

**TESTIMONY OF COLLEEN M. KELLEY
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ON

**HOMELAND SECURITY REORGANIZATION'S IMPACT ON
INTERNATIONAL TRADE**

BEFORE

SENATE COMMITTEE ON FINANCE

**TUESDAY, JULY 16, 2002
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Chairman Baucus, Ranking Member Grassley, distinguished members of the Committee, I would like to thank the Committee for the opportunity to comment on the President's proposed Department of Homeland Security and its impact on the Customs Service and international trade.

As President of the National Treasury Employees Union (NTEU), I have the honor of leading a union which represents over 12,000 Customs employees who are stationed at 301 ports of entry across the United States. Customs inspectors, canine enforcement officers, and import specialists make up our nation's first line of defense in the wars on terrorism and drugs as well as the facilitation of lawful trade into the United States. In addition, Customs personnel are responsible for ensuring compliance with import laws and regulations for over 40 federal agencies, as well as stemming the flow of illegal contraband such as child pornography, illegal arms, weapons of mass destruction and laundered money.

With a FY2002 budget of approximately \$3.1 billion, the U.S. Customs Service facilitates more trade, and interdicts more drugs than any other agency. The Customs Service collects over \$20 billion in revenue on over 25 million entries involving over \$1.3 trillion in international trade every year. The Customs Service provides the federal government with its second largest source of revenue. Last year, the Customs Service deposited over \$22.1 billion into the U.S. Treasury.

The President's FY2003 budget requests a funding level of \$3.18 billion for the United States Customs Service. This request represents a token increase from last year's appropriations. NTEU feels that this budget is simply inadequate to meet the needs of Customs personnel, especially in light of the incidents surrounding September 11th.

In addition to appropriations, Customs also receives funds from the COBRA account. This user fee account funds all inspectors' and canine enforcement officers' overtime pay as well as approximately 1100 Customs positions across the country. This account is funded with user

fees collected from air/sea passengers except from the Caribbean and Mexico, commercial vehicles, commercial vessels/barges and rail cars.

The COBRA fund will expire on September 30, 2003, unless it is reauthorized by Congress before then. However, the President's FY2003 budget does not call for the reauthorization of COBRA. COBRA must be reauthorized or Congress must appropriate additional funds to make up for the loss of the user fees.

In 2001, Customs Service employees seized over 1.7 million pounds of cocaine, heroin, marijuana and other illegal narcotics – including over 9.5 million tablets of Ecstasy, triple the amount seized in 1999. Customs also processed over 500 million travelers last year, including 1 million cars and trucks. These numbers continue to grow annually. Over the last decade trade has increased by 137%.

Yet, despite the increased threats of terrorism, the dramatic increases in trade resulting from NAFTA, and new drug smuggling

challenges, the Customs Service has confronted its rapidly increasing trade workload and homeland security mission with relatively static staffing levels and resources. In the last ten years, there simply has not been adequate increases in staffing levels for inspectional personnel and import specialists, the employees who process legitimate trade, to successfully conduct their missions. Unfortunately, this situation is not likely to change under the President's Homeland Security proposal. The President has stated that his proposal will not include any additional funding that will enable the Customs Service and its personnel to successfully accomplish their missions of trade facilitation and border security.

For example, traffic volume at U.S. land ports-of-entry has steadily increased as our shared borders with Mexico and Canada have become more open as a result of the NAFTA and other trade initiatives. The steady increase of commercial and non-commercial traffic has led to increased wait times at many land ports-of-entry, particularly those along the Southwest border. Wait times along the Southwest border

often extend to 45 minutes or more during peak hours. Such lengthy delays can be both irritating and costly to businesses and the traveling public. The lack of resources at ports-of-entry is also a problem along the Northern Border as well as seaports. The events of September 11 brought attention to the fact that the Northern border, the nations' seaports, and the Southwest border are still in urgent need of additional personnel and resources. In fact, Customs' recent internal review of staffing, known as the Resource Allocation Model or R.A.M., shows that Customs needed over 14,776 new hires just to fulfill its basic mission and that was before September 11.

For instance, with increased funding, modern technologies, such as Vehicle and Cargo Inspection Systems (VACIS), which send gamma rays through the aluminum walls of shipping containers and vehicles to enable Customs inspectors to check for illegal drugs or weapons of mass destruction, as well as decreasing the amount of time shipping containers are out of the supply chain, could be acquired. However, adequate and consistent funding to purchase, operate and maintain these technologies

has not been forthcoming. Other technologies, coupled with proper personnel funding, such as portable contraband detectors (a.k.a. Busters), optical fiber scopes and laser range finders can be invaluable to Customs personnel protecting our borders from terrorists and illegal drugs.

Included in the modern technology possibilities for Customs is the Automated Commercial Environment or (ACE). ACE could be an integral element for trade enforcement and in preventing cargo from becoming an instrument of terrorists. The current Automated Commercial System (ACS) is a 17 year old, outdated system that is subject to system crashes and freezes that wreak havoc on trade facilitation and employees' ability to do their jobs. Although a system upgrade is necessary for Customs to meet its modernization efforts, NTEU would oppose funding a new system that shifts funds away from critically important staffing needs.

A number of these resource issues were addressed by this Committee as part of the trade package currently in conference. This legislation would authorize over \$3 billion for a number of Customs priorities such as staffing, commercial and non-commercial operations, narcotics detection equipment, child pornography prevention, the ACE computer system and the air and marine interdiction units.

As for the President's Department of Homeland Security proposal, HR 5005, it seeks to consolidate the Customs Service, INS, Border Patrol, the Animal and Plant Health Inspection Service (APHIS) the Transportation Security Agency (TSA) and the Coast Guard into one division titled, Border and Transportation Security under the jurisdiction of a newly created Department of Homeland Security. I find this proposal to be extremely troubling for a number of reasons, one of which is the fact that the Customs Service would not be maintained as a distinct entity within the proposed Department of Homeland Security. Each of these agencies' missions are unique and should remain as

distinct entities in any new agency. Combining each agency's fields of expertise will lead to losing that expertise.

The fact that Customs would not be a distinct entity within the Department of Homeland Security would deal severe blows to three distinct missions in which the Customs Service has world class expertise, trade facilitation, the collection of duty revenue, and drug interdiction at our nation's borders. Each year more than 16 million containers arrive in the United States by ship, truck and rail. In the last five years alone, Customs has witnessed a 60 percent increase in trade entries processed, and this rate is expected to grow an average of 8 to 10 percent a year.

To consolidate the Customs Service with five other agencies, only one of which remains a distinct entity, the Coast Guard, would be a long-term mistake for Customs. Customs' trade facilitation mission would clearly not be the highest priority for the Department of Homeland Security. Keeping Customs as a distinct entity within the Department as proposed in both Senator Lieberman's Homeland Security bill, S 2452,

and Representative Mac Thornberry's bill, HR 4660, would help retain the emphasis on the importance of Customs' trade related duties.

Other trade issues such as textile transshipment enforcement, trade agreement circumvention, and the use of counterfeit visas to enter inadmissible goods would simply fall farther down the priority list in a newly created Department of Homeland Security. Many of these concerns have been voiced by a number of trade groups such as the National Foreign Trade Council and the Electric Industries Alliance.

The importance of keeping Customs intact as a distinct entity within a new Department of Homeland Security is even more necessary when one looks at the full interaction of Customs employees involved in both the trade facilitation and law enforcement missions of the Customs Service. Trade enforcement functions are carried out by the same Customs personnel who ensure border security. Customs inspectors, import specialists, canine enforcement officers and agents work closely together to enforce trade and anti-smuggling laws. When an inspector

makes a large illegal cash seizure at a border crossing, the case is given to an agent for a follow-up investigation to determine where the illegal funds came from and where they were going. The interaction between the law enforcement and trade facilitation missions of the Customs Service is also useful in the discovery of counterfeit goods and intellectual property piracy.

Customs also relies on the expertise of its trade enforcement personnel to recognize anomalies in their review and processing of commercial transaction information associated with the admissibility and entry of imported goods. This process assists law enforcement in developing targeting criteria as well as targeting suspect shipments and starting investigations. The Customs Service has established partnerships with private industry that are unmatched, enabling them to work together to ensure the efficient flow of goods and services into the United States together with the mission of protecting our border from terrorism and other illegal activities. To separate these two vital

missions of the Customs Service would compromise the current effectiveness of all Customs employees.

Both the American public and the trade community expect the borders to be properly defended while at the same time being able to efficiently and safely facilitate trade across that border. The government must show the public that it is serious about protecting the borders and facilitating trade by fully funding agencies such as the Customs Service who are tasked with defending the borders and enforcing the trade laws of the United States. No organizational structure change will be successful, no matter how good it may look on paper, if the government does not provide proper funding for its border agencies.

The Administration has indicated that it wants new “flexibility” in the legislation that will establish the Department of Homeland Security. While it is unclear exactly what is meant by that phrase, I urge Congress not to take away the rights and benefits that are currently available to the employees who may be merged into this new department. Before,

during, and after September 11, front line employees have acted heroically to protect our freedom. They do not deserve to lose theirs.

The House Government Reform Committee acted last week to protect the Title 5 rights of federal employees who will be transferred into the new department under HR 5005. I urge this committee and the entire Senate to do the same.

Other legislative actions that would help to ensure the retention of Customs personnel would be to grant law enforcement status for Customs Inspectors and Canine Enforcement Officers. The U.S. Customs Service Inspectors and Canine Enforcement Officers continue to be the nation's first line of defense against terrorism and the smuggling of illegal drugs and contraband at our borders and in our ports. Customs Service Inspectors have the authority to apprehend and detain those engaged in terrorism, drug smuggling and violations of other civil and criminal laws. Canine Enforcement Officers and Inspectors carry weapons, and at least three times a year they must

qualify and maintain proficiency on a firearm range. Yet, they do not have law enforcement officer status. They are being denied the benefits given to other federal employees who they have been working beside to keep our country safe. Customs employees face real dangers on a daily basis, granting us law enforcement officer status would be an appropriate and long overdue step in recognizing and retaining the Customs personnel who continue to protect our borders from terrorism and drugs. There currently is a bill before the Senate, S 1935, which would grant law enforcement status to Customs personnel. Senator Mikulski introduced this bill. I would ask the members of this committee to cosponsor this very important legislation.

Finally, I have attached to my statement an article from Newsday that features Customs Inspector and NTEU member Diana Dean, who apprehended Millenium Bomber, Ahmed Ressay in Port Angeles, Washington. It makes the case more eloquently than I could, that she is the kind of person we want in a new Department of Homeland Security. But I fear that the “flexibilities” proposed by the President will lead to

many fewer such dedicated people willing to work for the new Department. That would be a shame and I hope Congress will not let that happen.

Thank you for the opportunity to share NTEU's thoughts on these very important issues. I look forward to working with the Committee on this and many other issues related to homeland security, trade facilitation, and the Customs Service.