

**CARGO SECURITY AT LAND PORTS OF ENTRY:  
ARE WE MEETING THE CHALLENGE?**

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**HEARING**

BEFORE THE

**SUBCOMMITTEE ON BORDER,  
MARITIME, AND GLOBAL  
COUNTERTERRORISM**

OF THE

**COMMITTEE ON HOMELAND SECURITY  
HOUSE OF REPRESENTATIVES**

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## **CARGO SECURITY AT LAND PORTS OF ENTRY: ARE WE MEETING THE CHALLENGE?**

**Thursday, October 22, 2009**

U.S. HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON BORDER, MARITIME,  
AND GLOBAL COUNTERTERRORISM,  
COMMITTEE ON HOMELAND SECURITY,  
*Washington, DC.*

The subcommittee met, pursuant to call, at 10:07 a.m., in Room 311, Cannon House Office Building, Hon. Loretta Sanchez [chairwoman of the subcommittee] presiding.

Present: Representatives Sanchez, Thompson, Harman, Cuellar, Kirkpatrick, Green, and Souder.

Ms. SANCHEZ. [Presiding.] The subcommittee will come to order. The Subcommittee on Border, Maritime and Global Counterterrorism is meeting today to receive testimony on “Cargo Security at Land Ports of Entry: Are We Meeting the Challenge?”

So good morning, everybody. Today’s hearing will examine cargo security at our land ports along entries on our northern and southern border. This subcommittee is focused on reviewing the growing challenge the Department of Homeland Security faces in identifying, interdicting and investigating cargo security threats.

To put the challenge we face at land ports of entry into perspective, let’s think about it this way. There are over 160 land border crossings between the northern and southern borders; 43 of these crossings are dedicated to commercial use only, and many of those are operated and staffed 24 hours a day. Over 11 million truckloads and 2 million railcars come through those ports annually, contributing to over \$338 billion dollars and \$109 billion worth of imports respectively.

With those numbers in mind, it is important to facilitate trade and to ensure that cargo and truck crossings are secure, and that is the challenge that we will examine today.

This hearing comes at a time when our ports of entry are experiencing infrastructure limitations and staff shortages that result in overworked offices. This hearing—also, a new wave of violence has hit many of our major ports, such as the recent shootings that we saw at the Port of San Ysidro in San Diego, which were linked to a human trafficking attempt. In addition, there has been an increase in cocaine and cash trafficking between the United States and Canada.

With the volume of trucks and railcars entering and exiting the country, it is imperative that we have means to ensure that they are secure and that we inspect them as needed. As a sovereign na-

tion, we need to be able to control the ingress and the egress from our country, not just the people, but of cargo, and that is why I am interested in hearing from both of our government and industry witnesses today about what is and what is not working.

Also, I am interested in hearing from ICE about investigations into truck-related seizures that originate in Mexico or Canada but are found in the United States. I believe that we must improve our overall border infrastructure to accommodate the growing amount of commerce and increasing number of people who really do cross back and forth on the border today—and I saw Mr. Cuellar, and I know that he has talked to me about this over and over—because we need to avoid delays and we need to make sure that trade is going on in a smooth manner.

Considering many of the primary inspections of trucks crossing into the United States are done by CBP officers, there is a valid argument to be made that staff shortages at ports of entry facilitate the importation of narcotics into this country. I have always advocated for an increase in officer staff. I know that Chief Aguilar, in particular, has been very interested in this issue, and we have worked on it together, and I hope that we will take a look at a CBP authorization bill that might address some of these problems. That is also one of the reasons why I wanted to hold this hearing today.

I want to thank all of you for being here today, and I look forward to receiving your testimony.

Now I will yield to my ranking member, Mr. Souder, for his opening statement.

Mr. Souder?

Mr. SOUDER. Thank you, Madam Chair.

I think this hearing is important and timely. On the one hand, we have the U.S. manufacturing industry suffering from a recession, and the last thing we need to worry about is whether or not that we will be able to get parts and supplies across the border.

On the other hand, we have Secretary Napolitano and FBI Director Mueller confirmed before Congress at the end of September that Al Qaida remains committed to attacking the U.S. According to FBI Director Mueller, “of particular concern to the FBI are individuals who can travel with fewer restrictions to these areas of extremist activity and then enter the United States under less scrutiny.”

We know that terrorist groups, not to mention criminal and drug organizations, are constantly looking for vulnerable points in order to bring weapons or people or drugs into the United States. In addition, we see a growing trend of intellectual property right violations, which are reportedly helping to fund cartels and terrorist organizations and dramatically hurt U.S. industry.

Our inspection and investigative capabilities must be robust. This hearing is an opportunity to hear how CBP’s advanced targeting is working and the status of imaging and radiation scanning equipment, also what our ICE investigators are seeing in terms of trends and how do they allocate resources across the wide-ranging mission sets.

At the same time, we must evaluate whether we are unnecessarily causing delays or hurdles at the border. According to testimony from the American Trucking Association on the second panel,

the value of trade between the U.S. and Canada has decreased by 30 percent. The trade value between the U.S. and Mexico has decreased by 18 percent. This decrease is not the fault of the customs inspections, but I think we need to take an objective look at the processes at the border to see where additional facilitation is needed and could be helpful.

I would like to welcome Steve Russell, representing the American Trucking Association, on the second panel. His company is based in Indianapolis, Indiana, and I think his testimony will be especially valuable, given his experience moving cargo on both borders.

The security and facilitation at land ports of entry is not just an issue for border states. My congressional district in Indiana, it is the largest manufacturing district in the country. The recession is heavily felt there. It is essential for timely delivery of goods for companies to stay in business. Specific facilitation issues that should be on the table are C-TPAT and the FAST expansion, especially options for extending the lanes leading up to the expedited processing lane for program participants.

Additionally, where do things stand with ACE and the ITDS, two programs intended to modernize border processing for both trade and CBP, as well as link in other federal entities? To the extent that they are able, I hope the witnesses will be forthcoming with additional resource requests and legislative changes that may be necessary to work with CBP and ICE—to assist the work CBP and ICE are doing to carry out their critical missions. I am confident that Ms. Kelley and Mr. Russell in the second panel will have multiple recommendations for us.

On a related note, I would again like to express my desire for this subcommittee to consider border security legislation that will address both sides of this issue, how to better secure our borders and ports of entry and how to better facilitate legitimate trade and travel.

Thank you again, Madam Chair, and I look forward to the testimony.

Ms. SANCHEZ. I thank Mr. Souder. And, believe me, we are taking a look. I have been talking to our chairman of the full committee about those bills that we might be able to mark up, so we are hoping some will come forward in this new month of November.

The chair will now recognize the chairman of the full committee, the gentleman from Mississippi, Mr. Thompson, for an opening statement.

Mr. THOMPSON. Thank you, Madam Chairwoman, for convening today's hearing on cargo security at our nation's land ports of entry.

America's land ports of entry are critical gateways to travel and trade. Every year, approximately 11 million truckloads and more than 2 million railcars arrive at U.S. land borders. The dedicated men and women of the Department of Homeland Security have the difficult task of detecting, interdicting and investigating threats in this stream of commerce.

At the same time, they are charged with facilitating the legitimate trade and travel that is the lifeblood of the economy, both in border regions and across the country. This is no easy task.

Given the volume of commercial traffic crossing our borders, it is imperative that DHS ensure cargo trucks and railcars do not become vehicles for smuggling operations. Just this month, a Canadian truck driver was arrested in Blaine, Washington, with 192 pounds of cocaine, worth about \$3 million. In June of this year, a total of 1,090 pounds of marijuana was discovered in two commercial trucks in El Paso, Texas.

Incidents such as these are a warning sign regarding other possible threats coming into the U.S. through our ports of entry. This method of smuggling narcotics or other contraband could also be attractive to those who seek to do harm. It is imperative that we address the potential threats.

DHS has made strides in utilizing inspection technology and equipment, encouraging stakeholders to assist in securing the supply chain, and enhancing cooperation among law enforcement agencies.

However, significant challenges remain. Many ports of entry were constructed decades ago and were simply not built to accommodate modern security technology and procedures. In addition to infrastructure challenges, staffing has not kept up with the need. Thousands of new Border Patrol agents have been hired in recent years, while only a relatively small number of Customs and Border Protection officers have been added to the ranks at the ports of entry.

These limitations not only undermine our security, but hamper the department's ability to expedite vital commerce. Ultimately, we must do what it takes to secure our borders and ensure our ports of entry operate efficiently in moving goods and people across our borders. Each of our witnesses today bring a unique perspective on how best we can meet that challenge.

Madam Chair, I want to thank our witnesses for joining us today, and I look forward to hearing from their testimony.

Ms. SANCHEZ. I thank the chairman.

Other members of the subcommittee are reminded that under the committee rules opening statements may be submitted for the record. I welcome our first panel of witnesses.

Our first witness, Mr. Todd Owen, was appointed Executive Director of the Cargo and Conveyance Security Office within the Office of Field Operations at Customs and Border Protection—that must be a long title on your card—in May of 2006. Mr. Owen is responsible for all cargo security programs and policies for the CBP, including the Customs-Trade Partnership Against Terrorism program, all non-intrusive inspection technology, and radiation portal monitor deployments, the National Canine Enforcement Program, and the National Targeting Center for Cargo.

Welcome.

Our second witness, Ms. Janice Ayala, currently serves as the Deputy Assistant Director of the Financial, Narcotics and Public Safety Division within the ICE Office of Investigations. Another long title there. In this position, she has direct oversight of the financial, narcotics and national gang programs conducted by ICE offices throughout the United States.



So without objection, your testimony, your written testimony, will be put into the record. I know that you have it before us. I will ask you to summarize your statements in 5 minutes or less.

Let's start with Mr. Owen.

**STATEMENT OF TODD OWEN, EXECUTIVE DIRECTOR, CARGO AND CONVEYANCE SECURITY, OFFICE OF FIELD OPERATIONS, CUSTOMS AND BORDER PROTECTION**

Mr. OWEN. Good morning.

Chairwoman Sanchez, Ranking Member Souder, members of the subcommittee, I am honored to be here this morning to discuss how U.S. Customs and Border Protection is fulfilling our border security and trade facilitation responsibilities at our land border ports of entry.

I would like to begin by expressing my gratitude to the Congress for its continued support of the mission and people of CBP. Among the numerous priorities that were recognized in the American Recovery and Reinvestment Act of 2009, Congress provided CBP with \$680 million for greatly needed improvements to our aging port of entry infrastructure, tactical communications equipment, and non-intrusive inspection technology. This funding will allow CBP to more efficiently meet our twin goals of border security and facilitation.

CBP has made tremendous progress in ensuring that supply chains importing goods into the United States are more secure against potential exploitation by terrorist groups or narco-smugglers. CBP uses a multilayered approach to ensure the integrity of supply chains from point of stuffing through arrival at U.S. ports of entry. This multilayered defense is built upon interrelated initiatives, which include the Trade Act of 2002, the Automated Targeting System, non-intrusive inspection equipment, radiation portal monitors, the Customs–Trade Partnership Against Terrorism, or C–TPAT program, and the Free and Secure Trade initiative, or FAST. These complementary layers enhance security and protect our nation.

In the land border environment, CBP receives advanced manifest data on every truck and every rail shipment prior to arrival at the border crossing. CBP performs a risk analysis on each shipment using our Automated Targeting System and, along with other targeting tools, high-risk shipments are identified by the primary CBP officer and sent to a secondary examination location for closer scrutiny and inspection.

In our ports of entry, CBP deploys non-intrusive inspection technology, which includes large-scale X-ray and gamma imaging systems, which allows CBP officers to assess the contents of each trailer or container for anomalies or areas of concern.

Prior to 9/11, CBP deployed only 64 large-scale, non-intrusive systems to our nation's borders. Today, we have over 230 systems operational, with another 50 new or replacement systems to be deployed over the next 18 months as part of the stimulus funding that CBP received this year.

In fiscal year 2009, one out of every four trucks that crossed our land borders underwent a non-intrusive inspection technology review. CBP also deploys radiation detection portals at entry points

nationwide. The first radiation portal monitor was deployed in Detroit in 2002, and today we have over 1,400 scanning portals, allowing us to scan 100 percent of the cargo from Mexico, 99 percent of the cargo from Canada, and 98 percent of our maritime cargo arriving into our sea ports.

CBP also works in partnership with the trade community to secure supply chains before arrival at the U.S. port of entry. Under the Customs–Trade Partnership Against Terrorism program, 9,000 companies voluntarily strengthened their security measures. CBP validates these security enhancements and affords the member reduced inspections to facilitate this low-risk trade.

Additionally, the FAST program promotes free and security trade by using common risk-management principles, supply chain security, industry partnerships, and advanced technology to improve the efficiency of screening and clearing commercial cargo at our shared border. Collectively, C–TPAT and FAST programs address CBP’s dual responsibility of security and trade facilitation through voluntary partnerships with the trade community.

Madam Chairwoman, members of the committee, thank you for the opportunity to describe some of our land border security initiatives and to highlight some of our progress to date. I would be happy to take any questions. Thank you.

[The statement of Mr. Owen follows:]

#### PREPARED STATEMENT OF TODD OWEN

Chairwoman Sanchez, Ranking Member Souder, esteemed members of the Subcommittee, it is a privilege and an honor to appear before you today to discuss the work U.S. Customs and Border Protection (CBP) does in performing our twin goals of border security and facilitation of legitimate trade and travel. Our work is of critical importance—we must be constantly vigilant towards meeting the challenge of securing our borders and enforcing trade laws, yet we must accomplish these tasks without stifling the flow of legitimate trade and travel that is so critical to our nation’s economy.

I want to begin by expressing my ongoing gratitude to the Subcommittee for its continued support of the mission and people of CBP. It is clear that the Subcommittee is committed to providing CBP with the resources we need in order to increase and maintain the security of our borders. We appreciate your efforts and assistance.

CBP is the largest uniformed federal law enforcement agency in the country. We station over 21,000 CBP officers at access points around the Nation, including air, land, and sea ports. We have deployed over 20,000 Border Patrol agents between the ports of entry. These forces are supplemented with 1,266 Air and Marine agents, 2,392 agricultural specialists, and other professionals.

CBP has a wide range of responsibilities that include stemming the illegal flow of drugs, contraband and people; protecting our agricultural and economic interests from harmful pests and diseases; protecting American businesses from theft of their intellectual property; enforcing textile agreements; detecting import safety violations; regulating and facilitating international trade; collecting import duties; facilitating legitimate travel; and enforcing U.S. trade laws. At the same time, our employees maintain a vigilant watch for terrorist threats. In fiscal year 2008, CBP processed more than 396 million pedestrians and passengers, 122 million conveyances, and 29 million trade entries; examined 5.6 million sea, rail, and truck containers; performed over 25 million agriculture inspections; apprehended over 720,000 illegal aliens between our ports of entry; encountered over 220,000 inadmissible aliens at the ports of entry; and seized more than 2.8 million pounds of illegal drugs.

#### **OVERVIEW OF CARGO SECURITY PROGRAMS**

I am pleased to appear before the Subcommittee today to highlight key accomplishments related to cargo security in the land environment. I would also like to take this opportunity to bring attention to holistic cargo security programs that are applied to all environments. CBP has made tremendous progress towards securing

the supply chains bringing goods into the United States from around the world, and preventing their potential use by terrorist groups, by: using cutting-edge technology to increase the ability of front-line CBP Officers to successfully detect and interdict illicit importations of nuclear and radiological materials; moving resources where they are most needed; integrating all CBP offices; sharing information, including actionable intelligence, across all aspects of CBP; and utilizing a multi-layered approach to ensure the integrity of the supply chain from the point of stuffing, through arrival at a U.S. port of entry. This layered approach includes comprehensive cargo security programs that are applied to all modes of transportation:

- Advance Information
  - 24-Hour Rule
  - Automated Targeting Systems
  - Importer Security Filing
- The Customs Trade Partnership Against Terrorism (C-TPAT) and Free and Secure Trade (FAST)
- Container Security Initiative (CSI)
- Use of Non-Intrusive Inspection Technology and Mandatory Exams for All High Risk Shipments
- Southwest Border Initiative

I will discuss each one of these layers in greater detail.

#### **ADVANCE INFORMATION**

CBP requires advanced electronic cargo information, as mandated in the Trade Act of 2002, for all inbound shipments for all modes of transportation. This advanced cargo information is evaluated using the Automated Targeting System (ATS) before arrival in the United States.

ATS provides decision support functionality for CBP officers working in Advanced Targeting Units at our ports of entry and Container Security Initiative ports abroad. The system provides uniform review of cargo shipments for identification of the highest threat shipments, and presents data in a comprehensive, flexible format to address specific intelligence threats and trends. ATS uses a rules-based program to highlight potential risk, patterns, and targets. Through rules, the ATS alerts the user to data that meets or exceeds certain predefined criteria. National targeting rule sets have been implemented in ATS to provide threshold targeting for national security risks for all modes of transportation: sea, truck, rail, and air. The DHS Science and Technology Directorate is exploring additional methodologies for conducting risk assessment.

The Importer Security Filing interim final rule, also more commonly known as "1" went into effect earlier this year and has already yielded promising results. This program will provide CBP timely information about cargo shipments that will enhance our ability to detect and interdict high risk shipments. Comments on aspects of this rule were accepted until June 1, 2009, and implementation using informed compliance will continue until January of next year. Shipments determined by CBP to be high-risk are examined either overseas as part of our Container Security Initiative, or upon arrival at a port.

#### **CUSTOMS TRADE PARTNERSHIP AGAINST TERRORISM (C-TPAT)**

CBP works with the trade community through the Customs Trade Partnership Against Terrorism (C-TPAT) to better secure goods moving through the international supply chain. C-TPAT has enabled CBP to leverage supply chain security throughout international locations where CBP has no regulatory reach. Under the C-TPAT program, a prospective member submits basic company information and a security profile via an internet based portal system. CBP conducts records checks on the company in its law enforcement and trade databases and evaluates the security profile, ensuring the company meets the minimum security criteria for its particular business sector. Members who pass initial vetting are certified into the program. Using a risk-based approach, Supply Chain Security Specialists conduct on-site visits of foreign and domestic facilities to confirm that the security practices are in place and operational.

In 2009, CBP continued to expand and strengthen the C-TPAT program and ensure that certified member companies are securing their goods moving across the international supply chain to the United States. Teams of Supply Chain Security Specialists conducted validations and revalidations of C-TPAT members' supply chains. This ensures that security protocols are reliable, accurate, and effective.

As C-TPAT has evolved, we have steadily increased the rigor of the program and program membership. CBP has strengthened the C-TPAT program by clearly defining the minimum-security requirements for all categories of participants wishing to take part in the program, and thereby gain trade facilitation benefits. As of October 8, 2009, there were 9,484 companies certified into the C-TPAT program. CBP's goal

is to validate all partners within one year of certification, revalidate all companies not less than once every three years, and revalidate all highway carriers on an annual basis, due to the risks associated with the Southern Border Highway Carrier sector of C-TPAT.

Membership consists of 9,484 Certified Partners which includes 4,327 importers, 2,585 carriers, 817 brokers, 783 55 Marine Port Authority and Terminal Operators and 917 Foreign Manufactures as of October 2009. C-TPAT has conducted 12,947 on-site validations of manufacturing and logistics facilities in 90 countries. 298 C-TPAT importer partners have been designated Tier 3, meaning they have exceeded the minimum security criteria and have been granted the highest level of program benefits.

#### **FREE AND SECURE TRADE (FAST)**

CBP's Free and Secure Trade (FAST) program is an innovative partnership between the United States, Canada, and Mexico designed to ensure security and safety while enhancing the economic prosperity of the member countries. This innovative trusted shipper program allows for expedited processing for commercial carriers who have completed background checks and fulfill certain eligibility requirements. At the land border ports of entry, FAST is integrated into the C-TPAT program. The C-TPAT and FAST programs promote supply chain security from the point of origin in a foreign country to the point of destination in the United States. Participation in FAST requires that every link in the supply chain, from manufacturer to carrier to driver to importer is certified under the C-TPAT program.

Any conveyance using FAST lane processing must be a CBP approved carrier, carry qualifying goods from a CBP approved importer, and employ a driver with a valid FAST-Commercial Driver Card. To be approved, the carrier and importer must be participants in C-TPAT. In addition to these requirements, manufacturers in Mexico must be C-TPAT participants, and all FAST shipments, when crossing the border, must have a high-security seal properly placed, adhering to guidelines outlined by CBP.

The FAST program promotes free and secure trade by using common risk-management principles, supply chain security, industry partnerships, and advanced technology to improve the efficiency of screening and clearing commercial traffic at our shared borders. FAST expedites and facilitates commercial crossings by implementing the mandated requirements of securing the flow of people, transportation, and goods under a secure infrastructure. FAST is aimed at improving and ensuring the integrity of the supply chain of participants ranging from manufacturing to transportation and importation.

For all U.S.-bound FAST trucks, Mexico Customs uses automated readers that interface with the U.S. system in order to verify the status of the FAST driver card. Mexico Customs receives a "yes" or "no" response when the card is read, indicating whether the card is valid with CBP. This process ensures that only approved FAST drivers are utilizing the dedicated lane to enter the U.S. from Mexico. FAST shipments also receive expedited processing through the Mexico export process.

CBP's layered enforcement strategy begins with the vetting and approval of all applicants through the FAST and C-TPAT programs. CBP has further implemented a strategy that incorporates rule-sets established at the headquarters level combined with the efforts of the National Targeting Center-Cargo (NTC-C) and port Manifest Review Units (MRU). Based on findings from the NTC-C and MRU, CBP officers are able to take the appropriate actions on arriving shipments. These enforcement actions may include document review, canine sweeps, Non-Intrusive Examinations, Radiation Portal Monitoring, and physical examination. In addition, CBP uses Random and Stratified Compliance Examinations along with high-security seals to measure compliance with program participants.

#### **CONTAINER SECURITY INITIATIVE (CSI)**

Although the Container Security Initiative (CSI) is maritime-focused, containers are commonly routed across multiple modes of transportation, making this layer of security an integral aspect to national security. CSI was announced in January 2002 and is currently operational in 58 foreign seaports in 32 countries to address the threat of terrorist use of maritime containers before those containers are loaded on vessels destined for the U.S. CSI stations multidisciplinary teams of CBP officers, along with our colleagues from ICE, to work with host country counterparts to identify and examine containers that are determined to pose the highest risk for terrorist activity. In fiscal year 2009, CSI officers reviewed over nine million bills of lading and examined over fifty-six thousand containers in conjunction with host country counterparts.

### **NON INTRUSIVE INSPECTION RADIATION DETECTION TECHNOLOGY**

The deployment of imaging systems and radiation detection equipment has contributed to tremendous progress in ensuring that supply chains bringing goods into the United States from around the world are secure against exploitation by terrorist groups. Non-Intrusive Inspection (NII) technology serves as a force multiplier that allows officers to detect possible anomalies between the contents of a container and the manifest. CBP relies heavily on the use of NII, as it allows us to work smarter and more efficiently in recognizing potential threats.

Prior to 9/11, not a single Radiation Portal Monitor (RPM), and only 64 large-scale NII systems were deployed to our nation's borders. By October of 2002, CBP had deployed the first RPM at the Ambassador Bridge in Detroit. Today, CBP has deployed 453 RPMs at Northern border land ports of entry; 385 RPMs at Southern border land ports of entry; 431 RPMs at seaports; 55 RPMs at mail facilities; 232 large-scale gamma ray or x-ray imaging systems; and 3,000 small scale NII systems nationwide. Additionally, CBP has deployed over 1,400 Radiation Isotope Identifier Devices and over 18,000 Personal Radiation Detectors. These devices allow CBP to inspect 100 percent of all identified high-risk cargo.

Currently, CBP uses radiation detection technologies to scan 99 percent of trucks and 98 percent of personally owned vehicles arriving through northern border ports, 100 percent of vehicles arriving through southern border ports, and 98 percent of arriving sea containers. CBP uses RPMs to scan 99 percent of all cargo arriving in the U.S. by land and sea. In addition, CBP officers now use handheld radiation identification devices to scan 100 percent of private aircraft arriving in the U.S. from foreign destinations. To date, CBP has used the deployed systems to conduct over 37 million examinations, resulting in over 8,300 narcotic seizures, with a total weight of over 2.5 million pounds, and over \$27 million in undeclared currency seizures.

CBP is working in close partnership with the DHS Science and Technology Directorate to develop the next generation of NII Scanners and Automated Target Recognition Systems for deployment to maritime, land, and air ports of entry.

Used in combination with our layered enforcement strategy, these tools provide CBP with an increased capability to detect contraband, including illicit nuclear or radiological materials.

### **SOUTHWEST BORDER SECURITY INITIATIVE**

In March, Secretary Napolitano announced its comprehensive border security policy, aimed at supporting the Mexican government's campaign against violent drug cartels and reducing the flow of contraband in both directions across the border. Along with the Merida Initiative, the National Southwest Border Counternarcotics Strategy, and the Administration's renewed commitment to reduce the demand for illegal drugs in the United States, the Department of Homeland Security has engaged in a far-reaching Southwest Border Security Initiative to crack down on Mexican drug cartels. The initiative focuses on enhanced border security, including the deployment of hundreds of new personnel, and enhanced intelligence technology to maximize capabilities and strengthen coordination with other federal law enforcement entities such as the Department of Justice, the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Drug Enforcement Administration, and the Federal Bureau of Investigations, as well as state, local, tribal, and Mexican law enforcement authorities.

A key and growing area of emphasis involves DHS' role in interdicting the illegal flow of weapons and currency into Mexico. A large portion of illegal consumed in the United States pass through Mexican territory and territorial seas. Illicit trafficking profits back to Mexican drug trafficking organizations across our common border. The recent surge in violence in the interior and border cities of Mexico poses a significant threat in Mexico and is a serious concern of the United States. Secretary Napolitano has tasked all DHS components, including CBP, to examine how we can reasonably increase our enforcement activities in an effort to identify and interrupt efforts to smuggle weapons and bulk cash shipments into Mexico.

CBP is working with its partners in the Drug Enforcement Administration and the High Intensity Drug Trafficking Area centers to expand the National License Plate Reader (LPR) initiative to exploit intelligence on drug traffickers and drug trafficking organizations. The LPR initiative will utilize established locations to gather information regarding travel patterns and border nexus on drug traffickers to enable intelligence driven operations and interdictions. It should be noted that the LPR program is not specific to the Southwest border. The initial phase of the initiative is along the Southwest border, but the program will be expanded to encompass the Northern border and other areas throughout the country. Its capabilities can be utilized to assist other law enforcement entities in investigations of their

high value targets, by combining existing law enforcement database capabilities with new technology to identify and interdict conveyances being utilized to transport bulk cash, drugs, weapons, and other illegal contraband.

In a spirit of cooperation, CBP has established positions at the El Paso Intelligence Center, the Organized Crime Drug Enforcement Task Force Fusion Center, and the Drug Enforcement Administration Special Operations Division. These initiatives enhance interaction with the Intelligence Community and law enforcement agencies to more effectively facilitate the collection, analysis, and dissemination of actionable drug-related intelligence. CBP has also established two full-time positions at the National Gang Intelligence Center and has partnered with the National Gang Targeting, Enforcement and Coordination Center.

With regard to CBP, the Southwest Border Security Initiative:

**Initiates 100 percent southbound rail scanning**—CBP previously did not screen any of the cargo traveling by rail from the United States into Mexico; it is now scanning all rail cargo for weapons, ammunition, and currency. Existing non-intrusive inspection equipment is being used to detect contraband in cargo on each of the eight rail crossings on the southwest border.

**Adds Border Patrol Agents at POEs**—CBP placed up to 100 Border Patrol agents at southwestern ports of entry to assist the Office of Field Operations (OFO) and to bolster outbound inspections from the U.S. into Mexico in order to detect arms and bulk-cash smuggling.

**Added Mobile Response Teams**—Three Mobile Response Teams of 25 CBP officers each are periodically deploying to the southwest border to participate in focused operations developed to combat arms and bulk cash smuggling.

**Augments Search Technologies**—An additional four low-energy mobile x-ray units have been moved to the southwest border, in addition to the seven already present, to help CBP identify anomalies in passenger vehicles.

**Engages Canine Teams**—A total of twelve teams of “cross-trained” canines—trained to identify both firearms and currency—have been deployed to the southwest border.

**Adds License Plate Readers**—Outbound lanes currently equipped with license plate readers will receive upgraded license plate reader technology to improve ability to identify the vehicles of known or suspected smugglers of cash, weapons, drugs, or persons. This information is shared with other law enforcement agencies through El Intelligence Center and the Organized Crime Drug Enforcement Task Force Fusion Center.

**Enhances Operation Stonegarden Grant Funding on the Border**—Through Operation Stonegarden, an additional \$30 million in Operation Stonegarden grants were made available to state, local and tribal law enforcement to be used for law enforcement personnel, overtime, travel and other related costs in order to further increase the law enforcement presence along the Southwest border. This funding has enhanced the Department’s capabilities to coordinate with state, local and tribal law enforcement in order to effectively deter violence, enforce immigration laws and combat illegal trafficking.

**Actively Engages State, Local, and Tribal Law Enforcement**—DHS is aggressively reaching out to law enforcement in border communities and is leading bi-monthly conference calls with chiefs of police and sheriffs in a classified setting.

## CONCLUSION

Madame Chairwoman, Members of the Committee, thank you again for this opportunity to testify and thank you again for your continued support of CBP. CBP has employed a thorough, multi-layered approach to address cargo security in the land environment, while continuing to facilitate the flow of legitimate trade.

At CBP, we strive for seamless integration between our component offices, and we pride ourselves on the use of actionable intelligence gathering and the ability to adapt to potential threats by use of a multi-layered, flexible approach. With your ongoing support, I feel confident that we will make more and more strides towards efficiently and effectively achieving our twin goals of border security and facilitation of legitimate trade and travel.

I will be happy to answer any of your questions.

Ms. SANCHEZ. Thank you, Mr. Owen.

I will now recognize Ms. Ayala for 5 minutes to summarize your testimony, please. Welcome.

**STATEMENT OF JANICE AYALA, DEPUTY ASSISTANT  
DIRECTOR, OFFICE OF INVESTIGATIONS, IMMIGRATION AND  
CUSTOMS ENFORCEMENT**

Ms. AYALA. Thank you.

Chairwoman Sanchez, Ranking Member Souder, and distinguished members of the subcommittee, on behalf of Secretary Napolitano and Assistant Secretary Morton, thank you for the opportunity to discuss ICE's role in combating smuggling at our land ports of entry.

First and foremost, ICE uses its broad federal authorities to meet the challenges of security at the ports of entry by conducting investigations through collaboration with the intelligence community and other federal, state, local and foreign partners.

More than 6,500 ICE personnel stationed both in the United States and abroad keep ports of entry and transit points provide a 24/7 investigative response to any call for assistance to a seizure or incident from our law enforcement partners, especially CBP.

ICE routinely responds to initiate investigations with reports of seizures of weapons, narcotics, undeclared currency, counterfeit goods, and other forms of contraband. ICE special agents respond with the identifying, disrupting and dismantling the entire illegal enterprise. ICE special agents utilize our customs and immigration authorities to initiate investigations into the larger transnational criminal organizations who seek to exploit our borders and ensure their prosecution by the U.S. judicial system.

ICE special agents also provide actionable intelligence and source information to CBP gleaned from ongoing investigations, source debriefs, trend analysis, and other sources in order to interdict contraband at and between the ports of entry. ICE has the largest force of investigators in DHS, and we protect our borders by investigating criminal organizations who exploit weaknesses in our legitimate trade, travel and financial systems.

ICE has the ability to expand the scope of investigations beyond the domestic 26 SAC offices and the 56 attache offices situated throughout the world. This worldwide investigative posture enables us to address security threats before they reach our borders and ports of entry.

The challenges of conducting investigations in the port environment are many, but not insurmountable. The port and port environments vary by geography, size and activity. In some instances, the larger size of the port makes surveillance a challenge, while small port of entry invites possible detection by co-conspirators.

In the port environment, ICE agents routinely overcome these issues of counter surveillance, internal conspiracies, and other impediments by utilizing the investigative tools available to them. These investigations are enabled by roadblocks, cross-border coordination, and information-sharing amongst our law enforcement partners which positions ICE to respond to any incident at or between the ports of entry.

The following is an example of the type of investigation done by ICE special agents to identify, dismantle and disrupt not only the money-laundering components of criminal organizations, but the underlying criminal activity. Beginning in June 2006, ICE Special Agent in Charge Atlanta began investigating a member of a drug-

trafficking organization based in northern Mexico, with criminal enterprises established in McAllen and Atlanta, Georgia, metropolitan areas.

In particular, this organization was responsible for the clandestine introduction of large quantities of cocaine and marijuana into the U.S. from Mexico through south Texas ports of entry by utilizing commercial tractor-trailer trucks loaded with legitimate merchandise. This same type of commercial tractor-trailer truck smuggled currency back to Mexico.

During the course of the investigation, the SAC Atlanta employed numerous investigative methods to infiltrate the organization, and this multi-jurisdictional, bi-national investigation resulted in the indictment of 41 individuals in the U.S. and Mexico, including a high-ranking member of the Gulf Cartel. Furthermore, ICE and its partner agencies were able to seize over 12,000 pounds of marijuana, 200 kilograms of coke, and almost \$23 million in currency.

In addition to the exemplary casework done by ICE special agents, ICE employs initiatives such as Operation Armas Cruzadas and Firewall, the Container Security Initiative, Vetted Investigative Foreign Units, the Border Enforcement Security Task Forces, or BESTs, the Northern Border Integrated Border Enforcement teams, or IBETs, and intelligence fusion de-confliction centers.

The BEST is an international law enforcement model confronting the multifaceted threat of border-related crimes through the sharing of resources, information and expertise. BESTs serve as a platform from which interagency and our international partners can work together to address cross-border crimes and is the investigative foundation of bulk cash smuggling Operation Firewall and weapons smuggling operation Armas Cruzadas.

They also complement and support the Container Security Initiative, overseas, and IBET program. Both ICE and CBP remain committed to work collaboratively to fulfill our overall homeland security mission. In properly communicating and coordinating our referrals, as well as information gained from those referrals, ICE and CBP can ensure the interdictions are brought to the logical and most effective conclusion, which is through proper investigations that can provide border intelligence and additional opportunities to secure the border and ports of entry.

I would like to thank the subcommittee for its continued support of ICE and its enforcement missions, and I would be pleased to answer any questions you may have.

[The statement of Ms. Ayala follows:]

PREPARED STATEMENT OF JANICE AYALA

#### **INTRODUCTION**

Chairwoman Sanchez, Ranking Member Souder, and distinguished Members of the Subcommittee:

On behalf of Secretary Napolitano and Assistant Secretary Morton, thank you for the opportunity to discuss U.S. Immigration and Customs Enforcement (ICE)'s role in combating smuggling at our land ports of entry through robust interagency coordination. First and foremost, ICE uses its broad federal authorities to meet the challenges of security at the ports of entry by conducting intelligence-driven investigations through collaboration with the intelligence community, and other federal, state, local and foreign partners.



The challenges of conducting investigations in the port environment are many, but not insurmountable. The port and border environments vary by geography, size, and activity. In some instances, the large size of the port of entry makes surveillances a challenge, while a small port of entry invites possible detection by co-conspirators. In the port environment, ICE agents routinely overcome issues of countersurveillance by co-conspirators, internal conspiracies, corruption, and other impediments by utilizing their knowledge of customs and immigration laws, investigative tools, specialized techniques, and law enforcement authorities to initiate investigations into the larger transnational criminal organizations who seek to exploit our borders and ensure their prosecution by the U.S. judicial system. These multi-agency investigations are enabled by robust, crossborder coordination and information sharing amongst our law enforcement partners, especially U.S. Customs and Border Protection (CBP), which positions ICE to respond on a 24/7 basis to any incident at the port of entry or the borders that poses a potential threat to security.

ICE has the largest force of investigators in the Department of Homeland Security (DHS), and we protect our borders by investigating criminal organizations that exploit weaknesses in our legitimate trade, travel, and financial systems to further their illicit enterprises. More than 6,500 ICE special agents detect, disrupt, and dismantle crossborder criminal networks engaged in the smuggling of people, narcotics, bulk cash, and weapons across our borders. ICE is focused on countering the illicit activities that occur at our land ports of entry along the shared border with Mexico and Canada. Furthermore, ICE has the capability to expand the scope of its investigations beyond the domestic 26 Special Agent in Charge offices to the 56 Attache offices situated throughout the world. This worldwide investigative posture and shared initiatives enable us to address security threats before they reach our borders and ports of entry.

Outlined below and explained in detail in this statement are several ICE and DHS programs and initiatives designed to challenge the criminal organizations that perpetuate the criminal activity that threatens the security of our borders and ports of entry. ICE works in concert with its domestic and international law enforcement partners to investigate the smuggling of weapons, narcotics, contraband, and the bulk cash which fuels the criminal activity. ICE capitalizes on its robust authorities and expertise to remain vigilant and adaptive to threats to our borders and ports of entry.

ICE's efforts, along with the broader U.S. Government response to combating smuggling at our land ports of entry, require effective operational collaboration and expanded information sharing with domestic and other foreign law enforcement agencies. ICE facilitates these objectives through unique initiatives, which I will describe later, such as Operation Armas Cruzadas, Operation Firewall, the Container Security Initiative (CSI), Vetted Foreign Investigative Units, Border Enforcement Security Task Forces (BESTs), the Integrated Border Enforcement Team (IBET), the Border Violence Intelligence Cell (BVIC), the Weapons Virtual Task Force (WVTF), and through the use of formal interagency agreements. We also collaborate and share information with federal, state, and local law enforcement partners in national and regional coordination centers. And not long ago, we renegotiated formal interagency agreements with the Drug Enforcement Administration (DEA) and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) to facilitate even closer coordination and expanded information sharing.

#### **IMPLEMENTATION OF THE SOUTHWEST BORDER INITIATIVE**

The Southwest Border is an important area of focus for the Department of Homeland Security, which plays an integral role in implementing the comprehensive U.S.-Mexico border security policy announced by Secretary Napolitano on March 24. Along with the Merida Initiative, the National Southwest Border Counternarcotics Strategy, and the Administration's renewed commitment to reduce the demand for illegal drugs in the United States, the Department of Homeland Security has taken important steps to improve security along the U.S.Mexico border. As first outlined by the Secretary on April 15, DHS has redeployed personnel and technology in order to bolster the federal government's action against cartels on the southwest border. ICE doubled assignments to ICE BESTs; tripled the number of intelligence analysts working at the border; and quadrupled the number of agents designated as Border Liaison Officers to work in close cooperation with Mexican law enforcement. Within Mexico, ICE increased its investigative workforce by 50 percent.

#### **COLLABORATION WITH THE GOVERNMENT OF MEXICO**

Cooperation is a critical piece to effective law enforcement along the borders and at the ports of entry—this includes ICE coordination with its counterparts in Mexico. The violent cartels operating in Mexico are a binational threat that must be dealt with in a bilateral way—both the United States and Mexico must focus on smug-

gling channels that flow both ways across the border. Indeed, earlier this year, President Calderon of Mexico identified the illegal flow of weapons from the United States as one of the greatest security threats to his country. On April 1, Secretary Napolitano traveled to Cuernavaca, Mexico with Attorney General Holder to attend a joint U.S.Mexican conference on arms trafficking. At the conference, the Secretary and the Attorney General discussed future joint efforts to prevent firearms from being smuggled into Mexico from the United States.

Interagency collaboration with the Mexican government is a part of a broader theme of shared responsibility that Attorney General Holder and Secretary Napolitano agree is central to our strategic effort to secure the SWB. Stopping the flow of firearms and bulk cash into Mexico is an important component of the larger strategy to secure our borders from the criminal organizations that use those resources to traffic contraband and perpetrate violence. Comparative to CBP uniformed presence at the nation's borders to stop the flow of firearms and bulk cash, ICE's investigative presence at the ports of entry serves an equally important role to identify, disrupt, and dismantle the criminal organizations engaged in the movement of firearms and bulk cash smuggling. ICE accomplishes this through Operation Armas Cruzadas and Operation Firewall.

**Operation Armas Cruzadas.** ICE has intensively deployed resources for Operation Armas Cruzadas, a comprehensive, collaborative effort with the Government of Mexico (GoM) to identify, disrupt, and dismantle the criminal networks that illicitly transport arms across the border. ICE and CBP have stepped up efforts to interdict southbound weapons smuggling, pursuant to DHS authority to enforce export provisions of the Arms Export Control Act as specifically designated within 22 C.F.R. § 127.4 of the International Traffic in Arms Regulations and to prevent smuggling of weapons in violation of 18 U.S.C. § 554. Under Operation Armas Cruzadas, ICE has implemented numerous activities that promote an intelligence-driven, systematic approach to arms trafficking investigations. Since its inception in 2008, Operation Armas Cruzadas has resulted in the seizure of 1,880 weapons, more than \$7.9 million, 206,412 rounds of ammunition, and the arrests of 257 individuals on criminal charges, resulting in 147 criminal indictments and 96 convictions.

A recent case out of Laredo, Texas, demonstrates the significant impact of our proactive efforts at penetrating Mexican weapons trafficking networks with ties to the interior of the United States. A joint investigation by ICE and ATF began with a seizure of 25 .22 caliber rifles, a 9mm pistol, a 16-gauge shotgun, a 20-gauge shotgun, 100 rounds of 9mm ammunition, and other various parts of disassembled weapons by CBP during an Armas Cruzadas operation. ICE special agents from the Laredo BEST responded with ATF special agents to interview the driver, in which they learned that he was paid to drive the truck to Mexico by a resident of Oklahoma. What followed was a joint investigation between ICE and ATF in which investigators uncovered a conspiracy to purchase firearms in the U.S. illegally and arrange for their covert movement to Mexico.

Based on this collaborative information, ATF agents obtained a search warrant for a residence in Oklahoma and subsequently seized approximately 950 firearms, including rifles, shotguns and handguns, ammunition and approximately \$30,000 in U.S. currency. This investigation illustrates how criminal organizations facilitate the movement of weapons through our ports of entry. However, through innovative initiatives like Operation Armas Cruzadas, coupled with the collaboration of multiple law enforcement agencies and authorities, this criminal organization was unraveled and its future efforts to utilize the ports of entry to smuggle firearms were stymied.

**Operation Firewall.** In addition to addressing weapons smuggling, ICE partners with CBP to combat the illegal movement of cash across the SWB. This currency is the lifeblood of the violent drug cartels; the United States must interrupt the illegal flow of money derived from the illicit narcotics trade and other criminal activity. ICE's Operation Firewall counters bulk cash smuggling through partnerships and close operational collaboration with foreign partners, including Mexico. On the first day of operations in 2005, at the Benito Juarez International Airport in Mexico City, Mexican authorities seized \$7.8 million en route to Cali, Colombia, concealed inside deep fryers, rotisseries and voltage regulators. Other notable seizures in Mexico include \$7.3 million seized inside rolls of fabric and plastic, and \$4.7 million concealed inside air conditioning equipment and metal piping destined for Colombia. ICE and CBP continue to make seizures in the arena of bulk cash smuggling. This September, ICE and CBP analyzed trade data of containerized cargo and seized over \$22 million concealed inside containers in Colombia and Mexico. These seizures demonstrate that criminal organizations continue to utilize containerized cargo as a prime mode of transportation for contraband and the illicit proceeds generated by it.

While ICE can point to many successes overseas in the area of bulk cash smuggling, the work done here at home is of equal importance to identifying, dismantling, and disrupting not only the money laundering components of criminal organizations, but the underlying criminal activity as well.

Beginning in June 2006, and in conjunction with the Drug Enforcement Administration (DEA) Atlanta Division, the ICE Special Agent in Charge (SAC) Atlanta began investigating members of a drug trafficking organization (DTO) based in Northern Mexico, with criminal enterprises established in the McAllen, Texas, and Atlanta, Georgia, metropolitan areas. In particular, this DTO was responsible for the clandestine introduction of large quantities of cocaine and marijuana into the United States from Mexico through the utilization of commercial tractortrailer trucks loaded with legitimate merchandise. The organization also utilized commercial tractortrailer trucks to smuggle currency back to Mexico.

During the course of the investigation, SAC Atlanta, with the assistance of DEA Atlanta, employed numerous investigative methods to infiltrate the organization, including 24 court orders. The results of this multijurisdictional, binational investigation resulted in the indictment of 41 individuals in the United States and Mexico, and included the indictment of a high ranking member of the Gulf Cartel. Furthermore, ICE, DEA, ATF, FBI, CBP, and the Georgia State Patrol were able to seize approximately 12,833 pounds of marijuana, 224 kilograms of cocaine, \$22.7 million in currency, forfeiture sought on 14 properties, and 18 bank accounts.

#### **COORDINATION OF FOREIGN AND DOMESTIC INTERAGENCY OPERATIONS**

**Container Security Initiative.** Announced in January 2002, the CBP Container Security Initiative (CSI) was first implemented in foreign ports that ship the greatest volume of containers to the United States. Under the CSI program, a team of CBP officers and ICE special agents are deployed overseas to work with host nation counterparts to target all containers that pose a potential threat, ensuring that they are identified and inspected at foreign ports before they arrive at the ports of entry in the United States. In September 2002, CSI commenced operations at the ports of Rotterdam, Netherlands and Le Havre, France. There are presently 58 ports with a CSI presence and 28 with ICE Special Agents assigned overseas. As members of the CSI team, ICE Special Agents act as an extension of the ICE Attaché office, gathering information and intelligence to identify, disrupt and dismantle criminal organizations that attempt to exploit the international transportation system.

**BEST.** More than a DHS program, BEST is a law enforcement model that recognizes confronting the multifaceted threat of borderrelated crimes such as narcotics, weapons and human trafficking requires sharing resources, information, and expertise. BESTs serve as a platform from which interagency—and international—partners can work together to address crossborder crime. The BESTs operating on our land borders, at or near land ports of entry, and in major maritime port cities, incorporate personnel from ICE, CBP, DEA, ATF, the Federal Bureau of Investigation (FBI), the U.S. Coast Guard (USCG), and respective U.S. Attorney's Offices, along with other key federal, state, local, tribal, and foreign law enforcement agencies. The Mexican Secretaria de Seguridad Publica (SSP) currently participates in BESTs along the SWB, and Canadian law enforcement agencies such as Canada Border Services Agency, Royal Canadian Mounted Police, Ontario Provincial Police, Niagara Regional Police Service, and Toronto Police Service participate in the BESTs along the Northern Border.

As testament to the success of the BEST, the GoM has agreed to provide representatives to every BEST team on the SWB. Additionally, other GoM agencies and foreign partners are working with ICE to expand their participation in the BESTs, thus enhancing the international scope and participation of the initiative. Since the launch of the Southwest Border Initiative on March 24, ICE has established new BESTs in Las Cruces and Deming, New Mexico, as well as in Detroit and Mexico City resulting in a total of 17 BESTs covering highthreat smuggling corridors.

A major component of the BEST in Mexico City is the use of the joint vetted units. ICE Attaché personnel are working closely with their Mexican counterparts to build specialized, vetted investigative units to focus on bilateral weapons smuggling investigations, and provide an immediate investigative response to weapons seizures within Mexico. These vetted units will address an information requirement gap that currently exists with respect to tracing weapons and exploiting investigative leads. With the establishment of the vetted units, weapon serial numbers will be more consistently obtained and traced within ATF's eTrace database prior to the weapons being turned over to the Mexican military. More comprehensive weapons trace data will facilitate better identification of U.S. sources of weapons. The vetted units will better exploit the seizures through interviews, telephone data/record analysis and

other investigative tools, leading to the identification of crossborder weapons smuggling networks. This information is then shared with BESTs located at the ports of entry to investigate and identify the larger criminal organizations. A robust information sharing platform will facilitate the exchange of leads for coordinated exploitation of U.S. leads by U.S. agencies, and Mexican leads by GoM agencies.

Overall, the BEST model has been very successful. ICE, with the help of our partners, has cracked down on arms trafficking, human smuggling, bulk cash smuggling and narcotics smuggling organizations. These efforts have disrupted cartel operations in both the United States and Mexico. Since July 2005, the efforts of BEST teams, working in conjunction with the Department of Justice (DOJ) and other law enforcement agencies, have been responsible for 2,895 criminal arrests, 3,463 administrative arrests, 1,306 indictments and 1,114 convictions. In addition, BESTs have seized approximately 9,618 pounds of cocaine, 213,553 pounds of marijuana, 1,106 pounds of methamphetamine, 131 pounds of crystal methamphetamine, 1,560 pounds of ecstasy, 263 pounds of heroin, 113 pounds of hashish, 22 pounds of opium, 2,471 weapons, over 365,000 rounds of ammunition, 1,090 vehicles, and \$30.7 million in U.S. currency and monetary instruments.

**Integrated Border Enforcement Team.** In addition to the BESTs along the Northern border, the Integrated Border Enforcement Team (IBET) concept was organized in 1996 and formalized in April 2001 to target crossborder criminal activity along the Northern border with Canada. In November 2006, ICE signed the IBET Charter as a core member and has been involved in the IBET concept since its inception. IBET consists of five core agencies with law enforcement responsibilities at the border. These agencies include: ICE, CBP, USCG, the Royal Canadian Mounted Police, and the Canada Border Services Agency. Furthermore, the IBETs are comprised of multiagency groups of law enforcement officials dedicated to securing the integrity of the CanadaU.S. border while respecting the laws and jurisdictions of each nation. As such, the IBET investigative priorities are (1) national security, (2) crossborder criminal activity, and (3) organized crime related to the U.S./Canada border. Currently there are 23 offices located in 15 IBET regions along the U.S./Canada border.

**National Intellectual Property Rights Coordination Center.** The ICE-led National Intellectual Property Rights Coordination Center (IPR Center) has employed a true task force model designed to optimize the roles and coordinated enforcement efforts of the agency partners to address the problem of counterfeit merchandise. The IPR Center has imbedded representation from ICE, CBP, the FBI, the Food and Drug Administration's Office of Criminal Investigations, and the U.S. Postal Inspection Service. The IPR Center is further supported by the Computer Crime and Intellectual Property Section, Criminal Division, U.S. Department of Justice.

The IPR Center serves as the U.S. Government's primary location—a "One Stop Shop"—for investigations, intellectual property rights holders, counterpart domestic and foreign law enforcement agencies, and the public to submit intelligence and lead-based information for analysis, assessment and investigative referral. The IPR Center also serves as a clearinghouse for deconfliction of all leads generated or received by partner agencies to ensure a timely, coordinated and dedicated response.

The IPR Center also develops enforcement initiatives and provides investigative guidance on a variety of commercial fraud and IPR priority enforcement and targeting programs, including public health and safety, inbound diversion, Fraud Investigative Strike Teams, anti-dumping/countervailing duties, and various bilateral and free trade agreements. Specifically, ICE developed and implemented Operation Guardian, a comprehensive, multiagency enforcement initiative that combines the specific areas of expertise from our partner agencies to investigate illegal importations of substandard, tainted, hazardous and counterfeit commodities posing a health and safety risk to consumers. In fiscal years 2008 and 2009, Operation Guardian resulted in the identification and detention of tainted, counterfeit and/or substandard tainted infant formula, contaminated shrimp and honey, tainted pet foods, counterfeit medical devices, computer components, pharmaceuticals, and circuit breakers.

#### **EXPANDED INFORMATION SHARING WITH FOREIGN, FEDERAL, STATE, LOCAL, AND TRIBAL LAW ENFORCEMENT PARTNERS**

**Border Violence Intelligence Cell.** The Border Violence Intelligence Cell (BVIC) supports the national effort to combat weapons smuggling and stem the surge in violence along the Southwest Border. This unit facilitates timely information sharing with state, tribal, local, foreign, and other federal law enforcement agencies, and serves as the focal point for analyzing allsource intelligence in support of the BESTs and ICE Attaché Mexico offices. Through the BVIC, the BESTs, ICE

Attaché offices, and the U.S.-vetted GoM Arms Trafficking Group exchange crossborder weapons-related intelligence through a virtual intelligence network, creating a seamless investigation of the criminal networks that span the SWB. The BVIC, in cooperation with the ATF weapons desk at the El Paso Intelligence Center (EPIC), serves as the central point for analyzing allsource intelligence and trends in firearms smuggling. Since March 30, 2009, analysts working with the BESTs, in coordination with the BVIC, have produced 213 intelligence reports, over 60 comprehensive target folders, and 114 investigative leads relating to suspected weapons traffickers operating along the SWB.

**Weapons Virtual Task Force.** The Weapons Virtual Task Force (WVTF) is a community of interest within the Homeland Security Information Network—a secure, unclassified web-based information sharing platform. The community was created to assist information exchange between ICE and its Mexican law enforcement counterparts under the Armas Cruzadas initiative. Using the WVTF, law enforcement on both sides of the border can upload and share information pertinent to law enforcement actions along the SWB. While currently in its infancy, it is anticipated that the WVTF system will incorporate any GoM enforcement action results or intelligence developed by Mexican law enforcement related to Armas Cruzadas. The information will then be available for ICE investigators and analysts to view and analyze. Last month, ICE sent a team to Mexico to train Mexican law enforcement on the use of the system. This training is a strong step toward a closer relationship and better information exchange, and will continue as additional users on both sides of the border are added.

#### **FORMAL INTERAGENCY AGREEMENTS**

The successes of the BESTs, as well as Operations Armas Cruzadas and Firewall, illustrate how colocated taskforces and multiagency initiatives can stem the flow of crossborder criminal activity and enhance the security of our ports of entry. Interagency roles, responsibilities and coordination are guided by numerous statutes, presidential directives and formal, interagency agreements. Given the extent of ICE authorities in enforcing the nation's customs and immigration laws, ICE has cooperation agreements with federal, state, local, and foreign law enforcement agencies in order to more effectively leverage our combined resources. I would like to highlight two of the more recent partnerships entered into by ICE. These are the June 18, 2009, Interagency Cooperation Agreement between ICE and DEA and the June 30, 2009, Memorandum of Understanding between ICE and ATF.

**Interagency Cooperation Agreement between ICE and DEA.** On June 18, 2009, ICE and DEA announced an Interagency Cooperation Agreement Regarding Investigative Functions Related to the Controlled Substances Act. Specifically, the June 18, 2009, agreement provides the following: (1) a commitment by both ICE and DEA to share information through mechanisms including the Special Operations Division, the OCDETF Fusion Center and EPIC; (2) authorization for the ICE Assistant Secretary to select an unlimited number of ICE agents for crossdesignation by the Administrator of DEA; (3) delineation of crossdesignated ICE agents' authority to investigate narcotics smuggling with a clearly articulable nexus to the U.S. border, including related transportation and staging activities within the United States; and (4) procedures for deconfliction and operational coordination in both the domestic and foreign counternarcotics environments. The agreement took immediate effect and will be reviewed one year after its initial effective date. In addition, after the one-year review, the agreement will be reviewed thereafter every two years, or at any time, upon written request by either party.

**Memorandum of Understanding between ICE and ATF.** When ICE and ATF join forces through joint investigations or via the BEST teams, both agencies bring balanced authorities to any investigation. The June 30, 2009, Memorandum of Understanding between ICE and ATF established the clear roles that both agencies have over domestic and international trafficking of firearms, ammunition, explosives, weapons, and munitions. The agreement recognized that both law enforcement agencies are actively engaged in the fight against persons and criminal organizations involved in violent crime and gun trafficking.

The agreement requires that ATF report to ICE any information relating to attempted or planned violations of federal law within the jurisdiction of ICE. The agreement imposes a reciprocal requirement upon ICE to report to ATF any information relating to attempted or planned violations of federal law within the jurisdiction of ATF. The agencies also agree to coordinate information concerning firearms and explosives investigations that involve each other's investigative jurisdiction.

Moreover, ATF and ICE will invite each other's participation in any investigations within the jurisdiction of the other. In addition, the agreement sets forth important policies concerning the shared use of human confidential sources of information and

the control of intelligence. The agencies agreed to coordinate efforts as they relate to activities at Federal Firearms Licensees, Federal Explosives Licensees, gun shows, international borders and ports of entry.

#### CONCLUSION

The coordination and information sharing initiatives I have discussed today portray the extensive cooperation currently underway between ICE and our counterparts in CBP, as well as state and local governments, the federal government, and foreign governments and how this is enabling us to address the challenges of security at our ports of entry. Taken together, all of these initiatives represent a substantial advancement towards operating in a truly complementary fashion, by harnessing each agency's particular authorities and expertise in more efficient ways as opportunities arise to secure the border and our land ports of entry.

I would like to thank the Subcommittee for its continued support of ICE and our law enforcement mission. I would be pleased to answer any questions you may have.

Ms. SANCHEZ. Thank you for your testimony, Ms. Ayala.

I will now remind each member that he or she will have 5 minutes to question the witnesses. And I will now recognize myself for the questions I would like to ask.

Mr. Owen, it is my understanding that commercial vehicles found to be carrying drugs have used the Trusted Traveler Programs, such as FAST lanes, to transport those drugs. Is that true? And if it is, how are commercial—are these commercial vehicles carrying cargo with foreign license plates? What is the process to have them—to come into the United States? And how are they tracked within our country?

Mr. OWEN. Madam Chairwoman, under the C-TPAT program, a foreign—a Mexican highway carrier may apply for the program, demonstrate to CBP that it is meeting clearly defined minimum security criteria in terms of personnel screening, conveyance tracking, stuffing of the container, those things. And the driver will also apply for a FAST card, which requires additional background checks on the individual.

There are 93,000 FAST drivers in the country right now, and that includes both borders, the northern and southern borders, and there are 9,400 C-TPAT members. The highest-risk enrollment sector we have in C-TPAT are the Mexican highway carriers.

There were 71 incidents involving C-TPAT members over the last 2 years, and 35 of those involve Mexican highway carriers, so that is our area of most concern, are the individuals driving the trucks that come in from Mexico. Taken again in its totality over those 93,000 drivers, those 9,000 C-TPAT companies, incidents of these are very, very infrequent, but we do take them very seriously.

We will suspend the companies out of the program. We will revoke the FAST driver's license or the FAST cardholder's license until we conduct what we call a post-incident analysis to figure out where the breakdown occurred, if it was just a rogue driver that deviated from the policies and the procedures of the company that he employed or if there is a more systemic issue.

So while the incidents are very infrequent, they are very significant to us, and we take them as such.

Ms. SANCHEZ. Now, I remember with respect to C-TPAT, when we were working in the cargo containers at the water ports, that the program had a lot to be desired as far as our ability to—as I recall in the program, a company which did a plan, and in some cases we would put it on a shelf, and we wouldn't take a look at

it, and we didn't have any audits going on. We wouldn't go into the company to see if, in fact, they were following that, if there were—obviously, if there weren't initial audits, there were no follow-up audits going on, and we have gotten to very few of those companies with respect to the containers.

Can you talk a little bit about where we are, how often we audit, what is the process with C-TPAT, as it applies to these carriers that are bringing things across—cargo across the land borders?

Mr. OWEN. Yes, ma'am. In the first years of the C-TPAT program, in 2003–2004, we did struggle with staffing. The program was very well received by the trade community, and we were, quite frankly, overwhelmed at the number of applicants.

Since that time, beginning in 2005, we significantly added staffing. We went from 38 supply chain specialists in the early years. We have 200 specialists now. We had three C-TPAT offices nationwide. We now have seven C-TPAT field offices. These employees perform the most critical work, which, as you mentioned, is the verification that the plan they gave us in paper has, in fact, been adopted and implemented throughout their supply chains.

To date, we have now performed over 12,000 foreign validations, so 12,000 times C-TPAT specialists have traveled overseas to look at the point of stuffing, to look at the drayage or the movement from the point of stuffing to the sea port, worked with the sea port and the terminal operators, making sure that whole supply chain is secure. So we have come quite far from where we were in those early years where we were doing very few validations.

As to your question, as to the routineness of the validations, if you will, because Mexico is our greater threat sector, we revalidate those companies every year, and we also do unannounced validations or spot checks, if you will, on some of the facilities.

The unannounced efforts are something that we just started within the last year after a recommendation from GAO in 2008 that said you really need to take the program to the next level. You need to do more robust validations, more spot checks, those types of things.

So the rest of the members outside of the C-TPAT Mexican companies are required to be validated once every 4 years by the SAFE Port Act. And, in fact, we revalidate them once every 3 years, so we are a little bit ahead of the game with that. But the Mexican segment does pose our greatest risk, and we do revalidate them every year.

Ms. SANCHEZ. Mr. Owen, I am also concerned about the growth of our forces, if you will, in looking at cargo and people coming across the border, especially at the land border. We have really increased the size of our force, which has brought in a lot of new people. We hired a lot of these people during a time when unemployment was low, so we were really fighting to try to get people in, to train them, et cetera.

And I am a little worried about the increase in corruption that we have seen. I know in 2007, we had eight confirmed cases of corruption among those people who are working on the front line for us. And in 2008, we saw 21 confirmed cases.

So can you explain to me, without giving out any big information, but just to let us know what type of a system you have got in place

to target and weed out corrupt officers? How do you incorporate anti-corruption into agent and officer training in the culture at CBP? And have there been any cases where outside groups have infiltrated into the CBP?

Mr. OWEN. In terms of our Office of Internal Affairs, over the last 2 years, they have significantly increased their staff of criminal investigators in Washington, as well as throughout the country. I believe we now have over 200 investigators just within our Office of Internal Affairs.

They have also come up with a comprehensive strategy that begins with the employment screening of an applicant trying to obtain a job within CBP, and we are using polygraphs for some critical candidates in certain key positions. There are also analytical tools that we employ to identify certain trends within officers' activities while on the job that may indicate an area of concern for us.

So we do recognize integrity is a very critical aspect of what we are doing. We cannot have a solid security program if the weakest link is the officer at the front booth. So our internal affairs office does take this very impressively. We have increased staff, and they do, again, have some analytical tools that work to identify trends that need to be looked at more closely.

Ms. SANCHEZ. I have a lot more questions in that arena, but I will ask my ranking member now, Mr. Souder of Indiana. The gentleman is now recognized for his questions.

Mr. SOUDER. I have a number, as well, but I have a couple of follow-ups. One is, why aren't all employees polygraphed? In most law enforcement agencies, all applicants are polygraphed. Why haven't we implemented that in CBP?

Mr. OWEN. Well, I would have to defer that question back to our Office of Internal Affairs, but I know it is something that we are doing for the critical key positions as they are entering, but we can take that back—

Mr. SOUDER. What is a critical position?

Mr. OWEN. Again, I would have to defer to our Office of Internal Affairs—

Mr. SOUDER. Please provide to the committee the definition of critical and the status of the investigations Law enforcement officers are routinely polygraphed. It is not a perfect system, but it is usually just part of the hiring process. "It has been intriguing why we haven't done that, as we have ramped up concerns about the border and ports of entry. It is not to question the overwhelming majority, but the problem is the more you hire, the more risk you have, and it is something we normally do in law enforcement.

I also wanted to ask Ms. Ayala, a ballpark here today and get back to us, with what percent—and you might want to break it by major and minor—what percentage of the things that we find at the border, whether it be narcotics, other illegal contraband, people on terrorist watch lists, and so on, but particularly contraband, come from a tip or an investigation as opposed to a cold hit?

It is important to do a cold hit, to make sure, but I am wondering what kind of the balance is.

Ms. AYALA. I think it would be difficult to give you percentages, because I think it varies depending on what area you are in, as far



as offices and the level of non-discretionary work versus discretionary work that they have, as far as response to large ports of entry or to airports or sea ports. But we do have a variety of different ways, and we try to maximize each and every opportunity, whether it be from a cold hit so that we can respond and make sure that we develop the information that we need to identify the organization, the domestic and the international arena, and then be able to feed back that information to CBP to then affect other interdicted activity.

With that said, we also work with the interagency, through a task force environment, such as a BEST and so forth, to look at local area threats and how we can maximize our efforts in developing proactive cases.

So I think it would be difficult to give you percentages overall. It may be just, again, depending on—

Mr. SOUDER. What if I narrow my scope of my question? Most commercial trucks come at El Paso and at the Otay Mesa commercial of entry, And if you take the Otay Mesa entry, the El Paso entry, the Buffalo, Detroit, and maybe the biggest in Arizona, and those ports of entry on major cases and—or a significant find, hopefully you are—like you say, if you get a cold hit, you go the other direction.

Because when we are dealing with, for example, most major trafficking organizations in the United States, in cities, or whether we are dealing particularly in narcotics, which I am most familiar with, coming through the Caribbean or through, almost all those are investigations. And if the overwhelming majority isn't from a tip, the question is, are we working that structure hard enough?

To me, in other words, it is not if we are getting a significant percentage on a cold hit, then we need more investigators.

Ms. AYALA. We do get a significant percentage from cold hits in order for us to be able to respond to those incidents. Whether it be at, again, these busy ports of entry, of course, then we need a larger investigative force to attack that issue. And then we currently do that through our current ICE investigators and through force multipliers through other task forces.

But while that tip is important, that initial seizure, we really do—our goal is to identify the entire organization, which, then again, takes additional resources not necessarily at those ports of entry, but in the interior of the United States and abroad to bring the complete conspiracy to light and the case to a complete fruition.

Mr. SOUDER. I will see. I may have some follow up to that.

Mr. Owen, given the fact that truck traffic is significantly down the last few years, what are you doing to make sure, during this period where we have less traffic, that we are trying to expand the FAST lanes? I have seen it in a few locations. What I have seen is much about being things—projects being delayed as I have seen stepped up.

What are we doing at these critical crossings? Because, clearly, the long waits are at a few major ports. We have shorter waits at some of the smaller ones.

Mr. OWEN. Yes, sir. And you are right. With the economy being down, we still see about 57,000 trucks and sea containers, rail con-

tainers that cross the border every day. So even with the downturn in economy, the volume is still significant.

Through the deployment of additional non-intrusive inspection equipment, we have actually been able to increase our exam rate in 2009. We examined 25 percent of the trucks using X-ray or gamma ray in 2008. We are up to 30 percent this year. So we are doing a good job, I think, of meeting those twin responsibilities of security, yet facilitating the trade.

To your point as to the infrastructure, even if we have 20 booths at the port of entry and all 20 are staffed, if it is a two-lane highway leading from Mexico into the port of entry, you are going to have the backups. So I agree with you that the solution is not necessarily infrastructure within the port of entry, although that needs to be updated. The average age of the ports are more than 40 to 45 years old. But the infrastructure leading up to the port and out of the port is just as critical as the booths that we have within the actual port of entry.

Mr. SOUDER. It is not like this hasn't been a problem for a long time in Detroit and Buffalo. Do you coordinate at all with other stakeholders. Are we pushing that to be resolved? Because the counter push is to weaken inspections because we have no capacity.

Mr. OWEN. Yes, sir. And we do work with the Canadian government, as well as the stakeholders. Each crossing is a little different as to whether it is owned by a private bridge owner or a GSA facility, a CBP-owned facility. But we do work with all of the stakeholders to try to address the infrastructure challenges and not have a negative impact on the wait times and definitely not compromise our enforcement mission because of the—because of the backups.

Mr. SOUDER. I yield back. Thank you.

Ms. SANCHEZ. Thank you, Mr. Souder.

I will now recognize my colleague from Laredo, Mr. Cuellar, for 5 minutes.

Mr. CUELLAR. Thank you, Madam Chair. Thank you for having this meeting.

Ms. Ayala and Mr. Owen, thank you for being here with us.

The number of 18-wheelers coming across are tremendous. I mean, just in my hometown of Laredo, as you know, Ms. Ayala, there is about, both ways, 12,500 a day, 18, you know, cargo. That doesn't include the railcars, doesn't include air cargo coming in. So I can understand the pressure, and I certainly appreciate the work that Treasury Union and some of the other folks have been talking about, trying to get more men and women in blue. I have always said, we need the men and women in green, but we need the men and women in blue, also. So we are hoping we can work with you.

Mr. Owen, do you have, quickly, the amount of money we should adequately have in—when we are talking about men and women in blue, to properly staff our ports of entry, both south and north? I know the other administration didn't want to give us, and they told me off the record why, but can you tell us what we should be staffing it at?

Mr. OWEN. I know for each of our crossings we do have figures as to what is our appropriate staffing at those locations. And we do work very aggressively to try to make sure that the attrition

rate is not significant enough where it is negatively impacting the workforce that we have there.

I think two positive changes to help us attract and retain CBP officers, as well as Border Patrol agents, in July of 2006 with the passage of the enhanced retirement for the CBP officers, that definitely helps us retain the officers.

Mr. CUELLAR. Well, let—well, let me ask you this question. Could you, in private or whatever the terms might be, show the committee later what the staffing models should be for each level, for each port of entry? I am kind of curious to see what we are looking at. And for two good reasons, I am not going to put it out there, but I would like the Madam Chair to see that later, see what the proper staffing should at each port of entry, number one.

The other thing is, I have talked to the two rail companies that come through Laredo. And I think this applies also to the C-TPAT, also, where my understanding is what the drug cartels are doing now, is they are looking for, instead of trying to have somebody walk through or put them in a car, they are looking at the 18-wheelers, the cargo and the railcar, also.

I know that the—just yesterday, I was talking to one of the rail companies that were complaining, because they were saying Homeland is fining us when this is happening across the river, so why are they fining us? And at the same time, I can understand where there has to be some responsibility, corporate responsibility.

It is an issue that I would like to follow up at a later time, because I know we can talk about that, but, you know, they are looking for FAST, C-TPAT, railcars, where they think they can go in. And if you put the probability chances—okay, we get caught once, it is okay. We got another truck coming in or we have another way or—you know, you all really need to look at that and see how we can get more of the corporate involvement.

I know they are trying hard, but that is what is happening. And we know that is what is happening, the railcars and, of course, this, because it is a concern, especially in an area like Laredo. I mean, if you got 12,500 trucks a day—and I know they are both ways—I mean, that is a lot of vehicles, and you have got to provide the security while at the same time not create those long bottlenecks that we have seen for miles sometimes.

Mr. OWEN. Yes, sir. Yes, sir. We are concerned with the smuggling on the rail, and we are working cooperatively with those two rail carriers that you addressed.

As for the penalties that are issued, the carrier has a responsibility to ensure to do everything within their possibility—that there are possible to make sure that the conveyance has not been compromised. That is just the section of the law where we—they are subject to the penalties.

But I will tell you that there are provisions for us to offset some of those penalties and an acknowledgement of the security enhancements that have been made, so we are working cooperatively with the rail carriers on that.

I would also like it noted, too, that the eight rail crossings that we have from Mexico, all of them are equipped with non-intrusive inspection equipment, so we do X-ray 100 percent of the railcars that are coming in from Mexico. It allows us to very effectively find

any illegal aliens that are attempting to make entry, as well as many of those narcotic interdictions that you are referencing, sir.

Mr. CUELLAR. The case in 2008 where there was this lady that—I think your internal affairs got for importing drugs, where drug cartels are recruiting people to get hired by you. That is—as some of the other members said, that is something that you have got to look at very carefully, because—and in Mexico and other places, they have done a good job at infiltrating law enforcement, and I am sure that doesn't stop across the river.

So you are going to have this concerted effort to—where those drug cartels are going to recruit to get people in, in the inside. So whatever you all need to do to—you know, your internal affairs and whatever counter work you all need to do, that is a big concern, because if they are doing that across the river, I don't see why they are not going to continue that.

But I want to thank Ms. Ayala. It is always a pleasure seeing you again.

Mr. Owen, thank you for the work.

Ms. SANCHEZ. I thank my colleague from Texas.

We will now hear from the young lady from Arizona, Ms. Kirkpatrick, for 5 minutes.

Ms. KIRKPATRICK. Thank you, Madam Chairwoman.

Mr. Owen, as you know, trucks that are coming from Mexico northward into the United States are routinely stopped at some point and subjected to some type of check. But southbound vehicles routinely drive right through without stopping.

My concern is about the illicit trafficking of weapons and cash southbound. And so my question is, do you currently have a plan to stop southbound traffic in the same way that you do northbound? If so, where are we in the implementation of that plan? And do you require additional resources from Congress to make that happen?

Mr. OWEN. Thank you. Yes, ma'am. With the southbound traffic, you are right. The challenge there is the infrastructure. Unlike ports of entry when you are entering the United States, in most cases there are not booths where the trucks will slow down and be interviewed by a CBP officer, present certain documents. It is usually just highway, straight open into Mexico. And that makes our challenge very difficult.

We have increased our level of outbound inspections, both not only in passenger vehicles, but in buses and bus—and trucks. We have significantly increased the level of currency that we have seized this year since we began this initiative in March. I believe on the southwest border last year, we seized approximately \$10 million. And in the fiscal year that just ended at the end of September, we were up to almost \$38 million just in bulk cash going out into Mexico along the southwest border.

So the infrastructure is a challenging piece for us. The making sure we have the sufficient dedicated resources to direct towards outbound is important. But I would also note that the Mexicans share responsibility here, as well. The Mexican government also needs to build up their capacity to do more inbound inspections, as the trucks are leaving the U.S. heading into Mexico itself.

Ms. KIRKPATRICK. And is anything happening with that from the Mexican side?

Mr. OWEN. Yes. Yes, we have different working groups with the Mexicans. The Mexicans are securing additional technology. They are making some personnel changes within their customs service and things like that, so they are doing more southbound inspections in certain locations.

We are better coordinating our outbound efforts and their inbound efforts so that the smugglers cannot just wait us out or move down the street, down the road to another crossing, so there is a much higher level of engagement with the Mexican government now, particularly in the last year, as we have been focusing more on outbound.

Ms. KIRKPATRICK. And do you have the resources you need to make that happen, to really inspect the southbound as you wish, pursuant to your plan?

Mr. OWEN. Well, again, the infrastructure is not there. And even our inbound ports are very outdated and not equipped for the volume of today and not—definitely not equipped for the post-9/11 security environment. So resources are a challenge both at the current inbound ports of entry, as well as outbound, yes, ma'am.

Ms. KIRKPATRICK. Thank you.

Ms. Ayala, each year, huge amounts of narcotics are trafficked into the United States through the ports of entry along the southwestern border while the Border Patrol which defends the areas between ports of entries has doubled in size over recent years. OFO and ICE have remained comparatively stagnant. This makes it all the more important to maximize existing resources, and one way to do this is to ensure that the federal agents at the border have the full authority to investigate drug offenses.

Over the summer, ICE and DEA signed an MOU that was expected to provide ICE with a far greater authority to enforce Title 21. Please tell me where you are in implementing this agreement and whether it is having the intended effect.

Ms. AYALA. We are currently vigorously working with DEA to finalize those local protocols. As you know, we are working to salvage those protocols between 26 Special Agent in Charge offices with very different areas of responsibility. And even within those individual SAC offices, the landscape is completely different, as far as land ports of entry, maritime distances, and resources, among DEA and ICE.

We are very close in finalizing those agreements, and what we want to do is make sure that they are flexible enough and not rigid, where it locks us into having one protocol in one area where there may be mature de-confliction centers, the same as in another area where they are not, when we may need to use other mechanisms.

Just last week, we participated in a meeting with DEA, and we are very close to finalizing those protocols.

Ms. KIRKPATRICK. And when you say "very close," I mean, are you thinking by the 1st of next year, or what is your timeline?

Ms. AYALA. I think yes, but I will get back to you on exactly the timeline.

Ms. KIRKPATRICK. Okay. Thank you. Thank you both very much.

I yield back.

Ms. SANCHEZ. Okay. Now for the young and gentlelady from California, Ms. Harman, for 5 minutes.

Ms. HARMAN. Madam Chair, you make my day. I came over here to be called young.

I also came over to commend you and the ranking member for an excellent set of hearings over this term of Congress on issues like this. This committee punches above its weight on—this subcommittee on the full committee. And I just want you to know that I am proud to be a young member of it.

So then, our borders. We have had a lot of conversation about the southern border. I think about the northern border, because that is where Ahmed Ressam was intercepted by a very astute CBP agent in 2000. And his intention, so the legal charges and conviction state, was to bring his trunk full of fertilizer down to my district and to blow up LAX, the international airport in my district.

So I want to commend you for the work that you did, but I also want to point out that that work was not done by technology. I don't think it was done by dogs, if I remember it. It was done by someone who could really assess suspicious behavior. I see a number of you nodding, so I think I have nailed it.

So my question is about, how are we doing on improving our tradecraft, on recognizing suspicious behavior? As we all know, the Israelis are really good at this, so I want to know if the Americans are really good at this.

Mr. OWEN. Well, for the front-line CBP officers, yes, we do provide advanced, if you will, behavioral-type analysis, training so they can recognize the verbal and non-verbal cues as we are going through the interviews at the primary. And you are right. It was not technology; it was not a canine. It was the knowledge, the experience, and the intuition of that officer that was successful of that.

So I think we are doing a strong job of giving our officers the training that they need to recognize those cues. And ultimately, again, it does come down to the instinct and the experience and the training of that front-line officer.

Ms. HARMAN. Any other comments on this? I think you need to turn your mike on.

Ms. AYALA. I just wanted to say, as far as the northern border, that both ICE and CBP are very much integrated into the northern border, integrate border enforcement teams that share intelligence and look for gaps along the northern border between the ports of entry.

And, of course, we have three border enforcement security task forces that are located on the border in Blaine, Detroit and Buffalo, and we are working very closely with our Canadian counterparts, the Royal Canadian Mounted Police, the Canadian Border Services Agency, Ontario Provincial Police, Windsor Police, Niagara Police, on all cross-border crime and threats to our ports of entry.

Ms. HARMAN. Well, I appreciate that. And I recall a really chilling video produced about 5 years ago by the Nuclear Threat Initiative that showed a truck loaded with a radiological bomb go driving across an essentially unguarded border point in the north.

I am not saying that—well, that was the point of this video. And that is sort of the last shot. And in enters the radiological bomb. So I worry about this a lot.

I don't think 100 percent protection can be achieved. Perfection is not possible. But risk management has to be the approach. And that is why I say that recognizing suspension behaviors and especially integrating your operations and information sharing are a good start.

Is there anything else along the northern border that we should be paying attention to that we are not or any other help you need, in terms of—I am sure you could use more money, but anything else you need from Congress with respect to assuring that you manage risk as well as you possibly can on our northern border?

Mr. OWEN. If I could just make one comment about the crossings and the radiological detection, in about 3 weeks, we will reach a milestone on our border with Canada. We are deploying the final few radiation portal monitors. So the first week of November, we will have 100 percent coverage of all of those crossings, so every passenger vehicle, every truck that is now entering from Canada will have to first pass through a radiation portal monitor. So I think that is an important layer that we have been able to deliver on.

Ms. HARMAN. Well, I agree with that. We have a number of radiation portal monitors at the ports of L.A. and Long Beach. And I know that the chair of the subcommittee and I have visited that many times. That technology is, again, not perfect, even in its second generation, but I appreciate everything you do, and I really want to commend you for being one of the bright spots in our evolving efforts to protect the homeland.

Thank you, Madam Chair.

Ms. SANCHEZ. I thank my colleague from California.

Ms. Ayala and Mr. Owen, I have one question that I would like to make before we bring the next panel up. Can you go through what it looks like and if there is a difference from the northern to the southern border, what it looks like—what is the process? Let's say I am a trucker bringing in, I don't know, tomatoes from Mexico and I am bringing them into California. What is the process I have to go through, especially if I am in FAST or something like this?

Does my company—you just—I know I have read everything, but the company has to get certified if they want a FAST entry. I have to have a background check and get certified. What about taking a look at who—is there a safety check on the actual vehicle? Is there a random check in the FAST when I go through?

And what is the difference between my going through a lane like that, let's say, and not being able to get those types of documents or pass those types of tests, in the sense that I have to go through the regular line? And can you tell me if there is a difference between what we really see in a practical sense, what happens at a San Ysidro, for example, versus what might happen coming into Michigan from the north?

Mr. OWEN. Well, on the land borders, whether you are importing from the north or from the south, the foundation, first off, is what we call an e-manifest, an electronic manifest. So we receive information before the truck gets at the booth, okay, information on the

driver, information on the cargo. The entities are involved. That is different than 3 years ago. Three years ago, the truck would pull up to the booth, hand the officer a piece of paper with some of that information. He would start to run his checks.

So through the e-manifest program, as part of our automated commercial environment, we now receive that ahead of time, 60 minutes ahead of time for a non-FAST shipment, 30 minutes ahead of time for a FAST shipment. That gives us time to do more analysis, to run it through our systems, to be ready for when that truck appears, all right?

Once the truck is there, then, again, the officer will do his thing. If he feels that there is no risk, the truck will be on its way. If it is a secondary, it will be sent over.

Prior to this process, in an area where we call pre-primary, is where you will have the canines working, perhaps. You will have the anti-terrorism contraband enforcement teams doing checks, talking to the driver. So there is that pre-activity before the booth.

The only real difference between, again, a FAST shipment and a non-FAST shipment, as you mentioned, a FAST shipment, all of the entities have to be in C-TPAT. So you have the importer that is in C-TPAT, the highway carrier, the Mexican manufacturer, and then the driver has to have a FAST car.

What that affords them, again, is dedicated lanes which will expedite the release of that cargo. We also focus our inspections more so on our non-FAST lanes than our FAST lanes, because, again, the FAST universe is more known than the unknown FAST. But everyone in FAST is still subject to inspection if there is cause or concern, still subject to the canines, and we will do different types of random enforcement operations. For the next hour, for example, everybody in the FAST lane is going into secondary to do those randoms.

So we do build in quite a bit of random activities, even in the FAST lanes, just to make sure, you know, everybody is staying honest and we are not overlooking anything in those lanes.

Ms. SANCHEZ. And this happens both at the Canadian and the—

Mr. OWEN. Yes, both at the Canadian and at the southwest border crossings, as well.

Ms. SANCHEZ [continuing]. Southwest border.

Mr. OWEN. Yes.

Ms. SANCHEZ. Mr. Souder, it looks like you have a follow-up question or a question there?

Mr. SOUDER. If I could, it is from your first comments, Mr. Owen, but it relates to this. Did you say you had 61 people who violated the FAST lane?

Mr. OWEN. There were 71 FAST cardholders in the last 2 years, yes, sir.

Mr. SOUDER. And what percentage of those were on the Mexican border versus the north border?

Mr. OWEN. I believe it was 35 of the 71, about 50 percent were Mexican, and the Canadian—I am sorry. Let me double check here. I am sorry. The FAST was 35 drivers; 71 was the C-TPAT numbers that I was giving you. So from the FAST drivers, we had had



35 incidents; 29 of those were narcotics-related, 4 were currency smuggling, and 2 were alien. So a very small percentage of drivers.

Mr. SOUDER. And are those—looking at the 35 and 71, what was the north-south split?

Mr. OWEN. I don't have the north-south split, but I can provide you those. My instinct would be that the majority of those were on the southern border.

Mr. SOUDER. And on the 35 and the 71, both those cases, what percent were larger companies? You suggested that most of these were single-truck operations or small companies.

Mr. OWEN. I don't have that information, but we can provide that as to the scope of the—

Mr. SOUDER. Because this is—

Mr. OWEN [continuing]. The trucking company.

Mr. SOUDER. This comes at the core of something that I felt for some time when we did a number of hearings on the border in another committee when we were in the majority. We have representatives of the Canadian trucking association and the American Trucking Association that said that for expediting, they would take even double penalties if they violated FAST.

Now, you have to address things like what you said. I mean, did you have a rogue driver who loaded the trailer, but the corporation has to do that and take some responsibility for making sure what kind of drivers they have and so on. And one thing would be enhanced penalties.

Now, the question here is, if very few of these were a traditional company, it would suggest that in these larger trucking companies in the United States, that we really don't have a huge problem and that, in fact, our attention on investigations and trying to clear a FAST lane person is much more targeted. What you are really looking at, much like you do when you check cargo or do an investigation is, what is the risk of this? What do we have known with them?

And that the ones that are getting through may not be really a trucking problem. We may be able to expedite some of this with fewer checks, faster processes for companies that have no track record. They still need to be checked, but that if 90 percent of your problem is in one area and we have got the whole thing tied up because even for random traffic coming over for dinner, particularly at some of these crossings where you don't have enough lanes, you get trucks jamming up people for an hour when it is really we don't have a big enough truck lane to get them out.

Can you provide that data to see how many of those were what we would call major trucking companies?

Mr. OWEN. Yes, I do know offhand that we have found drivers in very large companies that were involved in the smuggling, as well, so I don't think it is isolated to just the small trucking companies from Mexico.

I think, unfortunately, the weakest link in any of these companies could be that driver. And we have seen it break down on large companies, as well as small companies.

Mr. SOUDER. And how much did those—would independent—

Mr. OWEN. Yes, sir.

Mr. SOUDER. I would like to see some kind of a breakout on targeting, and then you can zero in and figure out what we might do, enhance legislative penalties, if you can identify the problem.

Mr. OWEN. Yes, sir.

Mr. SOUDER. Thank you.

Ms. SANCHEZ. Mr. Owen, is there a safety check and who performs that? And is that random at the border? And who is checking? I mean, you know, I am also worried, you know, that these—some of these drivers are overworked, they haven't slept, and they are coming out into California.

I had an accident where a Mexican driver slammed into a van on our freeway and, you know, that van had nine people in it and it burnt them all to death. So where do we—where does that happen in the system, also?

Mr. OWEN. The safety checks come after it has cleared the customs compound, if you will, by the state transportation officials, so that is a state responsibility. It is not a CBP responsibility. But most of those facilities, as the trucks leave the compound, you will see the state DOT has got their compounds right after it leaves the exit, if you will.

Mr. SOUDER. And is it your experience that most of those trucks have to go through that? And has there ever—is it infrequent or frequent that maybe, while they are doing these safety tests, they might come across contraband or, you know, weapons or whatever else that is being—

Mr. OWEN. Yes, I can't speak to the frequency. I am not familiar with that. But I do know that every once in a while they will detect a load of narcotics that was not caught at the border, and we work very closely with the state highway patrol, depending on what state it is, like that, work with our criminal investigators, with ICE to track that down.

So we do have a good relationship at the border with them, but I am not familiar as to how much actually gets sent or what their targeting methodologies are.

Ms. SANCHEZ. Okay. Thank you.

Ms. HARMAN OR Ms. Kirkpatrick, before I release this panel, any questions?

Mr. Souder, you are fine?

Thank you very much for your testimony before us today. We really appreciate it.

And now we will ask the second panel up. Thank you.

And I welcome the second panel of witnesses. Our first witness is Ms. Colleen Kelley, the leader of the National Treasury Employees Union, NTEU, and it represents workers in 31 government agencies, including the U.S. Customs and Border Protection Officers and employees. As the union's top elected officer, she leads the union's efforts to advocate for federal employees and represents NTEU with the agencies in the media and, of course, before Congress.

Welcome.

And our second witness is Mr. Stephen Russell, who has been chairman and chief executive officer of Celadon—did I say that correctly—trucking services since founding the company in May of 1985. Mr. Russell is a member of the American Trucking Associa-

tion's executive committee and serves as the chairman of the audit committee. He previously was chairman of the homeland security policy committee.

Without objection, your full statements will be put into the record, and I will now ask Ms. Kelley to summarize her statement for 5 minutes or less.

**STATEMENT OF COLLEEN M. KELLEY, NATIONAL PRESIDENT,  
NATIONAL TREASURY EMPLOYEES UNION**

Ms. KELLEY. Thank you very much, Chairwoman Sanchez, Ranking Member Souder, and committee members. I appreciate the opportunity to testify today.

NTEU represents Customs and Border Protection officers, CBP agriculture specialists, CBP seized property specialists, and CBP trade enforcement and compliance personnel at all 327 ports of entry, land, air and sea.

CBP front-line employees at these ports of entry, as has been noted, have twin goals: anti-terrorism and facilitating legitimate trade and travel. A major challenge of this mission is securing the movement of goods without costly wait times and delays.

On the one hand, CBP officers and agriculture specialists are to fully perform their inspectional duties; yet at all times, they are made aware by management of wait times. In land port booths, wait times are clearly displayed.

Now, technology has helped to improve the length of wait times. With the use of these new technologies, the average inspection time per vehicle, as reported by CBP, is 30 to 45 seconds in regular inspection lanes and, in the expedited inspection lanes, like the Free and Secure Trade, or FAST, truck lanes, the average processing time is 15 to 20 seconds.

NTEU has confirmed with talking with front-line CBP cargo security personnel that these cargo inspection times per vehicle cannot realistically be further shortened. CBP's continuing emphasis on reducing wait times without increasing staffing at the ports of entry creates an extremely challenging work environment for front-line CBP personnel.

It has been reported that a September 2009 draft report that the Homeland Security Advisory Council created—that was created by Secretary Napolitano to review commerce and security at the southwest border ports of entry has made the same recommendation as NTEU—more staffing is needed in the ports of entry—and has recommended that Congress fund CBP to hire more CBP officers for ports of entry.

CBP's own 2007 staffing model shows that several thousand additional CBP officers and agriculture specialists are needed at our ports of entry. NTEU has repeatedly and continues to call on and ask for help from Congress for an increase of at least 4,000 new CBP officers in order for CBP to achieve this dual mission.

In the past, CBP staffing shortages at the ports has been exacerbated by challenges in retaining staff, contributing to an increasing number of CBP personnel vacancies. CBP and Congress are to be commended for taking two steps at the urging of NTEU to greatly improve recruitment and retention of CBP personnel at the ports.

In 2008, Congress prospectively provided to CBP officers the same law enforcement retirement benefits that other armed uniformed federal law enforcement officers receive. And just last week, CBP administratively gave CBP officers and agriculture specialists an increase in their journeyman pay level from a GS-11 to a GS-12. Both of these measures were hard won and well deserved.

NTEU believes that an initiative of the previous administration that consolidated the roles and responsibilities of the CBP inspectional workforce at the ports of entry, which they call One Face at the Border, has actually resulted in a large expansion of the duties of each officer and has led to the dilution of the customs, immigration and agriculture inspection specializations, thereby threatening the quality of cargo inspections. We believe that inspection specialization should be reinstated in this workforce.

NTEU also recognizes that infrastructure impediments plague the operations at the land ports of entry and contribute to wait times and to costly delays and secure movement of cargo. Many infrastructure improvements are already underway at the U.S. land ports of entry, but all infrastructure projects take years to plan, to fund, and to implement, while increasing the number of CBP frontline personnel to address cargo security at the ports would bring immediate results.

In conclusion, NTEU agrees with a leading report on CBP's challenges and opportunities that says that the U.S. ports of entry have been underfunded and understaffed for years. And we recommend the following: One, fill all vacancies and increase CBP officer and agriculture specialist staffing to those levels in CBP's own staffing model and has been recommended—as has been recommended by the Homeland Security Advisory Council report to the secretary.

Two, fully staff all existing lanes at the ports of entry to capacity. Three, end the One Face at the Border initiative and re-establish specialization of prior inspectional functions.

Four, extend the GS-12 journeyman pay to CBP personnel not included in the recent increase. Five, extend law enforcement officer retirement benefits to the CBP personnel not included in the 2008 legislation. And, six, require CBP to submit yearly workplace staffing models that include optimal staffing requirements to fully staff all of the lanes at every port of entry.

Thank you, and I would be glad to answer any questions you have.

[The statement of Ms. Kelley follows:]

PREPARED STATEMENT OF COLLEEN M. KELLEY

Chairman Sanchez, Ranking Member Souder, I would like to thank the subcommittee for the opportunity to testify on cargo security at the land ports of entry. As President of the National Treasury Employees Union (NTEU), I have the honor of leading a union that represents over 22,000 frontline Customs and Border Protection Officers, CBP Agriculture Specialists, CBP Seized Property Specialists, and CBP Trade Operations, Revenue, legal and administrative personnel who are stationed at 327 land, sea and air ports of entry (POEs) across the United States, 15 Preclearance offices in Canada and the Caribbean and CBP headquarters.

CBP enforces the import and export laws and regulations of the U.S. federal government and conducts immigration policy and programs. Ports also perform agriculture inspections to protect the U.S. from potential carriers of animal and plant pests, or diseases that could cause serious damage to America's crops, livestock, pets, and the environment. NTEU-represented CBP Officers, CBP Agriculture Specialists, and CBP trade personnel are our nation's first line of defense in the wars

on terrorism and drugs, contraband smuggling, human trafficking, agricultural pests, and animal disease while at the same time facilitating legitimate international trade and travel.

On a typical day based on fiscal 2008 data, CBP Officers, CBP Agriculture Specialists and CBP trade personnel at the POEs arrested 73 suspected criminals, executed 614 refusals of entry, intercepted 76 fraudulent documents—1 for terrorism related/national security concerns; processed 1.09 million passengers and pedestrians, processed 331,000 privately owned vehicles, processed 70,451 truck, rail, and sea containers, processed \$90.4 million in fees, duties and tariffs, seized more than 7,621 pounds of illegal drugs, seized \$295,829 in undeclared and illicit currency and intercepted nearly 4,125 prohibited agricultural meat, plant materials or animal products and 435 agricultural pests.

#### **LAND PORTS OF ENTRY**

The U.S. has 5,000 miles of land border with Canada and 1,900 miles of land border with Mexico. Most travelers enter the U.S. through the nation's 166 land border ports of entry. About two-thirds of travelers are foreign nationals and about one-third are returning U.S. citizens. The vast majority arrive by vehicle. The purpose of the passenger primary inspection process is to determine if the person is a U.S. citizen or alien, and if alien, whether the alien is entitled to enter the U.S. In general, CBP Officers are to question travelers about their nationality and purpose of their visit, whether they have anything to declare, and review the travel documents the traveler is required to present.

Each day CBP Officers inspect more than 1.1 million passengers and pedestrians, including many who reside in border communities who cross legally and contribute to the economic prosperity of our country and our neighbors. At the U.S. land borders, approximately two percent of travelers crossing the border are responsible for nearly 48 percent of all cross-border trips. At the land ports, passenger primary inspections are expected to be conducted in less than one minute. According to CBP, for regular lanes the average inspection time per vehicle is 30 to 45 seconds during which CBP Officers should handle documents for all vehicle occupants and, if necessary, detain and transfer suspected violators to secondary inspection. For FAST truck lanes, the average processing time is 15 to 20 seconds. ("*CBP: Challenges and Opportunities*" Memo prepared by Armand Peschard-Sverdrup for: Mexico's Ministry of the Economy: U.S.-Mexico Border Facilitation working Group, January 2008, page 5.)

Yearly, CBP Officers and CBP Agriculture Specialists process more than 133 million conveyances—truck and rail containers—at the land ports located along the 7,500 miles of land borders between the United States and its North American neighbors.

Out of the total 327 official POEs, currently on 24 major land POEs are situated on the Mexico-U.S. border: six in California, seven in Arizona, one in New Mexico and ten in Texas. On the Canadian-U.S. border there are 150 land POEs have a series of dedicated lanes for processing commercial traffic, passenger vehicles, pedestrians and in some cases rail crossings.

Between the U.S. and Mexico, 68.4 percent of the total commercial two-way truck trade flow crossed through three land POEs—Laredo, El Paso and Otay Mesa. In rail traffic, trade is heavily concentrated (97.8%) in five rail POEs—Laredo, Eagle Pass, El Paso, Nogales, and Brownsville (*Facilitating Legal Commerce and Transit* 2009 Memo Prepared by Armand Peschard-Sverdrup for the Pacific Council/COMEXI Joint Task Force on Re-thinking the Mexico-U.S. Border: Seeking Cooperative Solutions to Common Problems, page 2).

Each year, 45 million vehicles cross into the United States from Canada. Most of the trucks use 22 principal border crossings. By 2020, the volume of truck traffic is projected to grow to 19.2 million per year, an increase of 63% from 11.8 million in 1999. The six highest-volume crossings on the Canada-U.S. border handled almost 90% of the value and three-quarters of the tonnage and truck trips. The six highest U.S.-Canada POEs are Ambassador Bridge (Detroit, Michigan), Peace Bridge (Buffalo, New York), Blue Water Bridge (Michigan), Lewiston-Queenston Bridge (New York), Blaine (Washington), and Champlain (New York). (*Truck Freight Crossing the Canada-U.S. Border*, September 2002, page 2, 6.)

Cargo security, that is, preventing the flow of arms, drugs, other contraband, pirated merchandise, and undeclared cash, and invasive agricultural items, while at the same time facilitating trade and the legal movement of people as efficiently as possible is a daily challenge for CBP Officers and Agriculture Specialists at the land POEs.

***Border Violence at U.S.-Mexico Land Ports:***

In the last year, a new challenge also confronts CBP personnel at the southwest land POEs. An epidemic of violence has erupted right across the U.S. southern border in Mexico due to an increase in Mexican drug cartel activity there and the crackdown on drug and human traffickers by the Mexican government. Drug violence in northern Mexico has skyrocketed with more than 13,800 homicides since January 2008. This violence is fueled by arms smuggling and bulk cash drug proceeds transiting south from the U.S. The incidence of violence is escalating daily at or near U.S.-Mexico POEs. On October 9 and again on October 19, a victim of cartel violence was strung up at an overpass between the U.S. and Mexico border and three weeks ago, CBP Officers confronted with speeding vehicles running the port has to fire on three vans filled with over 70 illegal immigrants at the San Ysidro POE.

NTEU is providing information to Congress and the Administration to help assess security equipment and other needs to address the increased threat to CBP personnel at the southern border. Safety of CBP Officers at the ports of entry is a major concern. Appropriate facilities, staffing and equipment are necessary at the southern land ports to ensure CBP Officers' safety.

The FY 2010 DHS funding bill includes \$8.1 million for 65 CBP Officers and 8 support staff positions to be dedicated to "Combating Southbound Firearms and Currency Smuggling." NTEU believes that this staffing increase is insufficient to address the staffing needs at southern ports of entry and well below the 1,600 additional personnel and 400 canine teams sought by the Senate authorizing committee in its FY2010 funding request.

Also, the last Administration fell down on the job of inspecting outbound traffic through U.S. and ports and not all U.S.-Mexico passenger vehicle, rail and truck port crossing are staffed or equipped to conduct southbound inspections. Rightfully, the new Administration is focused on putting more resources into southbound inspections to help curb arms and bulk cash trafficking into Mexico.

***Cargo Security Challenges***

Cross-border commercial operators are acutely concerned about wait times and costs of delay at the land POEs. Wait times differ across POEs and vary depending on whether the congestion involves pedestrians, passenger vehicles, trucks or railcars and whether the ports participate in expedited crossing programs such as SENTRI for people or FAST (Free and Secure Trade) lanes for trucks and railcars that are certified as compliant with the Customs Trade Partnership Against Terrorism (C-TPAT) agreement. Wait times also vary with the day of the week and the time of day and holidays on either side of the border. Currently, not all available lanes are staffed to capacity. Antiquated port infrastructure and CBP personnel staffing shortages contribute directly to wait times at the land POEs.

NTEU believes that there is no way you can speed up the inspection process in which CBP Officers are currently conducting primary inspections 30 to 40 seconds without increasing staffing. NTEU's position was confirmed on October 1, 2009, by a draft report of the Southwest Border Task Force created by Homeland Security Secretary Janet Napolitano and reported by the Associated Press that recommends the "federal government should hire more Customs [and Border Protection] officers."

The task force led by former director of the FBI and CIA, William Webster, was created in June 2009 to study the balancing of security concerns with the need to facilitate trade between the U.S. and Mexico. According to the report, as of July 2009, 5,586 Customs Officers worked on the Southwest border and the fiscal 2009 DHS appropriations bill includes funds to hire only 212 additional CBP Officers.

The report echoes the finding of the Border-Facilitation Working Group (The U.S.-Mexico Border Facilitation Working Group was created during the bilateral meeting between President George W. Bush and President Felipe Calderon held in Merida in March 2007.) "In order to more optimally operate the various ports of entry, CBP needs to increase the number of CBP Officers. According to its own estimate, the lack of human resources only for the San Ysidro POE is in the "hundreds" and the CBP Officer need at all ports of entry located along the border with Mexico is in the "thousands." (*CBP: Challenges and Opportunities* page 1 and 2. Memo prepared by Armand Preschard-Sverdrup for: Mexico's Ministry of the Economy: U.S.-Mexico Border Facilitation Working Group, January 2008.)

NTEU strongly supports the findings of the September 2009 Homeland Security Advisory Council draft recommendation to increase CBP staffing at the POEs.

***CBP STAFFING SHORTAGES***

The most recent public data that NTEU has regarding CBP staffing needs at the POEs is from a report that Congress requested from the Government Accountability

Office (GAO) entitled *Border Security: Despite Progress, Weaknesses in Traveler Inspections Exist at Our Nation's Ports of Entry* (GAO-08-219), on November 5, 2007.

The conclusions of this report echo what NTEU has been saying for years:

- CBP needs several thousand additional CBP Officers and Agriculture Specialists at its ports of entry.
- Not having sufficient staff contributes to morale problems, fatigue, and safety issues for CBP Officers.
- Staffing challenges force ports to choose between port operations and providing training.
- CBP's onboard staffing level is below budgeted levels, partly due to high attrition, with ports of entry losing officers faster than they can hire replacements.

In order to assess CBP Officer and CBP Agriculture Specialists staffing needs, Congress, in its FY 07 DHS appropriations conference report, directed CBP to submit by January 23, 2007 a resource allocation model for current and future year staffing requirements.

In July 2007, CBP provided GAO with the results of the staffing model. "The model's results showed that CBP would need up to several thousand additional CBP officers and agricultural specialists at its ports of entry." (See GAO-08-219, page 31) CBP has determined that data from the staffing model are law enforcement sensitive and has not shared this data with NTEU.

#### **IMPACT OF STAFFING SHORTAGES**

According to GAO, "At seven of the eight major ports we visited, officers and managers told us that not having sufficient staff contributes to morale problems, fatigue, lack of backup support and safety issue when officers inspect travelers—increasing the potential that terrorists, inadmissible travelers and illicit goods could enter the country." (See GAO-08-219, page 7.)

"Due to staffing shortages, ports of entry rely on overtime to accomplish their inspection responsibilities. Double shifts can result in officer fatigue. . . officer fatigue caused by excessive overtime negatively affected inspections at ports of entry. On occasion, officers said they are called upon to work 16-hour shifts, spending long stints in primary passenger processing lanes in order to keep lanes open, in part to minimize traveler wait times. Further evidence of fatigue came from officers who said that CBP officers call in sick due to exhaustion, in part to avoid mandatory overtime, which in turn exacerbates the staffing challenges faced by the ports." (See GAO-08-219, page 33.)

Staffing shortages have also reduced the number of CBP Officers available to conduct more in depth secondary inspections. In the past, there were three inspectors in secondary processing for every one inspector in primary processing. Now there is a one to one ration. This has resulted in a dramatic reduction in the number of illegal cargo seizures. For example, at the Port of Sweet Grass, Montana , from 2000 through 2007, there has been a 59% reduction in the number of seizures of illegal drugs, hazardous imports and other contraband and at the Port of Blaine, Washington as of August 2006, there were 192 narcotics and other seizures, while by August 2001, there were 434 narcotics and other seizures. Port-by-port seizure data is deemed law enforcement sensitive and it is now very difficult to compare number of seizures at a port from year to years.

Without adequate personnel at secondary, wait times back up and searches are not done to specifications. This is a significant cargo security issue. For example, a full search of one vehicle for counterfeit currency will take two officers on average a minimum of 45 minutes. Frequently, only one CBP Officer is available for this type of search and this type of search will then take well over an hour.

Finally, NTEU has been told that when wait times in primary inspection becomes excessive in the opinion of the agency, CBP Officers are instructed to query only one occupant of a vehicle and to suspend COMPEX (Compliance Enforcement Exams) and other automated referral to secondary programs during these periods. This is an improvement over the past practice of lane flushing, but is still a significant security issue. Also, when primary processing lane become backed up, passenger vehicles are diverted to commercial lanes for processing. At the Port of Blaine, for example, on heavy traffic days, CBP Officers often route private vehicles through the commercial cargo facility where the lanes and the computers are not set up for private vehicle inspections. Truck drivers have complained that someone is going to get killed when they do this because they often cannot see the cars maneuvering around them.

#### **CBP Officer Staffing:**

NTEU was pleased that Congress, in its FY 2007 DHS appropriations conference report, directed CBP to submit a workplace staffing model for current and future year staffing requirements. For years, NTEU has said that CBP needs several thou-

sand additional CBP Officers and CBP Agriculture Specialists at its ports of entry; that insufficient staffing and scheduling abuses are contributing to morale problems, fatigue, and safety issues for CBP Officers and CBP Agriculture Specialists, and that CBP is losing personnel faster than it can hire replacements.

CBP's staffing model concluded "that the agency needs 1,600 to 4,000 more officers and agricultural specialists at the nation's air, land and sea ports, or a boost of 7 to 25 percent, the GAO reported." (*Washington Post*, November 6, 2007)

NTEU is disappointed that the FY 2010 DHS appropriations conference report increasing new hires for CBP Border Patrol Agents from 17,499 to 20,000—an increase of 1,500, but no increase in frontline CBP Officer or CBP Agriculture Specialist new hires.

NTEU agrees with the findings of the Border Facilitation Working Group, "when you look at the budgets that are normally handed out to CBP to POEs, one can conclude that this unit has been traditionally under-funded." (See *CBP: Challenges and Opportunities*, page 1.)

Again NTEU concurs with the AP-reported September 2009 Homeland Security Advisory Council Southwest Border Task Force Draft Report that calls on Congress to authorize funding to increase staffing levels for CBP Officers. NTEU urges Congress to authorize funding for CBP Officers and CBP Agriculture Specialists at the levels specified in CBP's own workforce staffing model, in addition to funding an increase in CBP Officer staffing needed to expand outbound inspection and address the increasing violence at the U.S.-Mexico border.

NTEU also strongly supports legislation introduced by Representative Silvestre Reyes (D-TX) H.R. 1655, "Putting Our Resources Towards Security (PORTS) Act." Representative Reyes' PORTS Act would authorize 5,000 additional CBP Officers and 1,200 additional CBP AS new hires, in addition to 350 border security support personnel at the nation's 327 official ports of entry over the next five years. In addition, the bill authorizes funding for infrastructure improvements at the existing ports of entry to repairs and improve the gateways into our country.

#### ***CBP Agriculture Specialists:***

In 2008, NTEU was certified as the labor union representative of CBP Agriculture Specialists as the result of an election to represent all Customs and Border Protection employees that had been consolidated into one bargaining unit by merging the port of entry inspection functions of Customs, INS and the Animal and Plant Inspection Service as part of DHS' One Face at the Border initiative.

According to GAO-08-219 page 31, CBP's staffing model "showed that CBP would need up to several thousand additional CBP Officers and agriculture specialists at its ports of entry." *And GAO testimony issued on October 3, 2007 stated that, "as of mid-August 2007, CBP had 2,116 agriculture specialists on staff, compared with 3,154 specialists needed, according to staffing model."* (See GAO-08-96 page 1.)

NTEU urges Congress to authorize and fund the additional 2,274 CBP Officers and the 880 CBP Agriculture Specialist needed according to CBP's own staffing model.

Also, NTEU continues to have concerns with CBP's stated intention to change its staffing model design to reflect only allocations of existing resources and no longer account for optimal staffing levels to accomplish their mission.

Finally, NTEU strongly supports Section 805 of S. 3623, the FY 2009 DHS Authorization bill introduced in the Senate last Congress, that through oversight and statutory language, makes clear that the agricultural inspection mission is a priority and increase CBP Agriculture Specialist staffing, impose an Agriculture Specialist career ladder and specialized chain of command. H.R. 3623 in Section 815 also extends CBP Officer enhanced retirement to their ranks and to CBP Seized Property Specialists.

#### ***Hiring of Supervisors v. Hiring of Frontline CBP Officers:***

NTEU continues to have concerns that CBP is continuing to increase the number supervisors when a much greater need exists for new frontline hires. In terms of real numbers, since CBP was created, the number of new managers has increased at a much higher rate than the number of new frontline CBP hires. According to GAO, the number of CBP Officers has increased from 18,001 in October 2003 to 18,382 in February 2006, an increase of 381 officers. In contrast, GS 12-15 CBP supervisors on board as of October 2003 were 2,262 and in February 2006 there were 2,731, an increase of 462 managers over the same of time. This is a 17% increase in CPB managers and only 2% increase in the number of frontline CBP Officers. (See GAO-06-751R, page 11).

In 2009, CBP reports that there are 19,726, CBP Officers of which 16,360 are bargaining unit frontline employees—a ratio of one supervisor for every five CBP Officers. And according to CBP data, the current number of CBP Agriculture Specialists



staff is 2,277, of which 312 are non-frontline supervisors—a ratio of one supervisor for every six CBP Agriculture Specialists.

**ONE FACE AT THE BORDER**

As part of the establishment of the Bureau of U.S. Customs and Border Protection (CBP) in March 200, DHS brought together employees from three departments of government—Treasury, Justice and Agriculture to operate at the 327 ports of entry. On September 2, 2003, CBP announced the One Face at the Border Initiative. The initiative was designed to eliminate the pre-9/11 separation of immigration, customs, and agriculture functions at US land, sea and air ports of entry. Inside CBP, three different inspector occupations—Customs Inspector, Immigration Inspector and Agriculture Inspector were combined into a single inspectional position—the CBP Officer.

The priority mission of the CBP Officer is to prevent terrorist and terrorist weapons from entering the U.S., while simultaneously facilitating legitimate trade and travel—as well as upholding the laws and performing the traditional missions of the three legacy agencies, the U.S. Customs Service, the Immigration and Naturalization Service (INS) and the Animal, Plant and Health Inspection Service (APHIS).

This change in job description and job duties established by the One Face at the Border initiative resulted in the Herculean task of retraining and cross training newly created CBP Officers. It became clear after several months that Agriculture Specialists job duties and background was significantly unique to establish a CBP Agriculture Specialist job series 401, separate from the CBP Officer job series, 1895.

In practice, the major reorganization of the roles and responsibility of the inspectional workforce as a result of the One Face at the Border initiative, has resulted in job responsibility overload and dilution of the customs, immigration and agriculture inspection specializations and in weakening the quality of passenger and cargo inspections.

In addition, the processes, procedures and skills are very different at land, sea and air ports, as are the training and skill sets needed for passenger processing, cargo and agriculture inspection. Under the One Face at the Border initiative, former INS agents that are experts in identifying counterfeit foreign visas are now at seaports reviewing bills of lading from foreign container ships, while expert seaport Customs inspectors are now reviewing passports at airports.

It is apparent that CBP saw its One Face at the Border initiative as a means to “increase management flexibility” without increasing staffing levels. According to CBP, “there will be no extra cost to taxpayers. CBP plans to manage this initiative within existing resources. The ability to combine these three inspectional disciplines and to cross-train frontline officers will all CBP to more easily handle projected workload increases and stay within present budgeted levels.” This has not been the case. The knowledge and skills required to perform the expanded inspectional tasks under the One Face at the Border initiative have also increased the workload of the CBP Officer.

NTEU believes the One Face at the Border initiative has failed to integrate the different border functions is sought to make interchangeable, because they are not. The Customs, Immigration and Agriculture functions performed at our borders enforce different laws and require different training and skills. For these reasons, NTEU urges CBP to reinstate Customs and Immigration specializations, as it did with the Agriculture specialization, at the POEs.

NTEU suggests that the Committees include the following provision in any upcoming CBP authorization.

**SEC. \_\_. ESTABLISHMENT OF SPECIALIZED OFFICER OCCUPATIONS—**  
The Secretary of Homeland Security shall establish within the Bureau of Customs and Border Protection two distinct inspectional specialization occupations for Customs and Border Protection Officers at the air, sea and land ports of entry; an immigration inspection specialization and a customs inspection specialization.

### **RECRUITMENT AND RETENTION ISSUES**

Reported staffing shortages are exacerbated by challenges in retaining staff, contributing to an increasing number of vacant positions nationwide. “CBP’s onboard staffing level is below its budgeted level. . .the gap between the budgeted staffing level and the number of officers onboard is attributable in part to high attrition, with ports of entry losing officers faster than they can hire replacements. Through March 2007, CBP data shows that, on average, 52 CBP Officers left the agency each 2-week pay period in fiscal 2007, up from 34 officers in fiscal year 2005. . .Numerous reasons exist for officer attrition.” (See GAO–08–219, page 34.)

“Aside from the budgetary constraints confronting CBP, there have also been dysfunctional ties within the civil service system of worker classification that applies to CBP officers. Because CBP officers were not classified as law enforcement officers, they were automatically excluded from eligibility for higher salary levels, benefits, and early retirement. CBP officers, for example, are normally ranked as GS–11-level employees, a level that is considered a “journeyman grade” and provides a salary that ranges between \$54,000 and \$70,000. Conversely, officers in other law enforcement agencies—such as Immigration and Customs Enforcement (ICE) and the U.S. Marshals Service—have the opportunity to ascend to GS–12 or GS–13 levels, in which the salary range is \$70,000–\$100,000. Moreover, CBP officers tend to have better prospects for promotion outside of CBP—in such agencies as Immigration and Customs Enforcement and the U.S. Marshals Service—than within CBP itself.” (See *Facilitating Legal Commerce and Transit* by Armand Peschard-Sverdrup, page 10).

NTEU is pleased to commend Congress and the Department for addressing these two major CBP Officer recruitment and retention challenges—lack of law enforcement officer retirement status and a lower rate of journeyman pay with respect to most other federal law enforcement occupations. In July 2006, Congress extended enhanced retirement prospectively to CBP Officers and on October 14, 2009 announced an increase in the rate of CBP Officer and CBP Agriculture Specialists journeyman pay from GS–11 to GS–12. It is unfortunate that this pay increase and enhanced retirement coverage was not extended to the 120 armed, uniformed CBP Seized Property Specialists and the pay increase was not given to the nearly 400 CBP Officers (enforcement). NTEU is working to remedy these inequities in pay and benefits for CBP SPS and CBP Officers (enforcement.)

### **INFRASTRUCTURE ISSUES**

“The average land POE is 40–45 years old. Urban sprawl has enveloped some of these ports, rendering them effectively landlocked. For example, the port of San Ysidro currently has 21 lanes, but only 4 traffic lanes feed all the traffic to the booths; in addition, local street traffic intersects with border crossing traffic. Over time, eroding infrastructure and limits on the availability of land—along with projected growth in the legal movement of goods and people stemming from the continued deepening of economic integration—will require both governments to erect new infrastructure.” (See *Facilitating Legal Commerce and Transit* by Armand Peschard-Sverdrup, page 4).

Infrastructure issues vary from port to port. NTEU does not dispute that the infrastructure problems at the POEs need to be addressed. But all port infrastructure solutions, including constructing additional 24 hour port facilities, will take years to achieve. What is necessary today is to staff all existing lanes to capacity. Without adequate staffing to achieve this, excessive overtime practices, as well as increased wait times, will continue.

Also, the observations and suggestions of frontline CBP Officers should be taken into account when planning new infrastructure solutions. For example, since before 9/11, the lack of a manned egress point for the Cargo Inspection facility at the Port of Blaine has been noted by numerous port runner incidents. After years of lobbying by Officers, a manned egress booth is being built as we speak. But, there is still no way to physically stop a vehicle and driver who want to run the port. There are no gates, no tire shredders, or deployable bollards at the new egress point. Pulling into secondary is still largely dependent on the honor system. A manned egress point will intercept the lost drivers, and the drivers who can’t understand instructions from the primary officer, but it won’t stop deliberate port runners.

I am told that there is a similar egress lane configuration and port runner issue at the new Port of Champlain that is allowing absconders to avoid stipulated secondary inspection.

Another concern is that the upcoming Winter Olympics in February 2010 will increase travel volume through the Blaine POE. According to CBP Officers, there is room for two or more additional traffic lanes at the Pacific Highway crossing. On busy weekends, CBP routes cars through the truck area forcing them to maneuver

around semi trucks. Can something be done to get these two lanes in place prior to the Olympics?

#### **TECHNOLOGY ISSUES**

Customs and Border Protection relies on technology to process border crossings with greater efficiency and speed. To compensate for the inadequacy of personnel at land POEs CBP is relying more on technology, such as Radiation Portal Monitors (RPM) and Radio Frequency Identification (RFID).

Technological advances are important, but without the training and experience, technology alone would have failed to stop the millennium bomber at Port Angeles, Washington. Today, primary processing is increasingly dependent on technology. CBPOs are instructed to clear vehicles within thirty seconds. That is just enough time to run the license through the plate reader and check identifications on a data base. If the documents are in order the vehicle is waived through. The majority of a CBPO's time is spent processing I-94s documents non-resident aliens need to enter the U.S.

Also, technology improvements can't overcome deficiencies in port infrastructure. For example at the Blaine POE, CBP management recently moved the primary lane vehicle queue within 10 feet of the primary booth in order to speed processing time an average of eight seconds per car. This creates a great deal of confusion locating Radiation Portal Alerts, Traveler Enforcement and Compliance System (TECS) hits, and National Crime Information Center (NCIC) hits from the RFID technology as two or three cars are now past the RPM detectors and RFID readers moves these vehicles into the "fatal funnel" for any "Armed and Dangerous" encounter in primary. Earlier this month, there was an NCIC hit that the officers responded to on primary. They took proper cover behind the car in primary and extracted the occupants only to later discover that the NCIC hit was in queue behind the car stopped in primary. The stacking of vehicles in the queue just prior to the primary booth is creating problems for officers locating and isolating radiation portal alerts. The price of these eight seconds could be very high if Officers miss a vehicle smuggling radioactive materials or an "Armed and Dangerous" encounter goes bad and innocent people are trapped in the cross fire with nowhere to retreat.

Expedited inspection programs such as FAST work very well for the participants in these programs in that their clearance process is reduced. CBP, however, needs a higher level of verification of FAST participants because of the higher risk their expedited clearance creates. For example, at the Blaine POE, many of CBP Officer's narcotics seizures have come out of FAST approved Carriers and Consignees. Expedited inspection programs such as FAST and C-TPAT, require additional CBP Officers to conduct these verifications.

#### **NTEU RECOMMENDATIONS**

One of the key goals of the new administration's senior management is to earn the respect and trust of frontline workers. To that end, NTEU is pleased that a CBP Commissioner has been recently nominated.

Federal employees represented by NTEU look forward to working with the new CBP leadership that will provide agencies with the staffing, tools and resources they need to accomplish their missions and will listen to employees' ideas about how to do the work better.

As noted by DHS's own Advisory Council headed by William Webster, for too long, CBP at the POEs has been unfunded and understaffed. DHS employees represented by NTEU are capable and committed to the varied missions of the agency from border control to the facilitation of trade into and out of the United States. They are proud of their part in keeping our country free from terrorism, our neighborhoods safe from drugs and our economy safe from illegal trade. The American public expects its borders and ports be properly defended.

Congress must show the public that it is serious about protecting the homeland by:

- fully funding CBP "salaries and expenses at the POEs" to hire more CBP personnel at the POEs as recommended by the draft September 2009 Homeland Security Advisory Council Report and Recommendations;
- fully staff all existing lanes at the POEs to capacity;
- ending the One Face at the Border initiative by reestablishing CBP Officer and CBP Agriculture Specialist inspection specialization at our 327 ports of entry;
- extending LEO coverage to armed, uniformed CBP Seized Property Specialists and uniformed CBP Agriculture Specialists, and
- extending GS-12 journeyman pay to CBP personnel not included in the recent GS-12 journeyman pay increase—CBP trade operations personnel, CBP Seized Property Specialists and CBP Agriculture Specialists; and

- authorizing CBP to submit yearly workplace staffing models that include optimal staffing requirements for each POE to fully staff all lanes and reduce wait times.

Again, I would like to thank the committee for the opportunity to be here today on behalf of the 150,000 employees represented by NTEU and the 22,000 CBP personnel the ports of entry.

Ms. SANCHEZ. Thank you, Ms. Kelley.

I will now recognize Mr. Russell to summarize his statement in 5 minutes or less. Welcome.

**STATEMENT OF STEPHEN RUSSELL, CHAIRMAN AND CEO, CELADON GROUP, INC., INDIANAPOLIS, INC., (REPRESENTING AMERICAN TRUCKING ASSOCIATIONS)**

Mr. RUSSELL. Thank you very much, Madam Chairwoman, members of the committee.

My name is Steven Russell, and I am chairman and CEO of Celadon Group, based in Indianapolis, Indiana. We are a U.S. trucking company that provides transportation services within the U.S., as well as to Canada and to Mexico. Celadon was the first motor carrier to be approved by CBP to participate in the C-TPAT program in 2003, as well as ACE program. Today, I am appearing on behalf of the American Trucking Association.

First, I want to commend the committee for getting the SAFE, SAFE Trucker Act passed by the House. What that did was eliminate the need for drivers to file various requests for HAZMAT, various kinds of approvals, and we thank you from the bottom of our heart, because it is meant a lot to our drivers.

The trucking industry has worked closely with government agencies to increase security and improve trade facilitation. After 9/11, C-TPAT was developed, establishing a more robust and comprehensive security program. C-TPAT is an excellent model for ensuring the security of our international supply chain. It requires investing resources to develop security processes and systems which are closely verified by CBP.

The growing concern of C-TPAT members is some drastic measures that CBP has taken when a single truckload of contraband is found in a C-TPAT truck. CBP immediately suspends the carrier and turns off its identifying number. This number allows the trucking company's customers to know if the carrier is still in good standing with C-TPAT.

Before canceling a carrier's C-TPAT privileges due a single incident, CBP should consider first investigating how the illegal cargo got into the conveyance. Most trailers that cross the border have one shipper's goods in it, and basically the shipper loads it, packs it, and then seals it. It is important to recognize when a carrier gets suspended from C-TPAT not only does it affect the carrier, but its C-TPAT customers are also impacted.

We also want CBP to differentiate between a single security incident and a systematic security issue.

With regard to FAST lanes, a related program to C-TPAT is the Free and Secure Trade program, or FAST. Basically, FAST requires our drivers to undergo a thorough background check to access the FAST lanes when transporting C-TPAT cargo.

I urge this committee to work on other relevant—and work with other relevant congressional committees to improve border infra-

structure by developing true FAST lanes, because right now, essentially, it is only the last few hundred yards, which means the lines are long to get through.

Overall, I think we have established a very strong partnership between industry and government agencies to meet security challenges at our borders. However, with any partnership or marriage, success can be achieved when both partners are working together to achieve a common goal.

CBP could be somewhat more flexible in working with partners to correct security breaches and in developing security measures that will complement partner-business models while working towards our common goal of securing the supply chain. By improving border infrastructure and information collection systems, in addition to trust-but-verify programs, security at our land borders will continue to improve.

I thank you for your attention, and I would be happy to answer any questions.

[The statement of Mr. Russell follows:]

PREPARED STATEMENT OF STEPHEN RUSSELL

**Introduction**

Madame Chair Sanchez, Ranking Member Souter, and members of the Subcommittee, my name is Steve Russell, and I am Chairman, CEO and founder of Celadon Group, Inc., headquartered in Indianapolis, Indiana. Celadon is primarily a truckload carrier with approximately 3,000 power units, or tractors, and 10,000 53' trailers and about 3,900 employees. Celadon generates about forty percent of our business from the movement of freight across our land-borders with Canada and Mexico, while sixty percent of our business is generated domestically. Celadon is one of the top truckload carriers in North America serving a variety of customers providing time-sensitive cargo shipments through trailer "door-to-door" transport throughout North America. Celadon has been recognized for our safety record as well as for our environmental programs. For the second consecutive year, Celadon won the top award from the Environmental Protection Agency's ("EPA") Smartway program, as a result of our achievements in reducing emissions through various innovative programs.

Celadon is also a certified and validated member of the Customs—Trade Partnership Against Terrorism ("C-TPAT") program, and we were the first motor carrier approved for participation in the Automated Commercial Environment's ("ACE") electronic manifest system. Both of these programs, as described further below, play an important role in improving the security of international commerce at our land borders. Celadon is also an ISO 9001 certified company and plays an integral role in our customers' supply chain management process serving a variety of high-intensity production lines, distribution channels, and customer direct traffic.

Today I appear on behalf of the American Trucking Associations, Inc. federation of motor carriers, state trucking associations, and national trucking conferences created to promote and protect the interests of the trucking industry. The ATA federation has over 37,000 member companies representing every type and class of motor carrier operation.

First and foremost, I want to thank this Committee, specifically your leadership madam chair together with Congressmen Thompson and Lungren, and Congresswoman Jackson-Lee, in getting the SAFE Trucker Act of 2009 introduced and passed by the House of Representatives. SAFE Trucker is critical to the men and women of the trucking industry, by bringing relief from redundant, unnecessary and expensive multiple fingerprint-based background checks. Again, on behalf of the three million commercial drivers who transport America's cargo, we thank you for your leadership and support in passing the SAFE Trucker Act.

I commend the Subcommittee for holding this hearing today to gather information on the status of our land border ports of entry. The trucking industry supports efforts to address and eliminate to the greatest extent possible any threats posed to our nation's security, including establishing the necessary infrastructure, both physical—i.e. "bricks and mortar"—and implementing technologies, to improve the clearance and throughput of trade with the highest standards of security. At a similar

hearing two years ago, I focused my comments on three primary areas in relation to border operations:

- Ongoing security programs involving trucking operations across our borders with Canada and Mexico to ensure supply chain security;
- Implementing automated systems to improve the gathering and analysis of data for targeting and release of cargo, people, and equipment entering the U.S.; and,
- Strengthening the relationships among the three North American governments to develop joint border infrastructure and improve information sharing mechanisms.

My comments today will update this Committee on the status of these issues, in addition to discussing other critical aspects of cross-border operations.

### **Background**

Trucking continues to be a critical component of our country's economy, and trucks continue to transport the majority of cross-border trade with Canada and Mexico. However, compared to two years ago, today we are facing the most challenging global economic conditions with a significant negative impact on trucking operations.

Since 2007, freight levels have decreased dramatically: domestically, the number of loads within the truckload sector has decreased by more than 17 percent while revenue has decreased even further by nearly 29 percent. In terms of cross-border trucking operations, the value of trade transported by trucks with Canada has declined nearly 30 percent, and about 18 percent with Mexico. For the purpose of this hearing, it is important to keep in mind that this precipitous drop in cross-border trade volumes means that we are not seeing the same levels of trade that normally strain our border facilities and personnel during better economic times.

However, this reduction in trade flows doesn't mean that trade has stopped. Manufacturers, retailers, warehouses and, most importantly, consumers, continue to count on trucks to get the goods and products they need and use each and every day, transporting almost 70 percent of the value of freight between the United States and Canada, and about 80 percent of the value of freight.<sup>1</sup> The trucking industry is proud of its role in delivering North America's freight and we will continue to do so with the highest regard for security and efficiency.

Today, we continue to work in partnership with our government counterparts to improve the security and efficiency of cross-border trucking operations. Our industry supports programs that help motor carriers increase the security and safety of their operations, especially if such programs can be implemented in an effective and efficient manner and provide real security benefits. ATA believes that the end goals of security and efficiency are not mutually exclusive. Though it is impossible to achieve absolute security without bringing trade to a standstill, we can greatly reduce the potential of being targeted by our enemies by managing risk, increasing security awareness among company personnel, and implementing simple cost-effective security measures. In essence, we must continue to strive to establish a "security culture" within our companies and we must continue to improve our partnership and cooperation with our government counterparts.

For many years, ATA has supported efforts to elevate the coordination of human resources, infrastructure, and technology in improving clearance systems and processes at our land borders. For example, long gone are the days when our tractors and trailers were literally drilled to inspect the inside of the conveyances—making our equipment look like Swiss cheese and resulting in very costly repairs. Now, through the use of Non-Intrusive Inspection ("NII") systems, x-rays and gamma rays are used to capture images of any anomalies within our commercial vehicles. Such technological advances and tools have improved CBP officers' enforcement capabilities while improving the efficiency and throughput of commercial vehicles across our borders.

### **Cross-Border Security Programs**

Security in cross-border operations pre-dates the 911 1 attacks on our Nation due to the threat posed by drug and alien smugglers -a threat that continues to challenge us, especially at our southern land border. Through programs such as the Land-Border Carrier Initiative Program ("LBCIP") started in the mid 1990's trucking companies and their drivers were certified to participate in this program after undergoing audits and background checks. In return for participating in the LBCIP, motor carriers gained expedited clearance of their cargo.

<sup>1</sup>Bureau of Transportation Statistics, U.S. Department of Transportation (2006).

The LBCIP concept was upgraded immediately after 9/11 with the creation of the C-TPAT program, which included the development of the Free and Secure Trade ("FAST") program specifically established for motor carriers with cross-border operations in North America. The overall goal of C-TPAT is to ensure the security of the entire international supply chain: from overseas manufacturing operations, to transportation providers, to entities such as importers, brokers, and forwarders involved in the processing of cargo entering our country.

In order to participate in FAST, motor carriers must become C-TPAT certified (See Appendix I for C-TPAT Minimum Security Criteria) and their commercial drivers must complete an application and undergo a background check through various databases. Once such steps have been taken and verified, motor carriers benefit by receiving expedited clearance of their equipment, driver, and cargo -as long as it belongs to a C-TPAT importer -in addition to getting access to a dedicated FAST-lane for use only by FAST participants.

#### **The Need for FAST-Lanes at Ports of Entry**

The biggest challenge trucking companies continue to face with the program is the lack of "true" C-TPAT/FAST lanes—in essence, lanes that extend far back from the port of entry, instead of FAST lanes that begin only a few yards prior to arrival at the primary inspection booth. This results in low-risk C-TPAT carriers being stuck in the same traffic as non-C-TPAT certified carriers. Thus, C-TPAT certified motor carriers with drivers who have undergone FAST background checks are not getting the benefits that were promised for investing to comply with the program.

I urge this Committee to consider alternatives for developing and implementing extended FAST lanes to ensure the security of C-TPAT operations by keeping these low risk vehicles moving and segregated from regular traffic.

#### *Suspension of C-TPAT Benefits: Single Incident vs. Systemic Problems*

Another major challenge that motor carriers face regarding participation in C-TPAT is the fact that a single security incident that involves a motor carrier tends to result in the immediate revocation of that C-TPAT status. Such a drastic measure takes place before any investigation is undertaken to understand what led to the security incident. For example, if during an inspection it is found that a truck belonging to a C-TPAT carrier has illegal narcotics on board, the motor carrier is suspended immediately without knowing if the illegal cargo was placed aboard the conveyance at the point of loading or during the manufacturing process unbeknownst to the motor carrier. It is simply unfair and unjust to hold the motor carrier liable for a security breach that occurred at another point within the supply chain.

ATA and its members have met with U.S. Customs and Border Protection ("CBP") officials on repeated occasions to discuss our concerns. ATA fully supports and applauds the efforts by the C-TPAT office for an open dialogue with industry and working to improve the C-TPAT program. They clearly recognize the security challenges faced by cross-border trucking operations and have been extremely helpful in trying to resolve industry concerns. However, our discussions have not yet arrived at a "justifiable" suspension process for motor carriers involved in a security incident.

ATA believes that the following steps should be considered and taken prior to a motor carrier being suspended from C-TPAT due to a security incident:

- If this is the motor carrier's first security incident, CBP should:
  - Not immediately suspend the motor carrier, and thus it should not off its Status Verification Interface ("SVI") number, until an investigation determines the nature of the narcotics and at what point the illicit cargo was introduced into the conveyance;
  - Consider putting the motor carrier on "probation" if the investigation demonstrates that the carrier was not at fault. The "probation" period can be lifted once CBP is satisfied that the motor carrier has taken steps to properly implement all the Minimum Security Criteria and considered establishing applicable recommended best practices to reduce the risks of future security breaches;
- If an investigation demonstrates a willful disregard on the part of the motor carrier of the C-TPAT Minimum Security Criteria, CBP could:
  - Suspend the motor carrier and turn off its SVI number;
  - Require the motor carrier to reapply and undergo again a full validation of the C-TPAT requirements prior to being re-admitted to C-TPAT.

It is important for CBP, and for this Committee as well, to recognize that C-TPAT motor carriers take their responsibilities very seriously, and to recognize the challenging security environment that cross-border operations can represent on a daily basis. I would like to emphasize that no one is immune to the potential for

“bad” actors infiltrating our operations: neither private sector companies nor the law enforcement agencies in charge of securing our border and protecting our country. We all face the same risk. Therefore, a single security incident should not result in a motor carrier being automatically suspended unless an investigation demonstrates a “systemic security” problem and a lack of proper security measures by the trucking company. Individual incidents, even if perpetrated by a company employee, should not be treated as systemic problems.

#### *Automated Clearance Programs*

The trucking industry is also closely involved in the development of information systems and technologies to facilitate enforcement activities while at the same time expediting the movement of cargo across our borders. ACE is a system that has been under development by CBP for well over a decade, and is now fully deployed along our land border ports of entry. ATA and many of its members worked on the design and development of the ACE manifest data requirements necessary for the transmission of data. The deployment of ACE is an important tool to improve the efficiency for capturing trade data, clearing cargo entering the US, and provides CBP an improved system for targeting, risk analysis, and release of cargo. Although the ACE system has suffered through a number of challenges, including service interruptions, malfunctions of the in-bond system and of the FAST-ACE interface, carriers are generally happy with the new e-manifest system.

CBP is also developing the International Trade Data System (“ITDS”) as an integral part of ACE. The ITDS concept is simple: Traders and carriers submit commercially based, standard electronic data records through a single federal gateway for the import or export of goods. As a single information gateway, ITDS distributes these records to the interested federal trade agencies, such as CBP, the Food and Drug Administration (“FDA”), DOT and others, for their selectivity and risk assessment. In standardizing the process, ITDS reduces the confusion and complexity of international trade, and speeds the processing of goods, equipment and crews across our borders. ITDS also benefits the government by providing more current and accurate information for revenue, public health, statistical analyses, safety and security activities, as well as significantly reducing data processing development and maintenance costs.

The development and implementation of the is an essential component in accelerating the flow of commerce while also improving the ability of CBP to analyze and target data entries.

The trucking industry encourages the U.S. government, in cooperation with both Canada and Mexico, to improve and to facilitate the capture and exchange of information on goods and people crossing our land borders. A large portion of the U.S. international trade and immigration transactions generated every day occur from transactions along our land borders. ATA recommends that the U.S. government move forward with an aggressive in implementing both the *Smart Border Accord* between the U.S. and Canada, and the *22 Point Plan* between the U.S. and Mexico, as well as implementing the recommendations established under the North American Security and Prosperity Partnership.

#### **Conclusion**

The trucking industry believes that through NII technologies, C-TPAT, ACE and industry initiatives, cross-border operations and the international supply chain are becoming increasingly secure. C-TPAT and FAST have created an excellent working relationship between industry and government to jointly confront these challenges, but closer cooperation and understanding between industry and government can yield an even higher degree of security at our borders.

In summary, ATA raises the following issues for attention by this Committee so we can continue to increase the security and efficiency benefits of cross-border operations:

- ATA encourages this Committee to work with other relevant Congressional Committees to analyze funding to improve border facilities and infrastructure. This is essential in ensuring a smooth flow of legitimate travelers and commerce across our borders while ensuring our national security.
  - Border infrastructure planning must incorporate the development of access roads and lanes at our ports of entry that are reserved solely for “low and “trusted-travelers” programs, such as FAST.
  - Such an analysis should consider an appropriate level and mix of technology, equipment and personnel to maximize the capabilities of border facilities.
- CBP must establish clear, reasonable and manageable procedures for suspending motor carriers from C-TPAT and recognize the difference between “single” security incidents and “systemic” security problems.



- CBP/DHS must take a leading role among federal agencies in managing systems and processes at our ports of entry, especially with agencies outside of the DHS chain of command. Though other federal agencies not within DHS have statutory mandates requiring them to implement procedures for clearing certain goods entering at U.S. ports of arrival (for example FDA's implementation of the prior import notice requirements under the Bioterrorism Act), these agencies should be required to coordinate and work closely with CBP on the system.

ATA and motor carriers throughout North America are committed to partnering with government and other sectors of our economy to improve and ensure our country's national and economic security.

Ms. SANCHEZ. Thank you, Mr. Russell. And I thank both of the witnesses for their testimony.

I will remind each member that he or she will have 5 minutes to question the panel. And now I will recognize myself for a few questions.

Mr. Russell, I really enjoyed hearing specifically how you described the important need to develop a security culture within companies and subsequent need to improve cooperation with the government. Can you describe CBP's security outreach efforts to your industry? Can you give some insight into how you educate your members on the issues that are important so that we have a smoother ability to drive commerce, if you will, across these borders.

Mr. RUSSELL. Let me discuss that from a personal situation at Celadon. We have about 4,000 employees. We run about 3,000 trucks and about 10,000 trailers.

Every one of our drivers is Highway Watch approved, which means that basically they are trained by us to ensure that they are looking for terrorist risks, et cetera. We also were the first carrier that was C-TPAT and ACE. Basically, that was 6 years ago. We have been audited by the Department of Homeland Security and stayed very focused on security from the standpoint of America.

I think what you will find in the trucking—the American Trucking Association is a focus on developing that culture and a focus on developing that philosophy. Can we vouch for every single owner-operator? No. But I believe that most of the more significant companies in our industry follow the—basically the philosophy espoused by the ATA and espoused by Celadon and espoused by companies involved in international trade.

Ms. SANCHEZ. Because I have another question for you. What could we further do at the land borders to expedite legitimate cargo and legitimate companies, legitimate truckers, to get across and not have to wait in lines? And in some cases, I have seen long lines. In some cases, as Ms. Kelley says, the process is pretty—you know, they are doing their part to make the process fast as you go through, but sometimes the wait is pretty long in these lines.

What can we do to bring the time to cross a border in a legitimate way down? And are there any other frustrations with respect to the whole process that you hear from the membership?

Mr. RUSSELL. In January, I was having a tooth pulled, and the orthodontist came in, gave me a shot of Novocain. And as he finished giving me the Novocain, he said, "I will be back in a couple of minutes." And I looked at him, and I said, "The true test of someone in life isn't someone who can make an asset into a bigger asset. It is somebody who can make a liability into an asset."

I said, "Tell me something you have learned in life that will make this experience positive, not negative for me." He looked at me. He said, "You have got to be kidding." I looked at him, and I said, "I am not kidding." And he thought for a minute or two, and he said, "I am not talking about your tooth. I am talking about life." He said, "Lean into the pain. Don't run from it."

That philosophy is one that I believe CBP is following. I think, are there tweaks that can be done? Yes. In Laredo, for example, it is—on weekends, the border is only open from 10 o'clock to 2 o'clock. Could that be extended? Absolutely. Can there be more folks hired to make the process faster? Yes.

The biggest issue from an investment or a time standpoint are these FAST lanes, because right now, a FAST driver who has to pay to be FAST-approved, et cetera, the company has to support it and all that, that essentially all he can do is sit in the same traffic everybody else is until he gets to the very end of the line. And if that takes 2 hours, that is costing our driver money, it is costing the companies money, et cetera.

The FAST program as envisioned I thought was terrific. The problem is, without the infrastructure changes in the roads themselves, it is going to be difficult to achieve.

Ms. SANCHEZ. Thank you.

Ms. Kelley, your organization is aware, I hope, that I have been one of the people that have been attempting to increase the number of CBP officers for some time now, since I do believe that they are understaffed across the board. Can you tell me how it affects the workforce, this understaffing, and how it affects, you think—what effect it has on the true security of our nation, as you are trying to figure out who should come in and who should stay out?

Ms. KELLEY. On the workforce, the impact is seen in a couple of ways. In many places, because of the staffing shortages, officers are forced to work double shifts, working 16 hours at a time. That alone would raise questions for many as to, you know, how alert and, you know, sharp you can be at the 16th hour as you were at the 7th or 8th or 9th hour.

There is also a huge morale issue, because from an employee perspective of trying to have a life and plan their family obligations with their children or their parents or their extended family, that becomes impossible in places where they know they can always be held over, as they call it, for another shift.

And it is also things like this that make officers look to other occupations and decide maybe that this is not the place for them for a career. And it creates safety issues. Officers will tell you that often they believe that there should be more than one of them, whether it is inspecting a truck or boarding a ship, that they should not be going to many of these things alone. And in many locations, they do them without the number of officers that they believe they should have from a safety perspective.

So there are a lot of aspects to it. And it impacts not only the morale, but I think it does—it is a factor for attrition, also.

Ms. SANCHEZ. Talking about that particular issue of safety and your officers, let's say, checking a truck on their own without backup officers or directly there with them, have there been inci-

dents where they have actually been attacked or threatened or anything of the sort?

Ms. KELLEY. I would have to go back and check the actual records just from a time perspective. I mean, I know that there have been incidents and there have been reports and concerns raised. It is as much about trying to avoid a problem and just kind of knowing in their guts, as a law enforcement officer, you know, who they should have with them or what kind of support and backup they should have.

Ms. SANCHEZ. And I also want to explore—and we can do that, you know, outside of this environment, because I don't want to take up too much more time—but this whole issue of One Face at the Border, which initially, when that all happened, I wasn't very happy personally about seeing that, because I talked to many people—for example—you know, PhDs in I don't know, vermin and pests and things of the sort.

I am in particular very interested in the issue of agriculture, because California, my home state, is, as you know, a big agriculture state. And we are always very worried about bugs and things coming through on paths from some straw that one would never even think there would be eggs in there, et cetera, certain worms or what have you.

And it just felt to me like somebody who had 7 weeks or training with respect to INS, with respect to immigration, visas, customs rules, and then on top of that, agriculturally intense issues, just put more on everything that they would need to, whereas before we had very specialized people. So I would like to follow up with you on that and see how—how much we have missed or what we think we have missed in having put everybody together in one person.

Ms. KELLEY. I would welcome that opportunity, because as you mentioned, the rules and the laws and the regulations are very different for the customs focus, for the immigration focus, and for the agriculture focus. And, really, what One Face at the Border did was put everyone in one uniform and cross-train them and pretend that there was an enhancement of the workforce. And it was not.

They used it—they actually told us at the time they were using it as a force multiplier without really having to add any additional staff. So it gave the appearance that there were more, but it really diluted, as you mentioned, the expertise.

And we need—they did maintain—I will say this—they did at least maintain the agriculture specialist position. Where they did not maintain, the customs inspector position or the immigration inspector position. So at least there was a recognition that that specialization had to exist.

Now, then there are a lot of issues about training that has not occurred, the cross-training, still kind of the dilution, the agriculture specialists having to do backup work in immigration and customs, when that is not what they are trained on, and then not having the time to do the agriculture inspections that, as you say, are so important.

Ms. SANCHEZ. And just as I am concerned about the agriculture specialists, if you look at all the types of visas and documents one can enter this country in—

Ms. KELLEY. Specialization.

Ms. SANCHEZ [continuing]. It is a pretty good book. So to be specialized in that is a difficulty.

Thank you for your testimony.

I will recognize my ranking member for 5 minutes.

Mr. SOUDER. Thank you.

First, Ms. Kelley, Congressman Cuellar asked the agency to provide what they believe the optimum strategy would be at the different crossings. Could you provide to the degree possible a similar type of thing? It would be interesting to match, and it also may make theirs a little more adequate.

Ms. KELLEY. Well, I would be glad to provide NTEU's estimates based on the information we have, but the information that Mr. Cuellar asked for that you will receive I will never see. It is designated as sensitive information.

So I know anecdotally what we know from the staffing and talking to our members at the ports of entry, but I would not have nearly the detail that they will have.

Mr. SOUDER. I think we had a few, because, obviously, it is not this administration or the last administration. You could say it is almost every administration, since OMB basically writes testimony, and if it relates to a cost issue, it becomes very hard for us to estimate what is actually needed outside of what the president wants us to know or OMB wants us to know.

Even if it is anecdotal at different things and we say, "Hey, what is this gap here?" We are hearing from agents in the field that they feel they are short-staffed there, and you are saying you are full-staffed there.

Ms. KELLEY. I would be glad to—I can tell you where they are working double shifts—

Mr. SOUDER. That was going to be my next question. Where can you show—

Ms. KELLEY [continuing]. I can tell you where there—where all the lanes are not open because they don't have enough staff—

Mr. SOUDER. That would be another.

Ms. KELLEY [continuing]. To staff the lanes, where all the technology is not being used because there is no one staffed to back us that day.

Mr. SOUDER. Yes, those would be very interesting things to know.

Ms. KELLEY. I can give you our—

Mr. SOUDER. Where do we have technology that isn't being used?

Ms. KELLEY [continuing]. Best guess about—

Mr. SOUDER. Where are we double-staffing? Those things would be all very helpful.

Ms. KELLEY. Sure. I will be glad to do that.

Mr. SOUDER. We would like to think that there weren't those places, but that is a little naive, too, I guess.

Mr. Russell, We had some discussion about the differences in Canada and Mexico, and particularly, for example, the Canadians have more equipment and are fairly aggressive with their equipment and inspections. You know, this question of outbound, when you go into Canada, could you describe what happens to one of your trucks, as opposed to when you go into Mexico?

Ms. SANCHEZ. I am sorry. We can't hear you. Can you bring the mic closer?

Mr. RUSSELL. I am sorry. Thank you.

Right now, the law prohibits American trucks to go into Mexico, so our trucks don't go into Mexico. Our trucks do go into Canada. And basically, there is not much difference between going into Canada and coming back into the U.S. If you were to ask, you know, the time, et cetera, from a driver's standpoint, but there is no way to compare going into Canada with going into Mexico.

Mr. SOUDER. And I—

Mr. RUSSELL. A trailer goes into Mexico, but not the tractor.

Mr. SOUDER. We have had this huge Mexican trucking argument about whether Mexican trucks are safe coming into the United States and all this type of things. And I have been involved with that for years, but I am not sure I fully understood. You can't go into Mexico? Why do we allow Mexican trucks in the United States if you can't go into Mexico?

Mr. RUSSELL. We don't. There was a pilot test. The pilot test was stopped about 6 months ago. But the only thing that can go across today are drayage trucks, and those drayage trucks may have been the ones that the chairwoman talked about in that accident. But the drayage trucks literally can only go 20 or 30 miles. I forgot the exact number of miles. And those are generally Mexican trucks that cross the border just to pull their trailer, and then they go back to Mexico. They are not allowed to run in the U.S.

Mr. SOUDER. So all the drivers are contracted, in effect? When you say trucks, are you talking about the driver's unit, as opposed to the trailer?

Mr. RUSSELL. Exactly. The trailer goes through. We were the first carrier—that is how I started the company in 1985. We were the first carrier to allow the trailer to go into Mexico.

Mr. SOUDER. So when we are allowing—when we are doing accountability for the trucking companies that—and we are talking about violations, because one of my questions is going to be, what percent—even domestically, different companies deal with contractor drivers. So no drivers on either side are basically employees of your company, if they are in Canada and Mexico? In other words, no—

Mr. RUSSELL. No American driver.

Mr. SOUDER. No American—the cab going into Mexico will not be yours and the cab coming into the United States will not be Mexican?

Mr. RUSSELL. Correct. Basically, our U.S. tractor will take the trailer to Laredo or to El Paso, the north side of the border.

Mr. SOUDER. So how does accountability work here? So when we get the trailer, how do you do an investigation—how do you keep rogue cab drivers from sticking things on your trucks?

Mr. RUSSELL. Basically, in our case, we are a truckload carrier, which means that we have one company's goods in the trailer, General Electric, Cara Corporation, whoever. That trailer is taken from a point in the U.S. to the Mexican border where the trailer is then turned over to a customs broker, who then arranges the drayage, meaning just across the border. So that is basically the way it works today.

Mr. SOUDER. So in the—

Mr. RUSSELL. That is on the Mexican border.

Mr. SOUDER. Have you been directly involved in a violation? Or do you know, obviously, other execs who have been? And how exactly does this sort through it? Because if we are trying to figure out how to, in effect, accelerate this, give more flexibility, find out who are the highest risks, hold them accountable, I mean, I have run into this, because every time we define it, it seems like everybody has some kind of excuse, because the driver can walk back, stick it underneath into that, the load—well, it wasn't the loader. It wasn't me, the driver. I didn't know. Somebody, when they opened the door, stuck it in. They attached it as I was getting dinner. How do you—

Mr. RUSSELL. The reality today is the Canadian border is, say, a free-flow border. An American tractor can take a load from Kansas City to Toronto, same driver, same trailer, same tractor crossing the border. A Canadian driver or an American driver can take it from Montreal to Dallas.

The Mexican border doesn't work that way. The Mexican border, the American truck can take it to the northern part of the border itself. The Mexican truck can take it to the southern part of the border. And then these little drayage trucks take it back and forth.

That may well be a real security risk today. It has always been that. About 5 years ago, we had an issue with a marijuana movement. And upon review and working with the FBI, the issue became the drayage company itself. It was neither the Mexican trucker or the U.S. trucker, but it was the same trailer.

Ms. SANCHEZ. Thank you.

We have about 9 minutes left on a vote that is on the floor. We have three votes up. So I would like to give some time for Ms. Kirkpatrick to ask a few questions, and then we will stop the hearing and end it, okay?

Ms. KIRKPATRICK. And I just have a quick question.

Ms. SANCHEZ. Go right ahead.

Ms. KIRKPATRICK. Ms. Kelley, I noticed that you have an accounting degree, undergrad and master's degree, so I have a quick numbers question. You said that we need 4,000 more CBP officers. Does that include existing vacancies? And, also, do you have an estimate of the increased cost that that would be to the department?

Ms. SANCHEZ. Can you—yes, thank you.

Ms. KELLEY. We believe the 4,000 is over and above current authorized staffing. That would be 4,000-plus existing vacancies.

From a cost perspective, I have not done those numbers for today, at least, and we have gathered that data over the years, so I can recalculate that today.

Ms. KIRKPATRICK. Okay. That would be great. I appreciate that.

And then you talked about the inspection specialization. Can you give me an idea of the type and length of training that it takes to have these specialized officers?

Ms. KELLEY. You know, again, I will have to check what the current training is versus what it used to be. It used to be that if you were an immigration inspector, you went to FLETC, the law enforcement training academy, and you are—you had—I am going to hesitate—I will be wrong on the weeks, but say it was 13 weeks.

And if you were a customs inspector, you got 11 weeks. And if you were an agriculture specialist, you went to a different academy, actually, that was specific. And most agriculture specialists have degrees in science, in botany or biology, and many times advanced degrees, not just a bachelor's.

And when they created this One Face at the Border and put them all in one uniform, they merged all the training together. And now they go through—maybe it is a 14-week training where they combined everything, and you get—and you always got a bit of immigration, a bit of customs, because you are the first set of eyes when anything comes across—you know, any of the—through any of the ports of entry.

So there was always some training so you would at least recognize things to send over to secondary. But now it just all got consolidated, and everybody gets the same training, and especially in the immigration and customs. They all get trained on immigration. They all get trained on customs. But there are volumes of law rule and regulation about customs and about admissibility.

They did actually create an admissibility position a few years ago and only staffed it with a few hundred people. And I had hoped they were going to recognize the need for the specialization for the immigration position and then someday see it for customs, but that has not happened.

Ms. KIRKPATRICK. Madam Chairwoman, in the interests of getting to the floor for a vote, I will yield back the balance of my time. And I thank the witnesses very much for being here today.

Ms. SANCHEZ. Mr. Souder has asked something for the record.

Mr. SOUDER. Mr. Russell, if you are comfortable, if you could provide both your personal and if the trucking association would, as you talked about this lane crowding and inability to get trucks separated out, could you rank the top five crossings north and south—or make it the top three north, top five south—of where this problem occurs so we have that?

Ms. SANCHEZ. And what type of a problem it is, so that we have some sort of working knowledge of what it is that we might put assets to and—

Mr. SOUDER [continuing]. Over a bridge farther south here, but I would like to know what the industry feels—

Mr. RUSSELL. We will get you that information.

Ms. SANCHEZ. Great. Perfect. Thank you so much.

I thank the witnesses for their valuable testimony and the members for their questions. And the members of the subcommittee may have additional questions for you all. We will ask you to respond quickly in writing to those questions.

And hearing no further business, this subcommittee stands adjourned.

[Whereupon, at 11:40 p.m., the subcommittee was adjourned.]





## APPENDIX

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### QUESTIONS FROM CHAIRWOMAN LORETTA SANCHEZ FOR JANICE AYALA

*Question 1.* Over the summer, ICE signed a new MOU with DEA to better coordinate their narcotics investigations and provide additional resources to fight violence along the border.

Please describe the current state of the MOU's implementation.

When does ICE anticipate local protocols will be finalized?

*Answer.* On June 18, 2009, U.S. Immigration and Customs Enforcement (ICE) and the Drug Enforcement Administration (DEA) signed a new interagency cooperation agreement regarding investigative functions related to the Controlled Substance Act.

Both Secretary Napolitano and Attorney General Holder have made clear that this agreement is the most efficient and effective way to promote coordination, de-confliction, and streamline communication between the two agencies. This agreement, which went into effect immediately, strengthens collaboration and partnership between ICE and the DEA, bolsters information sharing and coordination, and provides ICE agents the authority needed to work important drug trafficking cases.

Negotiations between ICE and the DEA are currently underway to determine specific implementation plans for the MOU including finalizing local protocols that will be mutually beneficial to the respective agencies and field components.

*Question 2.* Trafficking drugs in commercial trucks allows the cartels to move larger quantities of drugs faster and with relative ease compared to the time it may take a smuggler to transport a smaller shipment through the desert.

Please provide this Committee with the number of investigations ICE conducted on commercial carriers in fiscal year 2009 by northern and southern border.

Has ICE noticed any trends with respect to the use of commercial carriers in drug and human trafficking?

*Answer.* In Fiscal Year 2009, ICE initiated 901 investigations stemming from seizures involving commercial modes of transportation, such as commercial trucks and trains.

With respect to trends involving the use of commercial carriers, ICE has observed that narcotics trafficking and human smuggling involving commercial trucks and trains are generally encountered during the inbound examination process into the United States, whereas bulk cash smuggling is generally encountered during outbound examinations.

*Question 3.* DHS offers many programs that allow expedited processing at our ports of entry for trusted travelers and companies. Has ICE's investigations indicated any loopholes or vulnerabilities in C-TPAT or FAST that can be exploited by the drug traffickers?

*Answer.* To date, ICE has not identified any loopholes or vulnerabilities to the Customs-Trade Partnership Against Terrorism (C-TPAT) or Free and Secure Trade (FAST) programs. U.S. Customs and Border Protection employs a layered enforcement strategy for FAST and C-TPAT, which includes vetting all applicants, validating the entire supply chain from point of stuffing to receipt of the goods in the United States, and conducting random and non-intrusive inspections.

*Question 4a.* Please explain the operational differences between the Integrated Border Enforcement Teams (IBETs) and the Border Enforcement Security Task Forces (BEST). Both appear to be bi-national (U.S.-Canada, and U.S.-Mexico) multi-agency efforts to enhance cooperative border enforcement.

*Answer.* The Integrated Border Enforcement Teams (IBETs) are intelligence-led, multi-agency, field-level groups of law enforcement officials dedicated to securing the integrity of the shared border between Canada and the United States. They include multi-disciplinary intelligence and enforcement units, and, unlike BESTs, they do not concentrate on one specific geographic location, but rather focus on national

security, organized crime, and other criminal activity more generally between the ports of entry.

Border Enforcement Security Task Forces (BESTs) leverage Federal, State, local, and foreign law enforcement resources in an effort to identify, disrupt, and dismantle organizations that seek to exploit vulnerabilities and threaten the overall safety and security of the border. BESTs concentrate in particular cities or areas to investigate individuals and organizations involved in drug smuggling, human smuggling, arms trafficking, bulk cash smuggling and money laundering. There are currently three BESTs along the Northern Border operating at the ports of entry in Buffalo, New York, Detroit, Michigan, and Blaine, Washington. On the Southern Border there are currently ten BESTs located in Laredo, Texas, El Paso, Texas, Rio Grande Valley—Texas, Phoenix, Arizona, Tucson, Arizona, Yuma, Arizona, Deming, New Mexico, Las Cruces, New Mexico, San Diego, California, and Imperial Valley, California. Additionally, there is one BEST operating in Mexico City, Mexico.

*Question 4b.* When would a case or investigation be referred to a BEST as opposed to an IBET, particularly where the BEST and IBET jurisdictions overlap?

Answer. While the BESTs on the Northern Border operate at major ports of entry, the IBETs operate between the ports of entry. In particular, at the ports of entry, the BESTs generally obtain their investigation leads from U.S. Customs and Border Protection (CBP), Office of Field Operations. Conversely, IBETs obtain their investigative leads from agencies operating between the ports of entry, such as CBP's Office of Border Patrol.

*Question 4c.* How are BEST cases and investigations prioritized and coordinated (if at all) with those of the IBETs?

Answer. BEST and IBET coordinate, cooperate, interact, and deconflict intelligence and investigative information. The IBET Joint Management Team (JMT), which meets quarterly to provide specific guidance and contributions to case prioritization for BEST/IBET activity, is composed of IBET member agencies; ICE, United States Customs and Border Protection, United States Coast Guard, the Royal Canadian Mounted Police, and Canada Border Services Agency.

*Question 5.* Please provide the Committee with resource allocation models for land ports of entry.

Answer. U.S. Customs and Border Protection (CBP) Office of Field Operations (OFO) uses the Workload Staffing Model (WSM) to assist in requesting personnel and aligning staffing levels. OFO developed the WSM for CBP Officers, focusing on all aspects of CBP processing for passengers and cargo in the air, land, and sea environments.

The existing model for assessing staffing needs at land ports of entry is based on workload data, processing times, and complexity and threat levels. When allocating available resources, both the WSM as well as the judgment of experienced personnel are taken into consideration. In addition, CBP evaluates other factors such as overtime constraints, special enforcement initiatives, wait times, specific local issues, and the unique attributes of each port. Also considered is CBP's ability to hire, train, and deploy officers in a timely manner, the training capacity at the Federal Law Enforcement Training Center (FLETC), and the physical constraints of current facilities and infrastructure.

#### QUESTION FROM HONORABLE MARK E. SOUDER FOR JANICE AYALA

*Question.* Of the contraband and human smuggling seizures made by Immigration and Customs Enforcement (ICE) Special Agents, excluding those referred to ICE by Customs and Border Protection and other agencies, how many are related to intelligence versus "cold hits?"

Answer. While U.S. Customs and Border Protection (CBP) patrols the front line, ICE by virtue of its investigative responsibilities, generally is not in a position to experience "cold hits." As such, ICE initiates its own investigations and investigates leads from other law enforcement and regulatory agencies.

Currently, there is no auditable way to track which contraband and human smuggling seizures are a direct result of ICE intelligence leads. However, during Fiscal Year 2009, ICE's Office of Intelligence satisfied 1,429 requests for intelligence support related to human smuggling issues and 908 related to contraband investigations. Many of these requests were for strategic intelligence products that identify smuggling routes, methods of concealment, and avenues for identifying active smuggling investigations. The intelligence provided back to field offices helps ICE appropriately direct resources to maximize enforcement efforts. The resulting shift in resources or enforcement methods leads to increased seizures overall.

QUESTIONS FROM CHAIRWOMAN LORETTA SANCHEZ FOR COLLEEN M. KELLEY

*Question 1a.* A few years ago, it was widely reported that CBP needed roughly several thousand new front-line officers to adequately fulfill its mission at the ports of entry. Since that time, CBP has made only modest increases in staffing.

What are NTEU's recommendations for staffing?

Answer. Based on CBP internal documents, the *Washington Post* reported that CBP needs to hire 1600 to 4000 new CBP Officers and Agricultural Specialists to adequately staff the nation's air, sea and land ports of entry while allowing for contingencies, such as training. This number is in line with NTEU's estimation of CBP Officer staffing needs based on our own research.

The actual number of frontline non-supervisory CBP Officers remains elusive (as Rep. Cuellar can attest to.) CBP claims to have 19,972 CBP Officers, yet NTEU's most recent number of CBP Officers in the bargaining unit is about 17,750. Are the rest (over 2,200) non-frontline supervisors? The ratio of non-frontline working CBP supervisors to frontline CBP Officers has been of major concern to NTEU's members for years.

*Question 1b.* How is the lack of CBP officers affecting the workforce and the security of our ports of entry?

Answer. The Federal Human Capital Survey released in 2009 shows that DHS continues to receive some of the lowest scores of any federal agency on a survey for job satisfaction, leadership and workplace performance.

One of the most significant reasons for low morale at CBP is the continuing shortage of staff at the 367 ports of entry (POEs). Despite CBP's own staffing allocation models and a GAO report that states that CBP needs up to 4000 additional CBP Officers at the POEs, there was not new CBP staffing at the ports of entry included in the fiscal year 2010 DHS Appropriations bill.

Also, CBP Officer staffing shortages at the POEs have resulted in limited staff available at secondary to perform those inspections referred to them because the majority of CBP Officers are assigned to primary passenger processing to reduce wait times. CBP Officers are extremely concerned about this diminution of secondary inspection in favor of passenger facilitation at primary inspection since the creation of the Department of Homeland Security. A robust secondary inspection regime is vital to the nation's security.

*Question 2a.* Over the last few years, CBP has implemented a number of new technologies and programs to increase security and expedite the flow of commerce at ports of entry.

Do you believe CBP has placed an overreliance on technology to compensate for the lack of personnel and inadequate infrastructure?

Answer. Advances in technology have been useful in enhancing port security. Risk-based targeting and implementation of expedited crossing programs such as SENTRI for people or FAST (Free and Secure Trade) lanes for trucks and railcars that are certified as compliant with the Customs Trade Partnership Against Terrorism (C-TPAT) agreement help in speeding frequent travelers and known cargo conveyances through the inspection process. Today, primary processing is increasingly dependent on technology. CBPOs are instructed to clear vehicles within thirty seconds. That is just enough time to run the license through the plate reader and check identifications on a data base. If the documents are in order the vehicle is waived through. The majority of a CBPO's time is spent processing I-94s—documents non-resident aliens need to enter the U.S.

Technology, therefore, has its limits. There is no way you can speed up the inspection process in which CBP Officers are currently conducting primary inspections in 30 to 40 seconds without increasing staffing. NTEU's position was confirmed on October 1, 2009, by a draft report of the Southwest Border Task Force created by Homeland Security Secretary Janet Napolitano and reported by the Associated Press that recommends the "federal government should hire more Customs [and Border Protection] officers."

Also, reliance on technology should not discount well-honed human instinct that is based on years of experience in the job. Technological advances are important, but without the training and experience, technology alone would have failed to stop the millennium bomber. It is important to remember that Ahmed Ressam, the millennium bomber, had a valid passport when he attempted to enter the U.S. from Canada by ferry at Port Angeles, Washington. It was years of experience that convinced now-retired U.S. Customs inspector Diana Dean, after brief questioning at primary, to send Ressam to secondary where the true purpose of his visit to the U.S. was discovered.

Without adequate personnel at secondary, wait times grow and searches are not done to specifications. For example, a full search of one vehicle for counterfeit cur-

rency will take two officers on average a minimum of 45 minutes. Frequently, only one CBPO is available for this type of search and this type of search will then take well over an hour.

*Question 2b.* Are you satisfied with the level of training your members are receiving to operate these new technologies and programs?

Answer. Because of staffing shortages at the POEs, there is never enough time for adequate training because it takes staff away from primary processing and adds to wait times. Training is always a secondary priority when scheduling work at the POEs.

*Question 3.* Please describe how the One Face at the Border initiative has affected CBP Officer training, expertise and port of entry inspections. How does current training compare to training before the implementation of the initiative?

Answer. In June 2007, NTEU testified before the Homeland Security Subcommittee on Management, Investigations and Oversight, on this very issue. Please find attached NTEU's June 19, 2007 testimony entitled "Ensuring We Have Well-Trained Boots on the Ground at the Border."

The testimony outlines the changes in training time, subject matter and type of training (i.e., computer-based versus on-the-job training) since the institution of the One Face at the Border initiative. Also attached to the testimony is a virtual learning certificate of training that goes into each Officers personnel file upon completion of a computer-based training module. Computer-based training is now the norm, not on-the-job training with an experienced Officer.

#### QUESTIONS FROM CHAIRMAN LORETTA SANCHEZ FOR TODD OWEN

*Question 1a.* Congress provided \$720 million through the American Recovery and Reinvestment Act of 2009 (ARRA) for construction at land ports of entry.

How will this stimulus funding support the processing of commercial traffic?

Answer. The \$420 million of ARRA funding dedicated to both the General Services Administration (GSA) and the U.S. Customs and Border Protection (CBP)-owned land ports of entry and the \$300 million dedicated to General Services Administration (GSA)-owned land ports of entry provides for critical security upgrades to enable law enforcement officers to do their jobs and protect national security along our Northern and Southern Borders. The modernization will also improve commercial inspection infrastructure, enabling CBP to efficiently and expeditiously screen, assess risk, and inspect incoming cargo. The ports will be built with dual-use primary inspection booths that can be configured to process both commercial and non-commercial traffic, and infrastructure to support radiation portal monitors to comply with the Congressional mandate to screen all commercial traffic entering the United States.

*Question 1b.* What is CBP's long-term strategy to improve and further enhance commercial cargo processing at land ports of entry?

Answer. CBP's long-term strategy to improve and further enhance commercial cargo processing at land ports of entry is to continue to expand the physical processing capacity through infrastructure improvements, which includes leveraging the most up-to-date technology available to perform screening and scanning of incoming cargo at the ports of entry. CBP's strategy also includes modernizing automated systems that contribute to the risk assessment and release decisions made by CBP. Additionally, CBP will continue to work with the trade community and others to obtain their input on operational and policy concerns. This collaboration enables CBP to incorporate feedback from the private sector into key initiatives while fulfilling its dual missions of securing our borders while facilitating legitimate travel and trade.

*Question 2.* The fiscal year 2010 Congressional Budget Justification for CBP indicates that one of the goals for fiscal year 2010 for CBP is to maintain 90 percent or higher compliance rates for C-TPAT members in terms of the ratio of suspensions/removals to the overall number of certified/validated partners. Please explain this measure and how CBP plans to achieve this goal.

Answer. This measure determines the percentage of members whose security procedures were validated by U.S. Customs and Border Protection (CBP) and were found to be in line with the program's security criteria. The figure is calculated by dividing the number of failed validations, i.e. companies suspended and/or removed as a result of a Customs-Trade Partnership Against Terrorism (C-TPAT) validation, into the total number of validations performed in a given period.

Historically, the compliance rate has ranged from 95—99.97% depending on the period reported, showing that the vast majority of companies pass the validation. C-TPAT provides members a period of 90 days to address the validation findings and the member's status is tracked automatically. In those cases where the com-

pany does not adequately resolve the findings, the program takes action to suspend the member.

*Question 3a.* Recently, CBP issued a number of solicitations for various large-scale non-intrusive inspection equipment (NII) systems.

What is the status of the \$88 million in American Recovery and Reinvestment Act funds pledged for non-intrusive inspection (NII) technology at the ports of entry? Has the new equipment been installed?

Answer. CBP received \$100 million dollars in American Recovery and Reinvestment Act (ARRA) funds for purchasing Non-Intrusive Inspection (NII) technology to be deployed to U.S. ports of entry. Approximately 95% of the funds have either been obligated or awarded. Vendors are currently producing the equipment and the entire inventory of ARRA-funded equipment is scheduled to be deployed during the 2009 and 2010 calendar years.

*Question 3b.* How will CBP ensure that this investment meets the challenges of detecting new and emerging weapons and concealment methods?

Answer. CBP constantly evaluates its Non-Intrusive Inspection (NII) Acquisition and Deployment Strategy and continues to make appropriate adjustments aimed at enhancing the overall efficiency and effectiveness of the program. CBP is currently replacing obsolete and aging systems with a mixture of fixed and mobile high-energy and low-energy systems that possess the performance characteristics that meet the mission-specific requirements of CBP. These systems must be seamlessly integrated into an existing port's processes and infrastructure.

There is no single technological solution to improving security. As technology matures, we must evaluate and adjust our operational plans. CBP will continue to pursue a mix of new and emerging technologies with enhanced performance characteristics designed to complement one another and present a layered defense to smuggling attempts.

*Question 3c.* How does CBP evaluate the total life cycle costs for NII equipment deployed at ports of entry?

Answer. Total life cycle costs for NII equipment are based on a 10-year life-cycle that includes acquisition, testing, deployment, training, operation and maintenance, and disposal/retirement at the end of the equipment life.

*Question 3d.* It is our understanding that CBP purchased mobile backscatter NII with ARRA funds. How does CBP plan to use this technology?

Answer. NII technology is an essential element of the CBP layered enforcement strategy. The goal is to match the technology and equipment with the requirements at each location based upon a comprehensive analysis of the unique configuration at every deployment site.

Under the American Recovery and Reinvestment Act (ARRA), DHS recently received funding to purchase additional NII technology, including mobile low-energy backscatter technology, and deployment to land border ports of entry. Low-energy portal and mobile systems have minimal penetration capabilities, they allow CBP to effectively image privately owned vehicles, buses, recreational vehicles and empty-only cargo conveyances for the presence of contraband. These systems require a much smaller footprint and have bidirectional capabilities which provide CBP with the added flexibility to image conveyances both arriving and departing the United States.

*Question 4.* Please provide the Committee with resource allocation models for land ports of entry.

Answer. Response was not received at the time of publication.

#### QUESTIONS FROM HONORABLE MARK E. SOUDER FOR TODD OWEN

*Question 1a.* Please provide the following information regarding C-TPAT and FAST violation incidents involving highway carriers:

The number on the northern border versus the southern border.

Answer. Eleven northern border vs. 35 southern border violations (CY 08-09).

*Question 1b.* The number involving drayage trucks on the southern border.

Answer. C-TPAT and FAST do not maintain drayage statistical information is not kept by C-TPAT and FAST. If a highway carrier company crosses the border with cargo, has a Standard Carrier Alpha Code, a Department of Transportation number and meets the Minimum Security Criteria, then it is generally eligible to participate in C-TPAT.

*Question 1c.* A comparison of the incidents between small and large companies.

Answer. A comparison of the incidents between small and large companies: CBP does not keep statistical information differentiating small and large carriers.

Note: In many of the cases involving security breaches, C-TPAT members were utilizing the services of non-C-TPAT members. C-TPAT has sent out information

bulletins to remind all members that they are expected to use C-TPAT partners to the extent possible and that they are expected to conduct extensive screening on their non C-TPAT business partners.

*Question 2.* What mechanisms exist for bi-lateral and tri-lateral discussions for ways to improve port of entry infrastructure and roads leading to the ports of entry, as well as harmonization of security and trade policies?

Answer. The United States, the Government of Canada (GOC) and the Government of Mexico (GOM) are linked by common borders and economic ties, and have strong bilateral and trilateral partnerships concerning law enforcement and trade issues.

## **Canada**

### **Joint Border Risk Assessment**

U.S. Customs and Border Protection (CBP) and Canada Border Services Agency (CBSA) are working on a joint border risk threat assessment focused on activity at the northern border ports of entry. This project is on schedule and the assessment will be available by the April 2010 deadline.

### **Customs-Trade Partnership Against Terrorism (C-TPAT)/Partners in Protection (PIP)**

C-TPAT, a voluntary public-private sector partnership program, is an integral part of DHS's layered enforcement strategy. C-TPAT members agree to incorporate certain supply chain criteria into their business practices and in return, DHS offers trade-based incentives for participants. For example, DHS provides pre-vetted members access to the FAST lanes on the Canadian border. Canada's equivalent of the C-TPAT is the Partners in Protection (PIP). In June 2008, DHS and CBSA signed a mutual recognition arrangement on C-TPAT and PIP, enhancing the ability of the two programs to share information, recognize the findings of the validation visits conducted by each program, and provide participating businesses with a standardized set of security requirements, as well as a reduced number of validation visits. On November 25, 2009, the United States Secretary of Homeland Security and the Canadian Minister of Public Safety publicly announced that CBP and CBSA will continue to work together closely in order to achieve harmonization of these two programs as quickly as possible. The harmonization of these two trusted shipper programs will improve the security of private sector supply chains and benefit shippers.

### **Bilateral Partnerships**

Both the U.S. government and GOC recognize the need to enhance and expand national and bilateral partnerships to increase security and facilitate trade and travel. Examples of these bilateral partnerships currently in place include the Integrated Border Enforcement Teams, Cross-Border Crime Forum, Shared Border Accord Coordinating Committee, Cooperative Border Management Working Group, and the Export Controls Working Group.

### **Cross-designation of CBP and CBSA Officers**

CBP and CBSA are examining the feasibility of cross designating CBSA officers as CBP officers. This cross designation will increase cooperation between CBP and CBSA by allowing officers to work together to prevent criminals and terrorists from using the border to evade enforcement or to inflict harm on U.S./Canada.

### **Shiprider**

On May 26, 2009, the U.S. Secretary of Homeland Security and the Canadian Minister of Public Safety publicly announced the Shiprider initiative. The Shiprider initiative involves law enforcement officials from both countries operating together in integrated teams. Utilizing Royal Canadian Mounted Police (RCMP) and U.S. Coast Guard vessels, the U.S./Canada combat smuggling, organized drug crime, gun trade and other criminal activity in shared waterways. Shiprider enables the RCMP and the U.S. Coast Guard to cross-train, share resources and personnel and utilize each others' vessels in the waters of both countries. Working together, Canadian and U.S. law enforcement will help ensure that criminal organizations no longer exploit the shared border and waterways because of the inherent jurisdictional challenges associated with cross-border policing.

### **Capital Planning and the Establishment of Joint Facilities**

CBP and CBSA met in September 2009 in order to discuss the establishment of joint CBP and CBSA facilities (one facility for both agencies on the border) and other long-term capital plans. The CBP and CBSA working group will be holding additional meetings on this topic.

## **Mexico**

### **Bilateral Strategic Plan (BSP)/Declaration of Principles (DOP)**

On June 08, 2007, DHS and Mexico's Department of Finance and Public Credit signed the Declaration of Principles (DOP) to provide for increased commitment and cooperation. A key provision of the DOP was the direction to implement a Bilateral Strategic Plan between U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE) and Mexico Customs (MXC). The BSP was formally implemented by the three agencies on August 13, 2007, establishing four working groups to coordinate and implement the goals set forth in the document (the Capacity Building Working Group, the Customs Security Working Group, the Border Management Working Group, and the Customs Enforcement Working Group). On June 15, 2009, DHS Secretary Napolitano and SHCP Secretary Carstens signed a Letter of Intent to revise and update the BSP and DOP. Subsequently, CBP, ICE, and MXC jointly revised the BSP and DOP which was signed by Secretary Napolitano and Secretary Carstens on December 7, 2009.

#### **Port Bi-National Security Committees**

The establishment of Port Bi-National Security Committees between the United States Government (USG) and the GOM will serve as the foundation for a formalized process to address security concerns and other related issues at ports of entry on both sides of the border.

#### **Canine Training**

As part of the Merida Initiative, CBP and the Department of State will conduct canine training for experienced Mexican dog handlers and supervisors. The Canine Center in El Paso is planning to train 44 canine detection teams (40 for MXC and 4 for the Mexican Navy), including eight canine instructors for MXC. The teams will be trained in the discipline of 22 narcotics and 22 currency/firearms.

#### **Coordination of Border Infrastructure**

There are a number of formal mechanisms in place for coordination of border infrastructure. These include:

- The U.S.–Mexico Joint Working Committee led by the Federal Highway Administration (FHWA), whose focus is evaluating and coordinating border-wide transportation improvements.
- The Binational Bridges and Border Crossings Meeting, led by the Department of State (DOS), whose focus is on coordination and alignment of project priorities and implementation schedules
- The Border Liaison Mechanism (BLMs) meetings, which provide land port of entry project-specific work groups to address all aspects of project design, construction, and delivery. These forums consists of government officials from the Federal, State, and local levels and also include private stakeholders, such as bridge board members, metropolitan planning organizations, and other such entities.

*Question 3.* What other agencies or departments are authorized to place holds on commerce crossing the border? How does CBP coordinate with these entities to move legitimate cargo through as quickly as possible?

*Answer.* Other agencies or departments authorized to place holds on commerce crossing the border are as follows: U.S. Fish and Wildlife Service, U.S. Coast Guard, U.S. Food and Drug Administration, U.S. Department of Agriculture's Animal and Plant Health Inspection Service, U.S. Environmental Protection Agency, the U.S. Department of Agriculture's Food Safety and Inspection Service, Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Treasury's Office of Foreign Assets Control, U.S. Department of State's Directorate of Defense Trade Control, and the Department of Commerce's Bureau of Industry and Security.

CBP coordinates with these agencies and departments to move legitimate cargo as quickly as possible. CBP can either release the cargo to the other agency or department or CBP can inspect on its behalf.

*Question 4.* What is the process when another federal entity places a hold on an import but is not physically present at the port of entry to do an inspection?

*Answer.* When another Federal entity places a hold on an import, but is not physically present at the port of entry to do an inspection, CBP communicates with that entity electronically or verbally, and then either releases control of the cargo to the other agency or department or inspects the cargo on behalf of the other agency or department.

The process may be initiated through any of the following methods:

- Other agencies or departments may delay the release of cargo by based on criteria submitted to CBP and entered into the Automated Commercial System (ACS).
- Other agencies or departments may request CBP to flag specific commodities for intensive examination which can further delay its release.

- Other agencies or departments may call CBP and request a shipment be held for examination.

QUESTIONS FROM CHAIRWOMAN LORETTA SANCHEZ FOR STEPHEN RUSSELL

*Question 1a.* Despite the various steps CBP has to process commercial traffic more efficiently, the Committee continues to hear about growing wait times, longer inspections, and limited staffing at our ports of entry.

Are you satisfied with the steps that CBP has taken to process legitimate commercial traffic?

*Question 1b.* What more needs to be done to expand and expedite commercial processing?

Answer. Chairwoman Sanchez, I do believe that CBP, operating under the present constraints of our border infrastructure, has taken a number of steps to improve the throughput of commercial cargo across our land border ports of entry. The use of certain technologies has allowed CBP to become more efficient reviewing manifest information, performing risk analysis and targeting, and for inspecting commercial vehicles for any potential anomalies that could indicate the presence of illegal cargo. As I mentioned in my testimony, the use of Non-Intrusive Inspection (NII) systems has not only allowed CBP to look inside tractors and trailers without spending hours loading, unloading and reloading freight from a trailer to inspect for potential contraband, but it has also averted any physical damage being done to our equipment through the use of other more rudimentary inspection tools such as drills.

We are clearly seeing a large reduction of commercial flows across our borders with Canada and Mexico due to the present economic situation. This has alleviated some of the congestion and usual delays faced by trucking companies. Of course, we are concerned that once economic output begins to increase again throughout North America, that long lines at border crossings will once again become the norm.

As a member of the Customs—Trade Partnership Against Terrorism (C-TPAT), Celadon is proud to work in partnership with CBP in securing the international supply chain so critical to our country's economic wellbeing. However, one of the key incentives and benefits for motor carriers to participate in C-TPAT is the concept of Free and Secure Trade (FAST) lanes. The concept of the FAST lane is that C-TPAT motor carriers, transporting freight for a C-TPAT importer, and using a driver who has undergone a FAST background check, get to use a FAST "lane" that separates "low-risk" cargo from the regular traffic. However, today the concept has not evolved into a FAST-lane, but simply into a FAST "gate": C-TPAT motor carriers are commingled with the rest of the traffic until the point at which they arrive at the gate and proceed to a FAST gate, not providing any real benefit or relief from congestion. CBP must work with their Canadian and Mexican counterparts to implement true FAST/C-TPAT lanes.

I also encourage this Committee to monitor and review how border infrastructure needs are developed and implemented. Agencies such as CBP, the General Services Administration (GSA) the Departments of State and Transportation, and others need to closely coordinate their planning and operational needs to have the proper level of physical infrastructure, technology systems and human resources to ensure that our ports of entry operate securely and efficiently. For example, the development of FAST/C-TPAT lanes has to be part of border infrastructure planning and financing.

I urge the Committee to take the following steps:

- Work with other relevant Congressional Committees to improve border infrastructure, including the building of FAST/C-TPAT lanes, so low-risk commercial carriers get the one true benefit of expedited processing and clearance at our ports of entry;
- Increase the number of NII systems at our busiest land-border ports of entry to further increase throughput of commercial vehicles while improving CBP's ability to detect illicit cargo; and,
- Provide CBP with the necessary resources to ensure the agency has enough personnel to operate every gate during peak-times so that our border infrastructure is utilized at its optimal capacity.

*Question 2a.* The Automated Commercial Environment (ACE) has undergone some significant modifications over the last few years and more are scheduled so that the system can include all modes of cargo shipments.

Please discuss your use of the ACE system and how the system can be improved.

*Question 2b.* What type of input have ATA members had in the development of ACE?

Answer. The development and implementation of the ACE system has been in the making since 1993, the year in which Congress passed the Customs Modernization



Act. If you consider that the first electronic manifest within ACE was implemented in December of 1994, and we are still lacking some functions, it has taken nearly 16 years to get the ACE system up and running.

For the trucking industry, the implementation of the e-manifest system has been critical for several reasons. First, it allows trucking companies to be in compliance with the Trade Act of 2002 requirements for submitting information in an electronic format prior to arrival at a port of entry. The Trade Act mandates that cargo, equipment and driver information has to be received electronically by CBP 1 hour prior to arrival—30 minutes for C-TPAT members. The ACE e-manifest allows motor carriers to provide key data elements directly to CBP for the review of freight information and clearance of freight prior to arrival. Second, the trucking industry was the only transportation mode prior to ACE that did not have an automated manifest system. Thus, the trucking industry was still operating under a cumbersome, paper-based system in which we relied on third parties to provide and submit the information to CBP for clearance, which in turn resulted in unnecessary delays and negatively impacted our operations. Third, the ACE e-manifest provides CBP a much improved system and process for reviewing the information and data provided for review and clearance of the cargo, vehicle and driver even prior to the cargo arriving at the port of entry.

Regarding the input that ATA members have had in the development of ACE, I can tell the Committee that ATA has been actively involved from the very beginning in the various working groups and committees developing the ACE Multi-Modal-Manifest system. Obviously, we have been very involved for several years in the development specifically of the e-manifest for trucks with several ATA members of different sizes testing and providing feedback on the system. ATA has spearheaded bi-weekly teleconferences with CBP to discuss issues and fixes to the ACE truck e-manifest for the past several years. These teleconferences began in 2005 and are ongoing, providing a forum for both CBP and the trucking industry to work on improvements that need to be made to the system. At this time, the trucking industry is waiting for the ocean and rail ACE e-manifests to be rolled out, which will add significant flexibility and function to the ACE truck e-manifest.

We understand that CBP and Congress have been looking at the cost of ACE relative to the functions it will provide for the agency and trade. At this time, the ACE system needs to be expanded, rather than contracted so our trade systems stop depending on a paper-based system. One of the improvements recommended by the trade community is to enhance ACE with the ability to pass imaged information to CBP. Another is to enhance the communication between brokers and transportation providers by improving the already programmed but seldom used “broker download,” which would put a stop to faxing and phone calling. In order to make these improvements, and others, ACE needs to be fully funded.

*Question 3.* In your testimony, you state that CBP could exercise more flexibility with industry partners in correcting security breaches and developing security measures that complement partner business models. Please elaborate.

*Answer.* Members of C-TPAT take their responsibilities for implementing security measures required by the program very seriously. Securing our operations is not only vital to improving the security of our Nation, but to also ensuring the security of the international supply chain, and the security of our customers’ cargo. In essence, C-TPAT is a “partnership” program between CBP and the trade community, a partnership that requires understanding each other’s operations and needs. Thus, there is a need for greater “flexibility” by CBP when a C-TPAT member has been targeted and used by smugglers to try to introduce illegal cargo or aliens into the U.S. by using one of our conveyances.

This request for flexibility arises from the present CBP policy of terminating a C-TPAT member’s privileges due to a single security incident. When illegal cargo, such as illegal drugs or aliens, is discovered in a conveyance belonging to a C-TPAT motor carrier, the Status Verification Interface (SVI) number for that motor carrier is turned off even prior to an investigation taking place by CBP. The SVI number allows C-TPAT importers to review if a motor carrier is in good standing within the program. If a C-TPAT importer finds that the motor carrier’s SVI has been turned off, the importer will then need to scramble to find another C-TPAT motor carrier to transport its cross-border cargo. At the same time, the motor carrier whose SVI number has been turned off could potentially lose a large account of business.

The scenario described above can dramatically disrupt cross-border operations for both the motor carrier and the C-TPAT customers who depend on the carrier to transport their cargo safely and securely. C-TPAT motor carriers have requested that CBP not turn off the SVI number until a preliminary investigation has taken place and it has been shown that the motor carrier did not have the necessary secu-

urity steps to stop illegal cargo from being introduced into the conveyance. If the carrier has had security breaches in the past that have resulted in past reviews and suspensions, then we recognize the need by CBP to take action, noting a potential “systemic” security problem within the company. However, if the motor carrier has implemented the security criteria expected by CBP and demonstrated efforts to continually improve security, a “single” security incident should not result in the motor carrier’s suspension from C-TPAT. Rather than operate under a “gotcha” mentality in which the motor carrier is suspended, ATA and its members believe that CBP should take a pro-active approach of working with the motor carrier to review and suggest security improvements.

This is especially a concern on the U.S.-Mexico border where cross-border trucking operations and business models are quite different from those on the U.S.-Canada border. For example, let’s consider a load of computer parts that travels from Silicon Valley in California down to an assembly plant in Guadalajara, Mexico. A U.S. carrier picks up the cargo in California and drives to Laredo, Texas, where the U.S. motor carrier drops off the trailer with the parts. After being cleared for entry into Mexico, a “drayage” tractor will come across the border, hook up the trailer and transport the trailer just to the other side of the border, where the long-haul Mexican partner of the U.S. motor carrier will then hook up the same trailer and transport it to its final destination in Guadalajara. Once the computers are assembled and ready for the U.S. market, they will be transported by the Mexican long-haul motor carrier and be dropped off at Nuevo Laredo, Tamaulipas. After being cleared by CBP for entry into the U.S. a “drayage” truck will again pick up the trailer and transport it across the border to Laredo, Texas, and drop it off at the U.S. motor carrier’s terminal for further delivery in the U.S.

The challenge faced by these types of operations is that neither the U.S. long-haul nor the Mexican long-haul carriers have “control” of the trailer when crossing the U.S.-Mexico border because the drayage tractor is an independent agent that tends to have a relationship with either a customs broker or freight forwarder. In essence, this operation in which multiple companies are in charge of transporting a trailer across the border results in a much tougher risk-management process due to a higher threat level for smugglers to target and introduce illicit cargo into a conveyance. Long haul motor carriers would like to have greater control over the movement of such cargo across the U.S.-Mexico border. But today, long-haul motor carriers from both countries are not allowed to operate across the border. Allowing long-haul motor carriers to cross the border would greatly improve not only cross-border trucking efficiency, but also greatly improve the security of such operations especially by C-TPAT motor carriers.

#### QUESTIONS FROM HONORABLE MARK SOUDER FOR STEPHEN RUSSELL

*Question 1.* What do you believe are the most crowded ports of entry on both land borders of the United States and what do you attribute the main cause for congestion?

Answer. I believe the Ambassador Bridge between Detroit, Michigan and Windsor, Ontario, and the bridge between Laredo, Texas, and Nuevo Laredo, Tamaulipas are the two busiest border crossings for commercial vehicles at the northern border and southern border, respectively. At the Ambassador Bridge the automotive industry plays a very large role, with plants on both sides of the border, which produce and manufacture auto-parts that travel back and forth across the border. Because the larger ports at the northern border are able to process freight 24 hours a day, it has been easier to stagger scheduled freight crossings; however, we still see peak hour congestion at these crossings. Developing better and more flexible infrastructure both leading to and leaving the ports would be a positive step towards reducing congestion at the northern border. At the southern border, the causes of congestion range from limited hours at the ports, the need for more inspections, and the business systems in place that prevent crossings at times other than daylight hours.

*Question 2.* During the hearing, there was discussion regarding the potential vulnerability to the supply chain created by drayage companies on the southwest border. Please expand upon this issue, including the impact on C-TPAT and FAST Membership when a violation with a drayage truck or trailer moved by a drayage truck.

Answer. As I described above in a similar question by Chairwoman Sanchez, ATA and motor carriers have held discussions with CBP regarding how motor carriers participate in the C-TPAT program on the U.S.-Mexico border, where long-haul motor carriers are unable to cross the border to pick up or deliver cargo. The business model of the “drayage” operation, primarily used at the Laredo-Nuevo Laredo crossing, by far the largest commercial border crossing on the U.S.-Mexico border,

has always represented a challenge to motor carriers providing cross-border services on the southern border because long-haul motor carriers tend to lose control of the trailer and thus the ability to mitigate security risks and prevent the introduction of contraband or unauthorized cargo.

In the early discussions about C-TPAT between ATA and CBP, trucking industry representatives explained to CBP that drayage carriers pick up trailers on the U.S. side and transport them across the border into Mexico. And because one of the critical qualifying components for motor carrier participation in C-TPAT is that the motor carrier's equipment and driver must physically cross the border, this drayage model means that only the drayage carrier qualified to participate in C-TPAT, and not the U.S. or Mexico-based long-haul carriers. This limitation on motor carrier participation applies to all movements across the southern border, north and south. Thus, the major participants in the movement of freight into and/or out of Mexico—i.e., the long-haul carriers—are, for the most part, were excluded from membership in C-TPAT because they do not actually cross the border. After these early discussions, CBP decided to incorporate a Mexican long-haul C-TPAT highway carrier program, which allowed for this important segment of cross-border operations to finally participate in C-TPAT and have improved security controls over the long-haul leg in Mexico.

C-TPAT certified carriers are required to screen business partners (including drayage companies) to determine whether or not they meet C-TPAT security recommendations. If business partners are not C-TPAT certified, the carriers must ensure through contractual agreement that they are willing to commit to C-TPAT security recommendations. Regardless of commitments from drayage companies, the C-TPAT carriers are ultimately responsible for their equipment and associated freight as it crosses the border despite the carrier's lack of physical custody or control.

If unauthorized cargo, tampering, or anomalies are discovered at the border, CBP's promulgated 17 point conveyance inspection checklist used to inspect equipment en route is critical in determining where the breach occurred. If C-TPAT carriers can demonstrate through documented inspections while the equipment was in their custody that it was secure from unauthorized cargo, tampering or anomalies—CBP will then investigate the drayage carriers to determine their responsibility for the violation(s). If C-TPAT carriers have not performed the 17 point conveyance inspections en route, it is impossible to determine where the breach occurred or that the carrier or driver was not involved in an attempt to introduce unauthorized cargo or contraband. If it is impossible to determine where the breach occurred, the carrier's C-TPAT membership and associated FAST privileges can be revoked.

