were to be employed to reach the identified goals:

- Risk management as a key component of the approach,
- The importance of cost/benefit and economic competitiveness analyses,
- The advisability of incorporating proven “ACAS Best Practices” in development of the automated export system where appropriate,
- Enhancement of the government’s ability to target early and resolve concerns well in advance of export, and
- Improving the accuracy of information delivered to the government.

The 42 air-manifest items that had been identified by the EMWG were then distilled into 21 points for further analysis with regard to the type of work needed – i.e., an isolated fix versus an integrated long-term solution, or regulatory revision versus policy guidance versus IT development, or some combination thereof. Working from all of the above, the work group has developed a “progressive filing model” as an ideal solution to meet the needs of all stakeholders. This model is based upon the initial proposed solution contained in the EMWG Education Package, and it continues to be further refined and revised as new questions arise and additional

details and supporting documentation are incorporated. The work group has been careful to ensure that the solution developed is workable for all parts of the air cargo supply chain, including conventional carriers (both passenger and “heavy all-cargo”), integrated express carriers, transport intermediaries such as freight forwarders, and U.S. exporters and their agents, and that it comports with the requirements of the legislation authorizing electronic export manifesting – the Trade Act of 2002.

During the 13th term, the air manifest process work group put forth one recommendation (approved) regarding freight forwarder participation in the electronic export manifest pilot during the 13th term COAC quarterly meeting on October 7, 2014, and will deliver additional recommendations during the 14th term.

COAC Trade Efficiency Survey

2014 Survey Results

Trade Efficiency Survey

The COAC Subcommittees are organized to provide Customs and Border Protection (CBP) with advice and guidance on new, existing, or proposed compliance and operational matters. Since matters relating to facilitation and cost are key concern of CBP and the trade, and since the Centers of Excellence and Expertise creation in 2011/2012, COAC made a recommendation to CBP to establish baseline industry metrics. During implementation discussions, we jointly realized that a portion of the measurements were trade -owned. Therefore, beginning in 2012, COAC assumed responsibility for capturing and reporting information from the trade using an annual trade efficiency survey.

In 2012, the effort began as an imports-focused survey. In addition to integrating a few export strategic questions into the 2013 Trade Efficiency Survey, the newly-created COAC Exports Subcommittee introduced a separate and more detailed export survey in 2013. In this 2014 survey, COAC releases the first comprehensive Trade Efficiency report, inclusive of both imports and exports.

COAC conducts the Trade Efficiency survey to establish a benchmark for costs associated with importing and exporting goods into and out of the United States, understand the key cares of trade, strengthen inter - and intra- governmental operations to promote efficient compliance, and report trends. In essence, we measure how effective CBP and PGA trade facilitation efforts are at lowering the cost and burden associated with a company's compliance and operations efforts. Year-over-year, COAC's survey analysis concludes, and this year is no different, that those CBP and PGA programs or efficiencies that ultimately decrease entry lifecycle processing times and decrease freight dwell are significant motivators for the trade since they contribute to reducing the overall cost and complexity of doing business for those companies involved in this survey.

In the third annual survey, released in July 2014, COAC sought to ensure strategic outcomes by compressing the facilitation questions, and adding questions that relate to participating government agencies, as well as exports. The report organized results into two categories: imports and exports. Consistent with previous reports, the report was organized into three subcategories beneath each category: Facilitation, Costs and Holds, and Customs and Border Protection (CBP) and Partner Government Agency (PGA) Satisfaction.

The 2014 survey consisted of 84 multiple-choice and free-form response questions that touched on several different trade areas, including exam rates and hold times, number of CF 28's/inquiries received, estimated import and export cost and time expenditures, and CBP and PGA satisfaction. The 2013 survey consisted of 50 multiple-choice and free-form response questions that addressed PGAs in more detail, Centers of Excellence and Expertise more succinctly, included antidumping duty questions, and explored exports at a high-level (that

same year, the COAC Exports Subcommittee also released a detailed Exports Survey). The 2012 survey consisted of 46 multiple-choice and free-form response questions specifically to CBP and generally to Participating Government Agencies (PGAs).

COAC distributed the anonymous survey to various networks, including trade associations, importers, brokers, attorneys, consultants, carriers, freight forwarders, using a secure web-based tool. Service providers were asked to respond on behalf of their collective, averaged customer base. Feedback from both importers/exporters and service providers was important, since cost and efficiency details are better reported by those entities with direct knowledge. In 2014, the survey inserted a time frame for the data; it was gathered from the calendar year 2013. Respondents also had the capability to preview the entire question list prior to executing the survey, and the open-to-close timeline allowed for a twenty-eight (28) day open response period (decreased from forty (40) day open response period which increased from thirteen (13) day open response period in 2012), and collected results from 1674 respondents (increased from 815 in 2013, which increased from 521 respondents in 2012).

Appendix A

COAC 13th Term Recommendations - 2014

February 20, 2014

Export Subcommittee

1. The COAC recommends that CBP use Master Principles for a U.S. Government at the Border Cooperation for Exports as well as the Export Mapping in developing their U.S. Export Strategy. We further encourage Customs and Border Protection to lead the U.S. Government socialization of the foundational principles that the COAC believes are required to position the U.S. government to efficiently manage strategic cross border issues in a manner that reduces the cost of doing business.

Status: Motion carried – unanimous

2. The COAC recommends the Customs and Border Protection's Export Strategy is shared with COAC for comment prior to finalization.

Status: Motion carried – unanimous

Trusted Trader Subcommittee

1. COAC recommends that CBP allow us to have an opportunity to review the results of all Trusted Trader pilots and provide input to the program in its totality before we (as COAC) decide whether to endorse the program.

Status: Motion carried – unanimous

IPR

1. The COAC's IPR Working Group, after extensive exploration, discussion and outreach to the trade, determined that the Distribution Chain Management Initiative could prove costly and burdensome to the trade, especially to legitimate brand owners and importers of branded merchandise until industry more widely adopts protocols that allow for the transmission of alphanumeric identifiers or DCM data. As a result, the COAC recommends that CBP table the Distribution Chain Management initiative until such a time as the trade advises that industry-wide supply chain practices make the concept more viable.

Status: Motion carried – unanimous

Regulatory Audit

1. **Consistency in Focused Assessments** - The COAC is concerned about consistency in Focused Assessments under CBP’s new “flexible” approach. The COAC recommends that CBP ensure the new flexible approach maintains an acceptable range of variation through appropriate training and oversight. The COAC further recommends that CBP implement a process through which importers can seek recourse at any time during the audit process if they believe the variation in approach on their Focused Assessment is not acceptable.

Status: Motion carried – unanimous

2. **Entry Selection and Sample Sizes**

- a. The trade is concerned about the increase in sample sizes proposed in the Focused Assessment changes. Since sampling sizes are a key trade concern and since the changes will result in some fairly significant increases to sample sizes, the COAC recommends that CBP share the details of these changes with the trade as quickly as possible, giving the trade sufficient notice to prepare for the change and adjust their own internal compliance and audit processes well in advance of CBP’s implementation of those changes.
- b. The trade is concerned that increasing sample sizes may extend the current time periods for Focused Assessments and resulting burden on companies being audited. COAC recommends that the CBP Regulatory Audit team complete both the PAS and the ACT phases of the FA within 6 months.

Status: Motion carried – unanimous

3. **Audit Plans** - The COAC recommends that audit plan changes be subject to supervisory review.

Status: Motion carried – unanimous

4. **Timing for Responses to CBP Requests for Information / Documentation**
The COAC recommends that CBP give the importer 30 days to put together written documentation and written responses after initial request with an opportunity for an additional 30 day extension upon request; in some special cases, CBP may grant additional extensions as circumstances permit.

Status: Motion carried – unanimous

5. **Focused Assessment Informed Compliance Documents** - The COAC recommends that CBP collaboratively develop Informed Compliance Documents with the trade to provide clearly written guidance on the following topics:
 - a. Specific guidance as to what CBP will accept from an importer to support its related party pricing methodology
 - b. Clearly define statistical sampling in lay terms
 - c. Sometimes considerable time is spent during Focused Assessments on one off cases; create a document that better defines how CBP may assess these “unusual” transactions and how CBP determines when there is a significant degree of exposure of loss/harm to the government that warrants inclusion
 - d. Clearly outline CBP’s expectations that will lead to a successful result from a Focused Assessment

Status: Motion carried – unanimous

6. **Auditor Training** – The COAC recommends that CBP provides special emphasis to the areas listed below during its auditor training:
 - a. GL best practices – case study training for general ledger reviews during audits
 - b. Collaborative training with the trade to give auditors a better understanding of importer accounting practices
 - c. Emphasize that lack of written procedures, written compliance manuals and written internal controls is not necessarily an indicator of noncompliance
 - d. Because assessment of fraud risk language has been added to the Focused Assessment PAS document, emphasize that identifying fraud is not the sole goal of audit

Status: Motion carried – unanimous

7. **Bi-directional Education** - The COAC recommends CBP implement an initiative for bi-directional compliance and Focused Assessment education to improve trade compliance and CBP’s audit strategy by industry. The COAC recommends that the education occur through webinars, seminars, CBP Regulatory Audit participation in trade association events and industry - specific Center of Excellence training for CBP auditors and the trade.

Status: Motion carried – unanimous

8. **Assess Progress** - The COAC recommends that once this new process is implemented, the trade and CBP regularly meet to review results, discuss best practices that may be shared more widely with the trade, review areas for improvement and discuss challenges & concerns to ensure we continue to make progress together.

Status: Motion carried – unanimous

Global Supply Chain Security Subcommittee

1. In cases where a master air waybill link is not provided in the original ACAS transmission, the transmitting party should not be required to identify secondary notify parties. The express and freight forwarder dual-filing models that have been proposed by the ACAS Work Group provide better security and operational solutions for cases where the master bill link has not been made by the original transmitter. However, it is recommended that ACAS provide an optional, voluntary secondary notify party functionality for all ACAS transmitters, primarily for the potential of such functionality to significantly enhance NTC – transmitter communication flexibility.

Status: Motion carried – unanimous

2. Because it is expected that regulations and security programs will clearly delineate and define all filing and response requirements for all ACAS participants, it is not envisioned that the inclusion of voluntary trusted trader elements would enhance the ACAS regime. At the same time, the inclusion of trusted trader requirements poses a considerable risk of operational disruption and market distortion. It is therefore recommended that C-TPAT and/or AEO requirements not be made part of any filing models under the ACAS regulations.

Status: Motion carried – unanimous

3. From the commercial/operational point of view, freight forwarder participation in ACAS as original data transmitters is critical to ensure that the ACAS playing field is level for both express carrier and conventional carrier business models. From the security point of view, per the Freight Forwarder – Conventional Carrier dual filing model proposed by the ACAS Work Group, final regulatory responsibility for ACAS filings and responses remains with the conventional carrier transporting a shipment. This allows some flexibility in the requirements applicable to voluntary freight forwarder participants as opposed to mandatory carrier participants. The regulatory regime governing the freight forwarder ACAS transmitter, therefore, should be carefully calibrated to meet ACAS security goals in a manner that does not discourage freight forwarder participation. In particular, it is not recommended that a 24/7/365 mandatory response requirement, which would be difficult for small and medium size entities to meet, be imposed on forwarder participants.

Status: Motion carried – unanimous

Trade Modernization Subcommittee

1. COAC recommends that CBP release the technical application documentation, including the final PG message set, at least 18 months prior to the mandatory filing dates for manifest, cargo release, and full ACE functionality.

Status: Motion carried – unanimous

May 22, 2014

Trade Enforcement and Revenue Collection Subcommittee

Simplified Enforcement for Express Consignment

1. The COAC recommends that CBP collaborate with its express consignment stakeholders to develop a simplified and mutually beneficial IPR enforcement process in the express consignment environment through which CBP would offer the importer and the U.S. consignee an abandonment option on detention notices for shipments detained by CBP on suspicion of trademark or copyright violations.

Status: Motion carried – unanimous

2. The COAC recommends that CBP work with its express consignment stakeholders to finalize the details of the process and leverage the express carriers' existing resources to enhance the facilitation of legitimate shipments, enabling CBP to reallocate resources to refine and focus IPR targeting and enforcement efforts, preventing violative goods from entering the U.S. marketplace and encouraging the efficient flow of legitimate shipments.

Status: Motion carried – unanimous

Document Imaging System

1. The COAC recommends that CBP pilot the use of the Document Imaging System (DIS) in ACE within the next 12 months as a means for importers and customs brokers to voluntarily provide information to assist CBP in assessing a shipment's IPR risk. At entry, filers would transmit documents (not otherwise required at entry) and/or digital images supporting the authenticity of the shipment. During IPR targeting, CBP would consider this information in determining whether to hold the shipment for examination or release it. The pilot would test a method for furnishing advanced information about a shipment's IPR compliance, and might allow CBP and the trade to determine whether DIS could be used to provide facilitation benefits to legitimate importers.

Status: Motion carried – unanimous

2. The COAC recommends that CBP collect and share pilot results with the COAC, offering the COAC an opportunity to further review and comment on the initiative.

Status: Motion carried – unanimous

Voluntary Disclosure

1. The COAC recommends that CBP pilot a Voluntary Disclosure program for IPR within the next 12 months that will allow members of the trade to provide CBP with intelligence for targeting purposes by voluntarily disclosing violations of the laws prohibiting importation of goods infringing U.S. registered trademarks or copyrights. The goal of the program should be to enable the trade community to work with CBP to stop infringing items imported contrary to law from being sold or delivered into the commerce of the United States.

Status: Motion carried – unanimous

2. The COAC recommends that CBP open a Working Group to finalize the details of the pilot program using both the July 20, 2010 document that was co-created by CBP and the COAC as well as stakeholder input as a framework for that discussion and allow the COAC to comment on the final program document before implementation of the pilot.

Status: Motion carried – unanimous

3. The COAC recommends that CBP collect and share pilot results with the COAC, offering the COAC an opportunity to further review and comment on the initiative.

Status: Motion carried – unanimous

Trusted Trader Subcommittee

C-TPAT for Exports

1. The COAC recommends that CBP release the proposed Exporter Supply Chain Security Criteria and C-TPAT Exporter Eligibility Requirements within the next 60 days.

Status: Motion carried – unanimous

2. The COAC recommends that the release of the C-TPAT for Export criteria should include a comprehensive list of initial benefits that are measurable and quantifiable.

Status: Motion carried – unanimous

3. The COAC recommends that after CBP releases the C-TPAT for Export criteria, they should provide a forum for ongoing dialogue with the trade community, such as a C-TPAT Working Group, to gain valuable feedback to quantify the efficacy of the program and to identify additional benefits to attract more participants going forward.

Status: Motion carried – unanimous

Trade Modernization Subcommittee

Role of the Broker

1. COAC recommends that CBP enable brokers to operate through a single, national permit, eliminating the current district permitting requirement. COAC understands that CBP must modernize its permitting framework for Customs brokers to align broker permitting with the challenges and opportunities of 21st century electronic entry processing through such programs as Automated Commercial Environment (ACE), Remote Location Filing (RLF), the Centers of Excellence and Expertise (CEE) and eBonds.

Status: Motion carried – unanimous

2. COAC recommends that CBP engage the COAC and all stakeholders as soon as possible to review the existing Customs broker management process, related informed compliance publications and broker handbooks to ensure a modern, national broker management process is developed and implemented prior to CBP moving forward with the proposed change in the broker national permitting framework. COAC recognizes that today's current broker management process does not support a new national permitting framework.

Status: Motion carried – unanimous

3. COAC recommends that the new national permit framework include requirements that Customs brokerage firms employ an adequate number of licensed brokers to ensure responsible supervision and control over their Customs business and that CBP work with the appropriate stakeholder groups to define these new supervision and control requirements and provide the COAC an opportunity to comment on any new framework before implementation. COAC understands the value the Customs broker license brings to CBP and the importing community.

Status: Motion carried – unanimous

Bona Fides

1. The COAC recommends that CBP publish the Notice of Proposed Rulemaking regarding changes to CBPF 5106 by the end of 2014 fiscal year in order to solicit comments from stakeholders on the collection of the proposed 5106 data elements. The additional information will support CBP's effort to combat identify theft, antidumping duty evasion and other fraudulent schemes which undermine our global economy.

Status: Motion carried – unanimous

2. The COAC recommends that consideration should be given to limiting additional information requirements from companies in good standing with an existing CBPF 5106 on file with CBP.

Status: Motion carried – unanimous

3. The COAC recommends the 5106 information collection process be automated in ACE, with consideration for the role of the party providing the information. The COAC

recommends that both importers of record and customs brokers should be able to file and query CBPF5106 data.

Status: Motion carried – unanimous

4. The COAC recommends no changes be made at this time to the current regulations regarding the collection of a valid power of attorney in 19 CFR 111.

Status: Motion carried – unanimous

5. The COAC recommends that functionality in ACE be built to help prevent corporate identity theft. Proposed functionality should enable the Importer of Record (IOR) to control and limit which customs brokers or filers, by filer code, are authorized to make entry in each port of entry tied to the Importer of Record number. This could serve as an additional tool to combat corporate identity theft, should an IOR choose to utilize this functionality. Additionally this ability would empower the IOR to use ACE to control the specific ports of entry in which entry can be made, and by which custom broker filer codes. An importer could potentially employ functionality that would restrict any entry from being made in their name in a specific port of entry if necessary. The IOR could use this functionality to address changes in their supply chain as they occur, and authorize entry into those ports for a specific customs broker filer code, several specific filers' codes, or all filers.

Status: Motion carried – unanimous

Global Supply Chain Security Subcommittee

ACAS Working Group

1. First, because close alignment of customs and security authorities is indispensable to the operational success of pre-departure data risk assessment regimes, and in accordance with the executive order to streamline the import/export process for America's businesses, we recommend that it is appropriate at this time to re-focus on the joint work of CBP and TSA in the implementation of ACAS. In particular the full Global Supply Chain Subcommittee should be tasked with the examination of the alignment of CBP and TSA global security concepts and programs, including but not limited to ACAS, in particular with the identification of areas where the programs are not fully aligned, and where one agency's programs can be leveraged to support the other.

Status: Motion carried – unanimous

2. Second, while ACAS was the first pre-departure data regime, it is not the only one – therefore COAC recommends that CBP recognize the need for the inter-operability of such systems in the global supply chain. In particular, we recommend that the Trade Modernization Subcommittee be tasked with the examination of the current state of the harmonization and inter-operability of pre- and post-departure reporting systems worldwide, and in particular tasked with the identification of areas of opportunity and potential solutions, which may include suggestions for an updated and holistic CBP international advocacy/communication plan.

Status: Motion carried – unanimous

October 7, 2014

2014 COAC Trade Efficiency Survey

Visibility

1. **The COAC recommends that CBP and PGAs partner with the trade community to target PGA requirements training and promote visibility of holds in ACE/ACS.** We recognize and encourage the implementation of the One US Government at the Border Single Window approach, coupled with the PGA Message Set will provide greater visibility to the trade community as to the reasons for the holds. We encourage the Partner Government Agencies to become early adopters of PGA Message Set, allowing for early submission of information so the PGA may make earlier risk assessment decisions on admissibility of cargo.

Status: Motion carried – unanimous

2. **The COAC recommends that CBP task COAC to define delays and holds and ensure a process exists for those types that require data capture.**

Status: Motion carried – unanimous

3. Once delays and holds are defined in accordance with 2013 operations, **COAC recommends that CBP develop national import/export port metrics** as a method a) to understand the complexities associated with goods release by mode of transport and region and b) to achieve standardization of best operating practices across ports.

Status: Motion carried – unanimous

4. **The COAC recommends sharing the results with the Centers of Excellence and Expertise via the Industry Working Groups to achieve industry-specific best practices.**

Status: Motion carried – unanimous

5. With strategic efforts such as the implementation of CEE's, streamlining and integration of PGAs via trade processes, and the National Export Initiative and Export Control Reform, it is important for CBP to continue to collaborate with COAC to seek ways to measure and improve trade processes and reduce freight dwell. **We recommend CBP provide the trade with web-based metrics regarding export and import delays and holds on a 1USG basis.**

Status: Motion carried – unanimous

6. **We recommend the continuation of the Center Industry Working Group metric sharing to generate meaningful bi-directional dialogue that will generate successes in meeting the objectives of both CBP and the trade.**

Status: Motion carried – unanimous

Knowledge Sharing

7. **The COAC recommends that CBP share the survey information with the Partner Government Agencies (PGAs) to achieve a better understanding by the PGAs of the impact of cargo holds, detention and dwell times on the international supply chain.** Establishing integrated policies serves to remove port variation, regulatory misunderstandings and trade inefficiency, a key contributor to cost.

Status: Motion carried – unanimous

8. **The COAC recommends that CBP share the results of the 2013 AD/CVD questions with relevant government entities when discussing issues related to the retrospective system of AD/CVD enforcement and collection.** The 12th COAC made a formal recommendation based on several reasons that the AD/CVD system be changed to a prospective system similar to those utilized by all global trading partners. The feedback in this survey indicates that the larger trade community strongly supports this earlier COAC recommendation and would favor a prospective system. As this subject is often a topic of discussion in various forums in which CBP participates, the COAC recommends that CBP communicate this feedback in the appropriate forums.

Status: Motion carried – unanimous

9. When shipments are stopped or paused at the ports, the results tell us the respondents are favorable to dealing with CBP, as compared to the PGA (in general). **COAC recommends that CBP champion a knowledge sharing exercise between PGA's and CBP specifically around holds / freight stops to align best practices and identify process improvements.** Accomplishing this review in conjunction with the Centers will ensure positive benefits for the trade. We anticipate that the metrics will reveal the positive impact to the trade in the areas of decreased freight dwell, improved targeting, and increased customer service.

Status: Motion carried – unanimous

Integrated Customer Service Model

10. **We recommend CBP advocate for an integrated customer service model with the PGA's.** Synthesizing the current customer service design of CBP and PGAs will benefit both trade and security. Additionally, using the Centers to aid in the integration of a service model is most beneficial to impact processing times and freight dwell.

Status: Motion carried – unanimous

Annual Trade Efficiency Survey

11. **We recommend the continuation of an annual COAC survey to assist in prioritization, measure success, obtain satisfaction feedback, and begin establishing trends.**

Status: Motion carried – unanimous

Export Subcommittee:

The success of the air manifest progressive filing model is dependent upon the empowerment of transport intermediaries to protect their operational reliability by submitting their own data into the export system. Similar to the ACAS pilot, it is therefore critical that freight forwarders be included in the air export manifest pilot.

We recommend that the air automated export manifest pilot specifically include freight forwarders as participants to transmit house air waybill level data to the export manifest system on behalf of the air carrier.

Status: Motion carried – unanimous

One US Government at the Border Subcommittee

Import Mapping Working Group (IMWG)

1. COAC voted to submit the import mapping education packages with CBP import roles in addition to other groups and forums. The COAC further suggests that CBP continue their dialogue with the Partner Government Agencies, and the Border Interagency Executive Council (BIEC) on the opportunities for improvement and continue to work with the trade on solutions.

Status: Motion carried – unanimous

Food and Drug Administration Working Group (FDA-WG)

1. Consistent with the 1USG single window concept, CBP and FDA should accept and review advance data submissions as early as possible in the transit cycle to allow for preclearance prior to arrival. Earlier, consolidated entry submissions would provide the agencies (CBP, FDA, and other PGAs) with greater upstream visibility to assess security and admissibility risks, engage the trade to resolve risks, and provide for earlier admissibility decisions, ideally well before the physical arrival of the goods at the port. CBP should share arrival information with FDA and the other PGAs as soon as possible, upon receipt, rather than holding it for a specified time based on MOT.

Status: Motion carried – unanimous

2. Working with FDA, CBP should develop a mechanism in ACE for importers/filers to amend specific FDA data elements, including port codes, without having to cancel and replace the entire entry.

Status: Motion carried – unanimous

3. Foreign site identification numbers (e.g. MID, DUNS, IOR, FEI, FFR, etc.) used by CBP, FDA and other agencies in ACE should be reduced to a single identifier, creating a uniform standard in ACE/ITDS. The creation and maintenance of FEIs requires FDA resources that could be better deployed to other higher risk targeting activities. Similarly, when an importer does provide multiple identification numbers for a foreign facility (e.g., FFR and DUNS) and these numbers are aligned, the targeting should be lower.

Status: Motion carried – unanimous

4. FDA transactional messaging built into ACE should be specific and timely, in real-time, notifying the filer what's missing, incorrect, or has been changed by FDA, and a full audit trail should be maintained for any changes that have been made to an entry.

Status: Motion carried – unanimous

5. CBP should work with FDA to define optional Intended Use Codes in the PGA Message Set allowing the trade to indicate reasons for disclaiming FDA on certain imported goods where the HTS code may trigger but the goods aren't subject, thereby avoiding the need for manual review.

Status: Motion carried – unanimous

6. CBP should include an FDA Workshop as a regular breakout session at the annual Trade Symposium, where importers/filers have an open forum to discuss issues and ask questions. The relevant CEEs should also partner with FDA to host periodic outreach and training events for importers and filers, with targeted training at ports with higher rates of non-AMPs.

Status: Motion carried – unanimous

7. CBP and FDA should provide guidance to the trade regarding the compliant use of Section 321 entries for FDA-regulated goods.

Status: Motion carried – unanimous

8. CBP should collaborate with FDA to implement a standardized filer evaluation process, based on nationally published standards and documented written guidance to the brokerage industry on how the evaluations will be conducted. Entry data sent by CBP to FDA should include the filer's processing port, so FDA knows where to target the related filer evaluation when Remote Location Filing is being used. FDA messaging to filers via ACE is critical to improving data quality and is a key component in a standardized filer evaluation.

Status: Motion carried – unanimous

9. CBP and FDA should consider consolidating and integrating FDA field/port operations into corresponding CBP Centers of Excellence and Expertise (CEEs), to provide better uniformity and resource utilization.

Status: Motion carried – unanimous

10. CBP, via the BIEC, should encourage FDA and other PGAs to continue to consult with the trade via COAC and its subcommittees and working groups, in alignment with the IUSG single window concept. In addition, FDA should use periodic trade surveys to identify current areas of opportunity, allowing the agency to better focus on areas that need further analysis or attention.

Status: Motion carried – unanimous

11. To ensure full agency buy-in, any actions taken to fulfill these recommendations should be pushed down from the Commissioner level to the operational level at both CBP and FDA.

Status: Motion carried – unanimous

Trusted Trader Subcommittee:

1. The COAC recommends that CBP complete the selection process for the Trusted Trader Pilot and report on a regular basis the ongoing experience of the participants.

Status: Motion carried – unanimous

2. With the release of C-TPAT Exporter Entity, the **COAC recommends setting out a list of meaningful initial and long term benefits while soliciting from the Trade additional advantages associated with the initiative.**

Status: Motion carried – unanimous

February 11, 2015

Export Subcommittee

Export Manifest Working Group Recommendations – Licensed Commodities

1. COAC recommends that CBP engage with Border Interagency Executive Council (BIEC) in order to deliberate on the development of an interagency information tool comparable to the informed compliance program to help develop the competency of those in the trade with export equities.
2. COAC recommends that CBP engage with the Bureau of Industry and Security (BIS) upon their initiation of the project to review European Union practice of cross-referencing their control list and 6-digit harmonized tariff number and provides an update to the BIEC PECSEA/COAC on findings and the review process. COAC further recommends that CBP aligns the initiative within the BIEC, and advocate with BIS to engage the Directorate of Defense Trade Controls (DDTC) as a stakeholder in the review process.
3. COAC recommends that CBP Headquarters lead a port standardization effort targeted on licensed exports. The effort shall incorporate input from all stakeholders including the trade, AES automation, CBP Ports, DDTC, BIS, and other relevant permitting and licensing agencies. The undertaking should leverage the BIEC as a steering committee and to resolve cross-agency policy matters. The outcome shall be updated policies and guidance on licensed shipments and a status briefing to COAC.
4. COAC recommends that CBP automate the presentation of all licenses and permits via the Single Window into AES/ACE, to accommodate inbound and outbound as appropriate. Capabilities should exist to link an import to an export or an export to an import, and the design should ensure flexibility of entity relationship and trade reporting. Evaluation of a short term solution to utilize CBP's Document Imaging System should be considered if license automation implementation is extended beyond 1 year. Additionally, given the availability of licensing data via the Single Window, and given the PECSEA recommendation regarding incorporation of licensing points of contact, COAC recommends CBP engage the Trade Support Network for a licensing point of contact design with the goal of resolving holds expeditiously.
5. COAC suggests CBP encourage BIS to complete the final rule regarding International Import Certificates or Delivery Verifications, (proposed rule 79 FR 19552) in order to realize process efficiencies for both CBP and the Trade. With the concept of promoting global standardization of import certificates, we recommend that CBP share this information with other governments. Additionally, we recommend CBP engage BIS and the Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE) to automate remaining forms. (#5 was amended to be a statement)
6. The COAC recommends that CBP brief the BIEC on the new manifest, export automation tools, targeting capabilities, and C-TPAT Exporter Entity in order to prompt a dialogue designed to prevent listing freight forwarders as intermediary consignees on the license at time of license submission. CBP shall engage the trade in the education

and dialogue in order to design a solution that meets all stakeholders' key concerns. The resulting new process shall consider Government concerns, industry forwarding practices, leverage the future automation design, and consider benefits of government to government interfaces.

7. COAC recommends that CBP compare C-TPAT and C-TPAT Export Entity Criteria with the Department of Defense National Industrial Security Program Operating Manual (NISPOM) and International Traffic and Arms Regulations (ITAR), and reduce redundant reporting and redundant reviews for companies participating in good standing. Additional comparisons should be made to Federal Acquisition Regulations, Defense Acquisition Regulations System (FAR and DFARS) with the same goal.
8. COAC recommends that CBP communicate policy changes to the Trade via the Cargo System Messaging Service (CSMS) as well as via other government agency outreach, e.g. Hand Carried DSP-73 Material –Endorsement Permitted at the 1stPort of Departure.
9. COAC recommends that CBP engage the BIEC in a discussion to consider aligning the U.S. inbound, outbound, and license valuation regulations in accordance with the World Trade Organization Customs Valuation Agreement.
10. COAC recommends that CBP and the BIEC discuss a process enhancement for the Export Enforcement Coordination Center (E2C2) to prepare a monthly “categorization of risk” export report that considers inputs from all agencies related to export and can be used by CBP as a input into targeting adjustments. The report should quantify the risk, including notation of items removed from the risk register.
11. COAC recommends that CBP initiate cross-agency operations review meetings on a monthly basis to discuss agency referral turn-around times (requires creation of cycle time and volume metrics) and to receive feedback on effectiveness of field operations.
12. COAC recommends that CBP staff the Exodus Command Center to allow for trade inquiries to facilitate compliant exports, in addition to the already scoped work for CBP field operations referrals. CBP should consider directly staffing the Exodus Command Center with Licensing and Permitting Agencies on a regular basis, provided the resources have a delegation of authority to act on outbound questions without referral via E2C2, in order to benefit the Trade and reduce freight stops.
13. COAC recommends that CBP collaborate with the Census Bureau and provide details on the new AES design allowing separate filers for commodity data and transportation/manifest data with the intent of ensuring report data availability to the Trade commodity filer. Additionally, CBP should collaborate with Census to deliver additional solutions that would replace the “routed transaction” language with language and processes that resonate with already provided business process and business data. Regulatory changes may be required to reduce the burden to trade while still meeting agency concerns.
14. COAC recommends that CBP engage the Trade to provide inputs into CBP's Licensing Operating Manual. Prioritized areas of review should be focused on the areas of opportunity.
15. COAC recommends that CBP automate export data by the creation of the USPPI accounts in ACE and allowing data visibility in ACE for a 5 year time period.
16. COAC recommends that CBP engage the BIEC in a dialogue regarding non-technical errors with the request to align agency approaches to penalty assessment. The Trade shall develop a list of examples of non-technical errors to facilitate dialogue.

17. COAC recommends that CBP create a new work group to address the post export filing process. This same work group shall address the trade inputs required to address area of opportunity #25 (correction for non-technical errors without penalty).
18. COAC recommends that CBP reviews the possibility of automating the filing and release of hand-carried licensed hardware by leveraging a CBP Mobile Group application that may be designed for traveler declarations of hand guns.
19. COAC recommends that CBP review their export staffing model with COAC in order to collaborate on excellence, challenges, opportunities, and solutions.

Status: Motion carried – unanimous

One U.S. Government at the Border Subcommittee

Process and Messaging Working Group Recommendations

Background: The COAC recognizes the need to have well defined and understood messages from CBP and/or the PGAs for the various trade members (Carriers, Customs Brokers, Importers and other parties) in the Automated Commercial Environment (ACE).

1. The COAC recommends that CBP ensure an acknowledgement of receipt (e.g. “PGA” Data Accepted), followed by defined status messages (e.g. “PGA” May Proceed or Hold Intact) are received from the PGA via CBP when either data (PGA Message Set) or an electronic document (Document Imaging System) is presented to the PGA as part of the cargo release process.
2. The COAC recommends that CBP ensure the PGA message sets returned to the trade community identify the PGA involved at the line level or the entry level, by utilizing a valid Agency Program Code in each message. The term “PGA” in the message set is the place holder for the valid Agency Program Code.
3. The COAC recommends that the CBP ACE messages (generated by CBP or a PGA) be designed so all parties (CBP, PGA and the trade) can distinguish between a true “automated (paperless)” message versus a message issued as the result of some manual review. All parties will be able to assess the percentage of “automated” messages to monitor or track trade facilitation efforts.
4. The COAC recommends to CBP the PGA response messages should have a standard definition, and be uniformly applied by each PGA. A best practice would be to map the normal (automated) process flow for each PGA and identify the messages that individual PGAs will utilize, identifying whether messages will be issued at the entry or the line level. In addition, a DRAFT Message Dictionary is under construction.
5. The COAC recognizes that not all PGAs will require a message set. Some PGAs will utilize the CBP ACE system for their data needs instead of having a standard PGA message set. The COAC recommends to CBP whenever possible, that when a PGA (without their own message set) requests CBP issue a *review, documents required or hold message* that the trade is informed of which PGA is involved, so the trade may

appropriately respond to the correct party to resolve a *review, documents required or hold message*.

6. The COAC recommends to CBP that ACE should facilitate carrier visibility to PGA status messages to allow for greater transparency. This work group anticipates that CBP will engage in further dialogue with numerous trade partners representing each transportation mode to facilitate this work.

Status: Motion carried – unanimous

Trade Enforcement and Revenue Collection

Anti-Dumping/Countervailing Duty Working Group Recommendations

1. COAC recommends CBP utilize CSMS messaging to more actively push out AD/CVD information in the following circumstances: (1) when a petition is initially filed with the Department of Commerce and at the time of initiation (2) for every scope review determination by the Department of Commerce, with efforts made in conjunction with the DOC to summarize the scope ruling in the most readable/understandable way possible. CSMS messages should also contain links to the DOC case in question and contact information at CBP and DOC for questions.

The target date for development of this process is within 90 days, recognizing that individual cases can involve language that is very technically complicated and the ability to summarize in a more simplified way may vary and take more time.

Status: Motion carried – unanimous

2. COAC recommends CBP work with specific industry sectors to develop additional industry outreach related to AD/CVD issues with particular emphasis on reaching further down the supply chain beyond the traditional importer and domestic industry community. This outreach should include additional coordination with other agencies such as the Department of Commerce, the Department of Justice and ICE/HSI, as well as harnessing and building upon the expertise at the Centers of Excellence and Expertise.

The target date to develop and outline a strategy for this is within 90 days with a 12 month target to begin to implement new strategies.

Status: Motion carried – unanimous

3. COAC recommends CBP undertake a dedicated communications initiative to further develop and improve information systems currently communicating AD/CVD information to stakeholders. Specific areas of focus should include (1) more prominent highlighting of AD/CVD information on the current cbp.gov website (2) communicating additional case-specific information such as “fraud alerts” and other

appropriate “concerns for the trade” (3) better coordination of AD/CVD web portals/web content currently managed by other agencies and (4) continued development of FAQ’s working in conjunction with the trade and other agencies. We recommend ongoing coordination with the trade as much as possible with all of these communication efforts.

We recognize the ongoing work currently taking place in these areas and recommend a target date of 12 months to develop a more fully dedicated communications structure.

Status: Motion carried – unanimous

4. COAC recommends consideration in the longer term of the idea of a single, multi-agency managed website dedicated to AD/CVD. AD/CVD has a unique and particularly complicated set of laws, regulations and policies with multiple agencies involved in management of the AD/CVD process. The existence of one single website or other communications portal dedicated as an umbrella for AD/CVD information could provide significant long term value for all stakeholders.

Status: Motion carried – unanimous

Trade Modernization

Centers of Excellence and Expertise

1. COAC recommends that CBP create metrics, collect data, and review with COAC and other stakeholders by the end of the fiscal year 2015. Metrics should be reviewed with COAC and other stakeholders on a quarterly basis to determine if CEE objectives are being satisfied.

Status: Motion carried – unanimous

Simplified Summary and Revenue Collection Working Group

1. CBP continue to work with a broad section of the trade to explore a Simplified Entry Summary and Payment process that is beneficial to the trade and CBP.
2. Participation in a Simplified Entry Summary and Payment program should be optional and that customs brokers and IOR’s should be able to file CF7501’s in the current, legacy process.
3. The development of a Simplified Entry Summary and Payment program should be postponed if it will negatively impact ACE core cargo processing deployment.
4. The following should be evaluated before proceeding with design and implantation of a Simplified Entry Summary and Payment program:
 - a. Level of resources that would be required by importers and brokers to participate in the process.
 - b. Additional layers of services that would be needed by Customs Brokers

- c. Level of benefit a Simplified Entry Summary and Payment program would provide to CBP and the Trade as compared to the cost.

Status: Motion carried – unanimous

Beyond the Border Action Plan

The COAC recommends that DHS/CBP continue to work with Canada on and complete Beyond the Border initiatives that include but are not limited to the following:

1. COAC recommends continued development and implementation of Single windows in each of our countries through which importers can submit all government-required information (filing data 1 time for multiple uses).
2. COAC recommends the implementation of U.S. / Canada recommendations of the Integrated Cargo Security Strategy pending CBP/CBSA evaluation.
3. COAC recommends that CBP support the completion of a Land, Rail, Maritime, and Air Preclearance agreement with Canada for all modes and develop an implementation plan for execution.
4. COAC recommends streamlined processing of temporary workers who support cross border operations or customers.
5. COAC recommends continued diligence on the harmonization of trusted trader programs.
6. COAC recommends implementation of the truck in transit pilot and program.
7. COAC recommends that DHS/CBP work with Canada to complete the updated implementation strategy with timelines and timely reporting against those goals to internal and external parties including the COAC.
8. COAC recommends that CBP institutionalize the sharing of best practices from Beyond the Border initiatives and pilots to facilitate trade and, where beneficial, implement at applicable US ports.
9. The COAC recommends that the USA -Canada border fee study be summarized to include study goals and conclusions. The COAC supports an additional study to analyze the overall cost of crossing the border.

Status: Motion carried – unanimous

21st Century Border Initiative

The COAC recommends that DHS/CBP continue to work with Mexico under the umbrella of the Joint Declaration on 21st Century Border, taking into consideration the work done and lessons learned on the Beyond The Border Initiative, on projects that include but are not limited to the following:

1. The COAC recommends that DHS/CBP work with Mexico to create a plan to mitigate border congestion and address port hour limitations.

2. The COAC recommends that DHS/CBP work with Mexico under the umbrella of the Joint Declaration on the 21st Century Border to create and disseminate a mutually-agreed-upon plan of infrastructure improvements.
3. The COAC recommends that DHS/CBP continue to work with Mexico to create a formal communication plan between Mexico and the USA to understand, discuss, and address ongoing issues and emergencies (example: unplanned and planned down time).
4. The COAC recommends that DHS/CBP work with Mexico to leverage Mexico's existing process for single window filing in both countries through which importers can submit all government-required information. The Trade should be able to file data one time for multiple uses.
5. The COAC recommends that DHS/CBP work with Mexico to create a structured implementation strategy for actions proposed in the 21st Century Border Action Plan with timelines and timely reporting against those goals to internal and external parties including the COAC.
6. COAC recommends that CBP institutionalize the sharing of best practices from initiatives and pilots to facilitate trade and, where beneficial, implement at applicable US ports.

Status: Motion carried – unanimous

Wait Time Metrics

The GAO reported that CBP action is needed to improve wait time data and measure outcomes of trade facilitation efforts. Consistent with those findings:

1. COAC recommends that CBP determine and take steps to ensure consistent implementation of existing wait time data collection methodologies across all commercial ports of entry by the end of fiscal year 2015. This data shall be shared with COAC and the Trade.
2. COAC recommends that CBP assess the feasibility of replacing current methodologies with automation by the end of fiscal year 2015. Options shall be discussed with the COAC.
3. COAC recommends that CBP document its staff allocation process and rationale and share appropriate details with COAC.
4. COAC recommends that CBP develop outcome-oriented performance measures with respect to wait time improvements.
5. COAC recommends CBP develop FAST vs. Non-FAST lane metrics for CBP, Carriers and Importers to query through ACE. Metrics shall include FAST lane usage by Importer, Carrier and Port. The intent is to better substantiate FAST lane advantages and enable best use of FAST lane capabilities by all stakeholders.

Appendix B

Advisory Committee on Commercial Operations of Customs and Border Protection (COAC)

List of Members-2014

Name and Title	Company/Organization
David Berry - Vice President	Swift Transportation Corporation
Leman 'Chip' Bown, Jr.	FedEx Trade Networks
Scott Boyer - Associate Director	Kraft Foods Group, Inc.
Mary Ann Comstock -Assistant Secretary & Northern Border Compliance Manager	UPS Supply Chain Solutions
Jeff Coppersmith- President	Coppersmith Global Logistics, Inc.
William Earle – President	National Association of Beverage Importers
Matthew A. Fass – President	Maritime Products International
William Ferguson - Vice President, Security Services	NYK Line (North America) Inc.
Brandon Fried -Executive Director	The Airforwarders Association
Carol Hallett - Counselor	US Chamber of Commerce and National Chamber Foundation
Suzanne Hoeger – Director, Global Trade Compliance & Policy	Abbott Laboratories
Vincent Iacopella, Managing Director	The Janel Group of Los Angeles, Inc.
Karen M. Kenney, Chief Operating Officer	Liberty International, Inc.
Kathleen Neal – Director, Global Trade Compliance	Regal Beloit Corporation
Julie Ann Parks - Senior Manager, Export/Import Operations	Raytheon Company
James 'Jim' Phillips - Senior Manager, Customs	General Motors LLC
Kevin Pinel - Group Manager, Global Trade Organization	Microsoft Corporation
Elizabeth Shaver – Director, Cargo Services	Airlines for America
Ted Sherman – Director, Global Trade Services	Target Corporation
George Weise - Executive Vice President	Sandler & Travis Trade Advisory Services