

# **KYOTO CONVENTION**

## **GENERAL ANNEX GUIDELINES**



WORLD CUSTOMS ORGANIZATION

There are Guidelines to all Chapters of the General Annex, except Chapter 2, “Definitions”, and for all the Chapters of the Specific Annexes in the revised Kyoto Convention. These Guidelines are not part of the legal text of the Convention and entail no legal obligations. They contain explanations of the provisions of the Convention and give examples of best practice or methods of application and future developments. They illustrate what Customs administrations can achieve and how various initiatives work. Customs administrations may adopt and implement those best practices that are most suited to their particular environment. If that practice is more liberal than required by a particular provision or procedure, such an application can be regarded as granting a greater facility in accordance with Article 2 of the Convention.

# **KYOTO CONVENTION**

## **GENERAL ANNEX GUIDELINES**

### ***Chapter 1***

### ***GENERAL PRINCIPLES***



WORLD CUSTOMS ORGANIZATION

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## **1. Introduction**

Customs Services play an integral role in world commerce. They have the essential task of enforcing the law, collecting duties and taxes, providing prompt clearance of goods and ensuring compliance. The manner in which Customs conducts its business has an impact on the movement of persons and goods in international trade. To reduce the Customs intervention in the international flow of goods to a minimum, modern Customs administrations must develop comprehensive and transparent Customs legislation.

The objective of this Convention is not only to meet the needs of the trading community to facilitate the movements of goods but also to improve the effectiveness and efficiency of compliance with Customs law and Customs control. Rapid changes in international trade, globalization and information technology make it necessary for Customs administrations to modify their procedures and practices to take account of these new developments.

There are several international conventions and other instruments designed to harmonize and simplify Customs procedures. This Convention, which contains the basic principles for all Customs procedures and practices, is one of them. The Recommendations of the UNCTAD Columbus Declaration give a broader view of Customs involvement in international trade. The International Customs Guidelines of the International Chamber of Commerce provide another model for an effective and efficient Customs administration. Other Conventions address specific means of transport or specific Customs procedures, such as the Convention on Facilitation of International Maritime Traffic, the Facilitation Annex (9) to the Convention on International Civil Aviation, the Istanbul Convention on the Temporary Admission and the TIR Convention on the International Transport of Goods.

This Convention provides the underlying conditions and instruments to help the Contracting Parties to achieve a modern Customs administration and to adapt their national legislation, without prejudice to effective control methods, to meet the requirements of a simpler, harmonized and more flexible approach. This will also allow international business to meet its Customs obligations as efficiently as possible.

## **2. Structure of the Convention**

### **Standard 1.1**

*The Definitions, Standards and Transitional Standards in this Annex shall apply to Customs procedures and practices specified in this Annex and, insofar as applicable, to procedures and practices in the Specific Annexes.*

The amended Kyoto Convention contains a General Annex and a number of Specific Annexes to make its structure more logical. The General Annex deals with the core principles for all procedures and practices to ensure that these are uniformly applied by Customs administrations. The Specific Annexes cover the individual Customs procedures and practices. The provisions of the General Annex also apply to the procedures and practices set out in the Specific Annexes. The Convention covers not only Customs procedures relating to import, export, transit, processing, etc., but also Customs practices concerning rules that are not necessarily applicable to goods but are required to regulate other matters such as Customs

control, the application of information technology, appeals, offences or relations with the business community.

## **2.1. Acceptance of Annexes**

The Body of the Convention and the General Annex are obligatory for accession to the Convention. A Contracting Party is free, however, to accept all the Specific Annexes or only a number of Specific Annexes or Chapters dependent upon their specific requirements. It is recommended that at least the Specific Annexes on home use and export are accepted, as well as those concerning the formalities prior to the lodgement of the Goods declaration and those for warehouses, transit and processing. Acceptance of these basic procedures which are implemented by most Customs administrations will provide the first level of simplification and harmonization of Customs procedures across different administrations.

## **2.2. Reservations**

In order to achieve a greater level of harmonization of Customs legislation worldwide, no reservations are allowed to the definitions or other provisions of the General Annex or to the definitions and Standards in the Specific Annexes which a Contracting Party has accepted.

## **2.3. General Annex**

The General Annex reflects the main Customs functions in its Definitions, Standards and Transitional Standards which all have the same legal value. The application of the Standards and Transitional Standards is considered necessary to achieve harmonization and simplification of the Customs procedure or practice concerned. The difference between a Standard and a Transitional Standard is the longer period for implementation for the Transitional Standard. A Standard has to be implemented within 36 months. A Transitional Standard on the other hand has 60 months for implementation. This transitional period is to facilitate Contracting Parties in their acceptance of or accession to this Convention and to provide for the time required to adapt their procedures and practices to the objectives of the Convention.

The General Annex applies to all the Customs procedures and practices as well as to those contained in the Specific Annexes and their Chapters. This method of application of the provisions of the General Annex ensures that all core provisions of a general nature are applied in all Customs procedures and practices without it being necessary to repeat them in all those individual procedures and practices. This also prevents conflicting provisions concerning core provisions in the different Annexes or Chapters of the Convention.

Thus all the definitions of terms necessary for the interpretation of more than one Annex to the Convention are contained in the General Annex. The definitions of terms applicable to only one Specific Annex or Chapter therein are contained only in that Specific Annex or Chapter.

## **2.4. Specific Annexes and Chapters**

Each Specific Annex or Chapter deals with a particular Customs procedure or practice covering, for example, import, export, transit, warehousing and processing, or a Customs practice, such as origin, Customs offences, treatment of travellers and postal formalities.

In a Specific Annex only those provisions that are applicable to the particular Customs procedure or practice are incorporated.

## **2.5. Guidelines**

There are Guidelines to all the Chapters of the General Annex, except Chapter 2, “Definitions”, and for all the Specific Annexes and their Chapters. The Guidelines are not part of the legal text of the Convention and entail no legal obligations. They contain explanations of the provisions of the Convention and give examples of best practice or methods of application and future developments. They also reflect measures adopted by the WCO to secure and facilitate the international supply chain. They illustrate what Customs administrations can achieve, and how various initiatives can work. Customs administrations may adopt and implement those best practices that are most suited to their particular environment. If that best practice is more liberal than required by a particular provision or procedure, such an application can be regarded as granting a greater facility in accordance with Article 2 of the Convention.

## **3. Implementation of the provisions**

### **Standard 1.2**

*The conditions to be fulfilled and Customs formalities to be accomplished for procedures and practices in this Annex and in the Specific Annexes shall be specified in national legislation and shall be as simple as possible.*

Contracting Parties have to bring the Standards and Recommended Practices which they have accepted into force nationally. Their national legislation must therefore include at least the basic rules from the General Annex, together with detailed regulations for their implementation. These regulations will not necessarily be confined to Customs legislation and may apply to such instruments as official notifications, charters or ministerial decrees according to each Contracting Party's administrative system.

For the purpose of this Convention the concept of “national legislation” includes domestic legislation in situations where national legislation is not appropriate or applicable.

The basic rules covered in national legislation must include the conditions under which a Customs procedure is to be accomplished. In order to secure maximum compliance from national and international businesses, Customs administrations must ensure that their legislation and regulations are transparent, predictable, consistent and reliable. Information must therefore be provided to all parties involved in Customs transactions and must be easily accessible.

In addition to legislative measures for implementation of the provisions of this Convention, Contracting Parties must also provide for facilities, personnel and equipment to give actual effect to the objectives of the Convention. Such support is indispensable especially in light of new developments in the use of information technology, risk-management and audit-based controls.

## 4. Co-operation with the Trade

### Standard 1.3

*The Customs shall institute and maintain formal consultative relationships with the trade to increase co-operation and facilitate participation in establishing the most effective methods of working commensurate with national provisions and international agreements.*

To address the rapidly growing volume of international trade, active co-operation and intensive communication between Customs and the trade are essential to complement each other's objectives and responsibilities. Since Customs are an important element in international trade procedures, it is important that Customs administrations make use of modern working methods to administer their operations and that they strive to facilitate trade to the maximum extent possible.

In an ever-changing trading environment, where speed means a trader's livelihood, Customs and the trade have to develop modern methods together. To achieve this a consultative relationship is indispensable and the use of modern information technology essential for the efficient and fast exchange of information. Before Customs implement changes or introduces new procedures or automated systems, Customs should consult with appropriate representatives of the trade so that both can gear their activities in consideration of each other's needs. In this connection, reference is made to the Customs-Business partnership arrangements outlined in the SAFE Framework of Standards to Secure and Facilitate Global Trade.

In order to develop instruments for co-operation and consultation, Customs has to establish formal consultative relationships with the different national trade associations. Co-operation between Customs and the trade can result in formal Memoranda of Understanding which serve to benefit the accomplishment of both parties' objectives and responsibilities. Further information on such Memoranda of Understanding can be found in the Guidelines to Chapter 6 of the General Annex on Customs control.

National practices of this standard are set out in the "Method of Application" (Appendix) to these Guidelines.

## **Appendix**

### **Method of Application**

#### (1) New Zealand

##### TOR of Border Sector Industry Stakeholder Forum

The Border Sector Industry Stakeholder Forum is a joint border agency/industry forum made up of representatives from key border-related industries and interests and members of agencies that make up the Border Sector Governance Group. The primary focus of the Forum is stakeholder engagement in relation to the four priority work programmes of the border sector agencies.

#### 1. Background

Cabinet agreed in October 2007 that an ongoing Border Sector governance structure be established to provide a mechanism for joint decision making and guidance on:

- Border sector strategy, planning and monitoring;
- Border sector performance;
- Operations and Information Systems (IS) projects with wide ranging border sector implications; and
- Application of a whole of government view to border sector management and operations.

The core membership of the Border Sector Governance Group is:

- Comptroller, New Zealand Customs Service (Chair);
- Secretary, Department of Labour;
- Director-General, Ministry of Agriculture and Forestry;
- Chief Executive, Ministry of Transport;
- Chief Executive, The Department of Internal Affairs;
- Chief Executive, New Zealand Food Safety Authority.

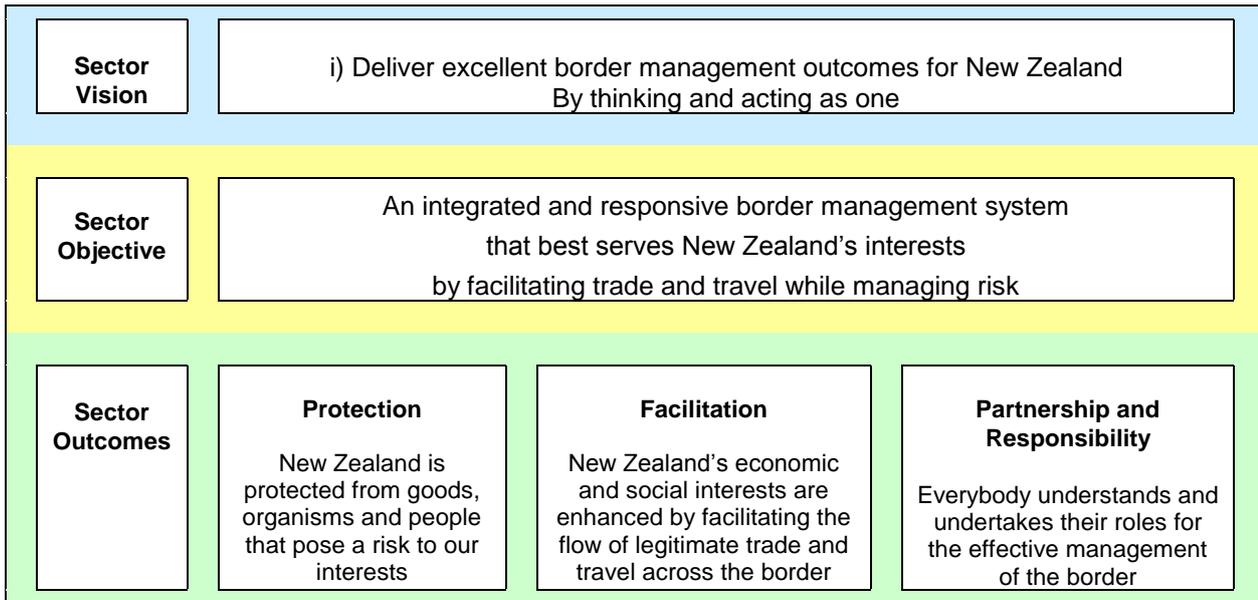
The Border Sector Secretariat supports the work of the Border Sector Governance Group and is hosted within the agency of the Chief Executive that is the Border Sector Governance Group Chair.

Border sector agencies have recognised that there are opportunities to improve the management of the border system by adopting a more cohesive and coherent approach. Agencies agree that they need to increase their collaboration with each other, stakeholders and other jurisdictions to manage growing trade and travel volumes and risk complexity, and to take advantage of gains from emerging technologies. There are also opportunities for agencies to collaborate further on border operations and information systems development, and to incorporate stakeholders' perspectives. Improved collaboration will increase the border sector's overall effectiveness and efficiency, within the context of existing accountabilities for each agency.

#### 2. Border Sector Governance Framework

The strategic framework for the border sector is set out below:

**Kyoto Convention – General Annex – Chapter 1  
Guidelines on General principles**

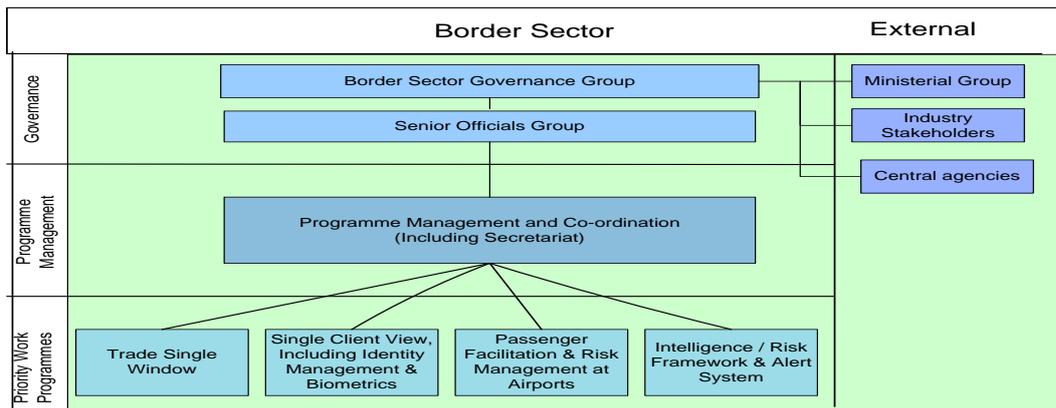


**Priority Work Programmes**

Border sector agencies have identified four priority areas for the sector to deliver on over the next three to five years in order to meet the agreed facilitation, protection and partnership outcomes. The priority work programmes are as follows:

- Trade Single Window
- Passenger facilitation and risk management at airports
- Identity at the border for facilitation, protection & partnership
- A border sector Intelligence / risk framework and alert system.

**New Governance Structure**



**3. Scope**

The BSGG Industry Stakeholder Forum (the Forum) is an advisory, not a decision making group. It provides border agencies and key industry stakeholders with an important

avenue for ensuring industry and border agency interests and strategic directions are mutually understood and aligned where appropriate and possible.

The Forum's primary focus is on matters relevant to the four priority work programmes which is where the border agencies' common interests primarily lie. In addition, there will be regular stakeholder engagement occurring within each of the priority work programmes.

The Forum will complement existing day-to-day engagement with border agencies. These day-to-day type interactions and project-specific matters will continue to be handled at the operational level.

#### 4. Membership

The membership of the Forum consists of members of the Border Sector Governance Group and representatives from key private sector industries at Chief Executive or Chairman level with an 'at the border' interest. Industry Representative Participants will be invited to join the Forum by the Chair of the Border Sector Governance Group.

##### **A. Industry Representatives**

*Participants will be invited to join the Forum by the Chair of the Border Sector Governance Group. The list of current participants includes the following industry representatives:*

- Co-Chair, Australia - New Zealand Leadership Forum
- Co-Chair, Australia -New Zealand Leadership Forum Common Borders Working Group
- Chief Executive, Auckland International Airport
- Chairman, Airports Association New Zealand
- Chairman, New Zealand Shippers Council Inc
- Executive Director, Board of Airline Representatives New Zealand
- Chief Executive, Business New Zealand
- Chief Executive, Meat Industry Association
- Chief Executive, Fonterra Co-operative Group Ltd
- Chair, Port Companies of New Zealand
- Chairman, New Zealand Pacific Business Council
- President, Custom Brokers & Freight Forwarders Federation of New Zealand
- Chief Executive, Export New Zealand
- Chair, Tomorrow's Cargo Logistics
- Chief Executive, New Zealand Cold Storage Association
- Chief Executive, Tourism New Zealand
- Chief Executive, Air New Zealand
- Secretary, Importers Institute
- President, Federated Farmers of New Zealand

#### 5. BSGG Stakeholder Forum Role

##### **A. The main objectives of the Forum are:**

- To create a strategic dialogue between border agencies and industries about at-the-border interests and future directions with respect to each of the four priority work programmes.

- To provide a mechanism for industry to provide feedback to the BSGG on how the proposed work programme ought to operate from a stakeholder perspective.
- To provide a forum for raising/addressing sectoral issues of mutual interest.

**B. The main roles of the Forum are:**

- To engender **collaborative** border agency–industry stakeholder engagement
- To identify **opportunities** and avenues for border agency–stakeholder engagement and collaboration
- To consider **emerging sectoral developments and issues**.

6. Operating parameters

**A. Principles**

- The Forum will be strategically focused, consultative and discussion-oriented in nature.
- The Forum will include sharing information and views on issues raised by any participant. As such, it may challenge thinking as well as provide input and advice to longer-term analyses and considerations affecting the border sector.
- The Forum is not a decision-making forum, and will not focus on operational or administrative matters.

**B. Focus for the meetings:**

- BSGG progress report on the four work programmes
- Feedback from industry on the work programmes, and how the sector has been operating from an industry stakeholder perspective
- Looking at future trends and matters of common interest.

Any papers for consideration at meetings will be provided at least five working days prior to meetings. Minutes of the meetings will be taken and provided to all participants. Minutes may be discoverable under the Official Information Act. The Chair of the Border Sector Governance Group will chair the Stakeholder Forum.

**C. Timeframe**

At least two Stakeholder Forums will be held each year at Chief Executives' or Chairman level, with BSGG Chair to revisit this decision as appropriate. It is envisaged that the meetings will be held in April/May and October/November. On occasion the Chairs may convene additional meetings for a particular purpose.

7. Other BSSG Meetings

In addition, stakeholder meetings will be convened through each of the priority work programmes. It will be responsibility of the Chair of each work programme to convene these stakeholder meetings.

The Chair of the BSSG may also wish to convene a meeting of the wider group of agencies with a border sector interest (approximately 20 in total), as the need and/or opportunity arises.

(2) United Kingdom

Experience of United Kingdom

Introduction

The main forum for trade consultation in UK Customs matters is the Joint Customs Consultative Committee (JCCC).

The committee gives the opportunity for Customs to consider representations from 24 member organisations on a face-to-face basis (see annex A for full list). In addition it also has 4 virtual members who receive the meeting papers but generally do not attend meetings.

Representation on the JCCC

To ensure equity of treatment there are clear and transparent rules for membership of the trade forum which are agreed and adopted by the Committee. The Committee's terms of reference include the following criteria for trade membership.

*The aim is to consult with the widest possible spectrum of trade interests and to achieve the highest standards of interests from them. To achieve this, the following criteria for membership are applied. A trade body must be:*

- *Be a national organisation with a primary interest in the movement of goods and/or people;*
- *Not represent particular (air)ports; and*
- *Not solely represent individual company business interests.*

Membership is regularly reviewed to ensure it is meeting the objectives for the group. Following a membership review in 2006 it was felt that certain sectors were under represented. Invitations to join the committee were sent to Community Systems Providers, who control the port inventory systems, the Royal Mail and the Railway Industry.

Format of Meetings

The JCCC meets 4 times a year.

It is chaired by the Director of Customs but between 2005-6 it adopted a system with the trade side chairing alternative meetings. Agenda items can be tabled by anyone on the committee and other representatives from Customs are invited according to the agenda subjects.

Minutes of the meetings are agreed with the trade members and publicised on the HM Revenue & Customs (HMRC) website. [JCCC web pages](#)

Other trade groups

In addition to the JCCC, the Committee can agree to set up smaller groups to consult and examine specific projects or issues. These groups are set up by the JCCC and report back to the JCCC.

1. JCCC Sub-groups

These are formed to discuss in-depth technical issues leaving the main JCCC to concentrate on more strategic areas. Each group has clear and specific terms of reference which are agreed by the main JCCC. Some groups are longstanding whilst others are disbanded by the JCCC once they have reported on the specific project. The sub-groups are required to provide minutes to be published on the HMRC website and a summary report for the main JCCC. If a problem cannot be solved at the sub-group level members have the option to escalate the matter to the main JCCC  
(A list of current sub-groups is at Annex B)

2. JCCC ad-hoc groups

Ad hoc groups can be formed at any time and may only meet once or twice. For example a group was formed to look into improving the JCCC Customs Newsletter and another group to consider service standards.

If a subject is of limited interest to the majority of JCCC members a bi-lateral meeting outside the JCCC may be held.

3. JCCC Distribution List

This list uses e-mail to send information papers and consultation papers to a broader range of trade associations and contacts. The list includes all those on the JCCC and over 60 “associates”. Information papers tell recipients of changes in the Customs area that they need to know to comply with their obligations. Consultation papers ask the trade their opinion on proposed changes.

4. JCCC Customs Newsletter

This was first published in December 2003. It provides a summary of the main legislative changes being discussed, an update on projects and items of interests. It is published quarterly on the HMRC website and is sent to the JCCC Distribution List.

5. JCCC Volunteer Panel

The Volunteer Panel is a small group of trade members who have agreed to quality review Customs leaflets/information sheets. The goal is to ensure that when information is revised and updated Customs and Trade officials have the same understanding of the revised text. The review is carried out electronically by e mail.

**Annex A - list of trade members as at July 2010**

**Membership of the JCCC**

The 24 full trade members and 4 virtual members are listed below.

Airline Operators Committee Cargo UK (AOCC UK)  
Association of International Courier and Express (AICES)  
Automated Customs and International Trade Association (ACITA)  
British Chambers of Commerce (BCC)  
British International Freight Association (BIFA)  
British Ports Association (BPA)  
British Retail Council (BRC)  
Chamber of Shipping (COS)  
Chartered Institute of Logistics and Transport (CILT)  
Community System Providers (CSPs)  
Confederation of British Industry (CBI)  
Customs Air Transport Consultative Group (CATICG)  
Customs Practitioners Group (CPG)  
Food and Drink Federation (FDF)  
Freight Transport Association (FTA)  
Institute of Chartered Shipbrokers (ICSB)  
Railway Industry  
Road Haulage Association (RHA)  
Royal Mail  
SITPRO (Simpler Trade Procedures)  
Society of Motor Manufacturers and Traders (SMMT)  
UK Aerospace Industry Customs Group (UKAICG)  
UK Major Ports Group  
UK Warehousing Association (UKWA)

Virtual Members

Association of Freight Software Suppliers (AFSS)  
British Association of Removers (BAR)  
Institute of Indirect Taxation (IIT)  
Pharmaceutical Trade Group (PTG)

**Annex B - JCCC subgroups**

JCCC Sub-groups

Each of the groups is chaired by the expert in the area under discussion and comprises those trade bodies/companies with the greatest interest in that subject. They each publish their own terms of reference and this should be revised on a yearly basis. Each group sets its own membership criteria.

Some groups are permanent and those named as working groups (WG) reflect this.

The current sub-groups are as follows

	Name	Type
1	Customs Services Transformation (including Modernised Customs Code Implementing provisions)	SG
2	Duty Liability	WG
3	Import Control System (AIS )	SG
4	Import – Export Policy (inc. and the National Clearance Hub)	WG
5	International Trade Operating Systems	WG
6	Transit	WG
7	Special Procedures (Customs Procedure with Economic Impact)	WG

Groups have previously been formed for Civil Penalties, SAD H, and Authorised Economic Operator (AEO)

Some sub-groups will additionally form a working party from selected members if needed.

(3) United States

The relationship between U.S. Customs and Border Protection (CBP) and the trade community is of critical importance to the maintenance of trade facilitation and efficiency and enforcing security at our borders. One organization that helps CBP balance trade and security is the Commercial Operations Advisory Committee (COAC).

The COAC was mandated in the Omnibus Budget Reconciliation Act of 1987 and operates under the provisions of the Federal Advisory Committee Act (FACA). COAC provides feedback and recommendations on commercial operations of CBP and related DHS and Treasury functions. The committee is comprised of 20 members from industries affected by the commercial operations of CBP, and is chaired by two government Co-Chairs from DHS and the Department of the Treasury. Committee members come from the trade and transportation communities, large, medium and small sized companies, and others who are directly served or affected by CBP and related DHS and Treasury functions.

COAC members must apply for membership and are selected from representatives of the trade and transportation communities served by CBP. Members serve a 2 year term. This 20 member advisory council meets periodically with CBP officials to discuss CBP's balance of security and trade facilitation. Topics of discussion have included Customs automation, agriculture, Intellectual Property Rights (IPR), Global Supply Chain, harmonization of customs practices and procedures, strategic planning, import safety and Importer security filing among others.

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