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U.S. Customs and Border Protection  
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Chairman Grassley, Ranking Member Baucus, and Members of the Subcommittee, it is a privilege and an honor to appear before you today to discuss U.S. Customs and Border Protection's (CBP) trade functions and enforcement efforts.

I want to begin by expressing my gratitude to the Committee for the interest and support you continue to provide as CBP performs our important security and trade enforcement work without stifling the flow of legitimate trade and travel that is so important to our nation's economy. These are our "twin goals:" building more secure and more efficient borders.

Your support has enabled CBP to make significant progress in securing our borders and protecting our country against the terrorist threat. CBP looks forward to working with you to build on these successes.

On March 1, CBP marked its third anniversary, and in those three years we have made great strides toward securing America's borders, protecting trade and travel, and ensuring the vitality of our economy. With the creation of CBP, for the first time in our nation's history, responsibility for securing, controlling and managing the physical U.S. border is consolidated within a single agency. As America's frontline border agency, CBP employs our highly trained and professional personnel, resources, expertise and law enforcement authorities to discharge our mission of preventing terrorists and terrorist weapons from entering the United States, apprehending individuals attempting to enter the United States illegally, stemming the flow of illegal drugs and other contraband, protecting our agricultural and economic interests from harmful pests and diseases, protecting American businesses from theft of their intellectual property, regulating and facilitating international trade, collecting import duties, and enforcing United States trade laws. In FY 2005, CBP processed almost 29 million trade entries, collected revenue exceeding \$28 billion, seized 2 million pounds of narcotics, processed 431 million pedestrians and passengers, 121 million privately owned vehicles, and processed and cleared 25.3 million sea, rail, and truck containers.

Carrying out our extraordinarily important missions entails not only improving security at and between our ports of entry along the entire length of our land and maritime borders, but also extending our zone of security beyond our physical borders.

CBP's efforts to achieve these goals and protect the physical and economic security of the United States would not be possible without our partnerships with the trade community, other government agencies and our foreign government counterparts.

Since the terrorist attacks of September 11, 2001 we have worked with hundreds of businesses and many state, local, and government partners to obtain advance information, secure the global supply chain, and share best practices in the customs and immigration arenas.

### **One Face at the Border**

The establishment of CBP within the Department of Homeland Security (DHS) signaled the commencement of an historic transformation of the components of the three agencies responsible for United States border functions into a unified border agency charged with protecting America and its economic infrastructure from terrorists and implements of terror.

The training of the front line CBP Officers in the traditional customs, agriculture and immigration job functions has been completed. Cross training for CBP Officers has effectively created a force-multiplier. Currently there are an additional **2106** CBP Officers working passenger primary lanes, processing all travelers and making mission related referrals to secondary. At land borders, there are an additional **1372** CBP Officers with the new skills and abilities to process immigration secondary referrals.

When arriving at a Port of Entry, the single uniform, badge, professionalism and personal appearance standards for all inspectional personnel means that a unified corps of officers greets the American public with a unified mission. CBP Officers are gaining an expertise in eliciting information from people potentially associated with terrorism. This is an expertise the agency had not possessed before.

Every day CBP Officers contribute to the antiterrorism, trade enforcement and antinarcotics mission. Their cross training has led to significant seizures of narcotics, fraudulent documents, prohibited agricultural items and non-compliant merchandise. These enforcement actions recognize CBP's ability to address risk and non-compliance across our mission using a highly trained and professional workforce.

A team of CBP Officers from the port of Highgate Springs, Vermont that is responsible for cargo and trade issues was recently awarded a Commissioner's Award for Best Practices/Unification. The team consisting of new and veteran officers with customs and agriculture backgrounds combined their knowledge and expertise to form an effective and aggressive trade enforcement operation. The team intercepted 12 excludable drivers, assisted in U.S. Immigration and Customs Enforcement (ICE) fraud investigations, intercepted over a million dollars worth of FDA violations, and issued more than 400 warnings, penalties, seizures, or denials of entry.

CBP Officers are addressing the need to facilitate the flow of legitimate trade and travel. We are adding more manpower to the front line, one of the first lines of defense in the war on terrorism.

As the single, unified border agency of the United States, CBP's missions are extraordinarily important to the protection of America and the American people. In the aftermath of the terrorist attacks of September 11<sup>th</sup>, CBP has developed initiatives to meet our twin goals of improving security and facilitating the flow of legitimate trade and travel. Our homeland strategy to secure and facilitate cargo moving to the United States is a layered defense approach built upon interrelated initiatives. They are: the 24-Hour and Trade Act rules; the Automated Targeting System (ATS), housed in CBP's National Targeting Center; the use of Non-Intrusive Inspection equipment and Radiation Portal Monitors; the Container Security Initiative (CSI); and the Customs-Trade Partnership Against Terrorism (C-TPAT) initiative. These complementary layers enhance seaport security, and protect the nation.

#### Advance Electronic Information:

As a result of the 24-Hour rule and the Trade Act, CBP requires advance electronic information on all cargo shipments coming to the United States by land, air, and sea, so that we know who and what is coming before it arrives in the United States. The 24-Hour Advanced Cargo Rule requires all sea carriers, with the exception of bulk carriers and approved break-bulk cargo, to provide proper cargo descriptions and valid consignee addresses 24 hours before cargo is loaded at the foreign port for shipment to the United States. Failure to meet the 24-Hour Advanced Cargo Rule results in a "do not load" message and other penalties. This program gives CBP greater awareness of what is being loaded onto ships bound for the United States and the advance information enables CBP to evaluate the terrorist risk from sea containers on 100% of shipments.

#### Automated Targeting System:

The Automated Targeting System, which is used by the National Targeting Center and field targeting units in the United States and overseas, is essential to our ability to target high-risk cargo and passengers entering the United States. ATS is the system through which we process advance manifest and passenger information to detect anomalies and "red flags," and determine which passengers and cargo are "high risk," and should be scrutinized at the port of entry, or in some cases, overseas.

ATS is a flexible, constantly evolving system that integrates enforcement and commercial databases. ATS analyzes electronic data related to individual shipments prior to arrival and ranks them in order of risk based on the application of algorithms and rules. The scores are divided into thresholds associated with further action by CBP, such as document review and inspection.

The National Targeting Center, working closely with the Coast Guard, also vets and risk scores all cargo and cruise-ship passengers and crew prior to arrival. This ensures that DHS has full port security awareness for international maritime activity.

Container Security Initiative (CSI) and Customs-Trade Partnership Against Terrorism (C-TPAT) - Extending our Zone of Security Outward & Partnering with Other Countries:

In fiscal year 2005, over 11.3 million seagoing containers arrived at our nation's seaports. Another 11.3 million cargo conveyances arrived by land. About 90% of the world's manufactured goods move by container, much of it stacked many stories high on huge transport ships. Each year, two hundred million cargo containers are transported between the world's seaports, constituting the most critical component of global trade. The greatest threat to global maritime security is the potential for terrorists to use the international maritime system to smuggle terrorist weapons – or even terrorist operatives – into a targeted country.

Clearly, the risk to international maritime cargo demands a robust security strategy that can identify, prevent, and deter threats, at the earliest point in the international supply chain, before arrival at the seaports of the targeted country. We must have a cohesive national cargo security strategy that better protects us against the threat posed by global terrorism without choking off the flow of legitimate trade, so important to our economic security, to our economy, and, to the global economy.

We developed a layered enforcement approach that addresses cargo moving from areas outside of the United States to our ports of entry. Our approach focuses on stopping any shipment by terrorists before it reaches the United States, and only as a last resort, when it arrives at a port of entry.

The Container Security Initiative (CSI) and the Customs-Trade Partnership Against Terrorism (C-TPAT) initiatives bolster port security. Through CSI, CBP works with host government Customs agencies to examine high-risk maritime containerized cargo at foreign seaports, before they are loaded on-board vessels destined for the United States. In addition to the current 44 foreign ports participating in CSI covering 75% of maritime containerized cargo shipped to the U.S., many more ports are in the planning stages. By the end of 2006, we expect that 50 ports, covering 82% of maritime containerized cargo shipped to the U.S., will participate in CSI. CBP's CSI program is also supported by ICE, which provides ICE Special Agents who are assigned to both the CSI headquarters staff and to CSI teams overseas. The mission of the agents overseas assigned to the CSI teams is to develop additional investigative leads related to the terrorist threat to cargo destined to the United States and to combat the threat posed by criminal organizations using containers to smuggle weapons, components and or people. ICE Attaché offices also provide support to the oversight of the CSI teams and coordinate the international negotiation of the CSI program.

Through C-TPAT, CBP establishes voluntary security practices for all parts of the supply chain, making it more difficult for a terrorist or terrorist sympathizer to introduce a weapon into a container being sent by a legitimate party to the United States. C-TPAT covers a wide variety of security practices, from fences and lighting to requirements that

member companies conduct background checks on their employees, maintain current employee lists, and require that employees display proper identification.

C-TPAT's criteria also address physical access controls, facility security, information technology security, container security, security awareness and training, personnel screening, and important business partner requirements. These business partner requirements encourage C-TPAT members to conduct business with other C-TPAT members who have committed to the same enhanced security requirements established by the C-TPAT program.

The C-TPAT program has created a public-private and international partnership with approximately 6,000 businesses (certified members), including most of the largest U.S. importers. Forty-five percent of all merchandise imported into the United States is done so by C-TPAT member importers. C-TPAT, CBP, and partner companies are working together to improve baseline security standards for supply chain and container security. CBP reviews the security practices of not only the company shipping the goods, but also the companies that provided them with any services.

The validation process employed by CBP demonstrates and confirms the effectiveness, efficiency and accuracy of a C-TPAT certified member's supply chain security. At present, the C-TPAT program has completed validations on 30 percent (1,802 validations completed) of the certified membership, up from 8 percent (403 validations) completed a year ago. Additionally, validations are in progress on another 35 percent (2,002 in progress) of certified members, and these validations will be completed throughout 2006, bringing the total percentage of validated certified members to 65 percent by year-end. In 2007, the C-TPAT program validations will continue. We will have validated 100 percent by the end of CY 2007.

Additionally, CBP has moved to tighten minimum-security criteria for membership in this voluntary program. Working closely with the trade community and key stakeholders, CBP has developed and implemented baseline security standards for member importers, sea carriers, and highway carriers. CBP will complete this process by the end of CY 2006, defining the minimum-security criteria for the remaining enrollment sectors – air carriers, rail carriers, brokers, freight forwarders, and foreign manufacturers.

In order to promulgate advanced security practices, C-TPAT recently compiled and published a catalog of such applications which was distributed to all members and made available at its recent training seminar. Each year C-TPAT conducts an annual seminar providing additional security training and presentations from the trade community on how implementation of C-TPAT has improved their security and provided a measurable return on investment. C-TPAT will also be implementing a discussion board available on their secure web portal whereby members can exchange ideas and discussions on security practices and benefits.

## **Free and Secure Trade (FAST) Program**

Canada, Mexico, and the U.S. have developed similar programs to move shipments expeditiously across the border. FAST is an acronym that stands for Free and Secure Trade Program. FAST is a key component of the CBP strategy to use risk-management principles, supply chain security, industry partnership, and advanced technology to improve the efficiency of screening and clearing commercial traffic at our border with Canada and Mexico. Under the program, FAST participants receive expedited processing for qualifying merchandise in designated traffic lanes at select border sites. Participants approved for the FAST program may receive priority during border business resumption protocols after a significant event/disaster. FAST is a CBP program that both enhances our security and increases facilitation of legitimate cargo across the borders.

FAST began on Monday December 16, 2002, at the Port of Detroit, Michigan and has since enrolled 60,786 commercial drivers and expanded to eleven additional sites along the northern border and to seven locations along the U.S./Mexico border. The FAST Program will expand in calendar year 2006 to six sites along the northern border and seven locations along the US/Mexico border.

FAST is a Border Accord Initiative implemented with our Canada and Mexico government partners and is an important part of the Security and Prosperity Partnership. Mexico's equivalent of FAST is called Expres. Mexico Customs and CBP continue to work together to further harmonize and refine the two programs.

## **Trade Law Enforcement**

The face of trade has changed over the last three years. The negotiation and enactment of new Free Trade Agreements, the changes in the textile industry with the elimination of quotas on all WTO countries and then establishment of new quotas on China, the new laws enacted involving bioterrorism and wood packing material, as well as the concerns about a avian flu pandemic have caused us to look at the way we deploy our resources. It has caused us to look at the way we equip our Import Specialists and other trade personnel to address such complex and challenging issues. The deployment of our resources to ensure that we focus on those issues that have the greatest impact on the economy and the welfare of the American people has been at the forefront of our trade mission.

CBP addresses national trade risks and priority issues through multi-disciplinary trade strategies that provide solutions to both enforcement and facilitation challenges. The strategy directs actions and resources around trade issues posing significant risks. The strategy is organized around priority trade issues, which were developed using a consistent risk-based analytical approach with a clear emphasis on integrating and balancing the goals of trade facilitation and trade enforcement. With a strategic approach to addressing trade risks, CBP can successfully facilitate legitimate trade

while effectively protecting the American public and economy. This includes protecting American business from theft of intellectual property and unfair trade practices, enforcing trade laws related to admissibility, regulating trade practices to collect the appropriate revenue, and shielding the American public from harmful pests in agricultural products and other health and public safety threats.

The fundamental principles of the Trade Strategy are to:

- **Sharpen the Focus on Risk** - Focus actions and resources around trade issues that pose a significant risk to our physical security, economic stability or the organization's ability to enforce trade laws and regulations.
- **Leverage Facilitation** - Optimize use of facilitation programs and processes, reduce unnecessary delays on legitimate shipments and ensure other customs compliance and enforcement activities are not having an unintended impact on lawful importers.
- **Ensure Revenue Collection** - Ensure effective controls for revenue collection, continue to calculate the "revenue gap" through statistical sampling, and address revenue risks through analysis, appropriate action and monitoring.
- **Ensure Strong National Oversight and Multi-Office Cooperation** - Provide direction at the national level to ensure strategic goals are addressed, appropriate actions are taken, results are measured, and contributions from all relevant offices are primarily directed to priority trade issues.
- **Continue Modernization** – Continue to consolidate technologies and systems, and ensure for a broad organizational transformation.

#### Priority Trade Issues:

The Priority Trade Issues (PTIs) integrate the key trade risks from political, economic and resource concerns while balancing the goals of trade facilitation and trade enforcement. The PTIs include:

- **Intellectual Property Rights (IPR)** - improve the effectiveness of IPR enforcement by ensuring a single, uniform approach and focusing on known or alleged violators with high aggregate values or whose infringing products threaten health and safety, economic security or have possible ties to terrorist activity.
- **Antidumping and Countervailing Duty** – enforce antidumping and countervailing duty requirements and ensure timely and accurate collection of duties for full and proper disbursement to domestic claimants.
- **Textiles and Wearing Apparel** - ensure the effective enforcement of the anti-circumvention laws, trade agreements, and trade legislation regarding the importation of textile and wearing apparel.
- **Revenue** - maximize collection efforts by ensuring strong controls over the revenue process and by focusing on material revenue risks.

- **Agriculture** - detect and prevent the intentional or unintentional contamination of agricultural product or food that could cause harm to the American public, American agriculture, or the nation's economy.

The Trade Strategy is also structured to address emerging issues that threaten the economic health or physical security of the nation. Pharmaceutical imports have been identified as an emerging issue that requires action due to the rise in imports of counterfeit or unapproved drugs.

Since 2003, CBP field management has been directed to configure their Import Specialist teams around these priority trade issues. Currently, over 64% of the field Import Specialist workforce is assigned commodities with PTI implications. For example, 317 Import Specialists are dedicated to the enforcement of textile laws and 220 handle agriculture commodities. The remaining personnel handle a wide variety of commodities with anti-dumping and countervailing duty implications (softwood lumber, bearings, steel, and bedroom furniture, among many others), revenue, and IPR issues.

CBP continually assesses the needs of our Import Specialists in addressing the challenges of a global trade environment. To that end we have initiated various training opportunities to expand the skill sets and make these functions more effective and efficient. Recently, we have provided antidumping and countervailing duty training, FTA enforcement training for textile and non-textile commodities and we are partnering with industry to provide steel training to our ports. The basic Import Specialist training curriculum has undergone a major review and updated accordingly. In addition, we have partnered with ICE to provide textile production verification training to more than 50 volunteer personnel. We have an expanded internal website that is refreshed regularly to ensure that new materials and information to assist our personnel in performing their work is readily available.

CBP may choose to seize, penalize, fine, or issue liquidated damages depending upon the violation of law and/or statute.

**Seizures:** Seizures are made against property and are intended to keep inadmissible property out of the commerce or to deprive violators of the fruits of a crime. CBP enforces the laws of many Federal Agencies but the majority of our seizure actions are focused in areas of controlled substance interception, commercial trade enforcement, alien smuggling, and agriculture. In Fiscal Year 2005 CBP had over 114,301 seizures, which included the seizure of 2,076,043 pounds of controlled substances. CBP also collected and deposited \$31,037,417 in seized currency and proceeds of sale of seized and forfeited merchandise.

**Penalties:** CBP's authority to assess penalties is established by statute. The language of each statute dictates the amount to be assessed and the party or parties against whom the penalty is assessed. Where the statute does not specify a certain penalty amount, it describes how penalties are to be calculated. In FY05, CBP initiated 33,393 penalty cases, and collected \$33,097,808 related to the penalty actions.



**Liquidated Damages:** A claim for liquidated damages arises as a result of a breach of the terms and conditions of a bond. An approved customs bond must support all claims for liquidated damages. In FY05, CBP issued 53,576 liquidated damages cases and collected a total of \$21,146,942 in liquidated damage payments.

**Fines:** A fine is issued against a carrier (sea or air) for a violation of the Immigration Nationality Act (INA). In FY05, CBP issued 3,385 fines and collected a total of \$666,450.

### **Intellectual Property Rights (IPR) Protection**

CBP devotes substantial resources to target, intercept, detain, seize and forfeit shipments of IPR-violative goods. Our enforcement goals can only be accomplished through the cooperative efforts of our trained enforcement officers, other government agencies, and the trade community. In FY 2005, CBP had more than 8,000 seizures of merchandise valued at more than \$92 million that was found to be in violation of IPR laws.

### **Textile Law Enforcement**

The textile industry represents a triple focus for trade enforcement. It is a key component to the FTAs, the China quota and 43% of all revenues collected by CBP are in the textile and wearing apparel industries. Over the last three years we have visited over 2,000 foreign factory operations to ensure the correct country of origin. More than \$25 million in seizures have been made for goods that were misdescribed to evade quota and duty requirements. Last year 47 audits were performed on textile importers and an additional \$4.97 million in lost revenues was recovered. Approximately, \$1.3 million of textiles were seized in FY 05. In FY 06 the amount of seizures has exceeded \$23 million. The commitments made to hire the additional personnel, as outlined in the FY 2002 Appropriations Bill, have been fulfilled by CBP.

### **The Automated Commercial Environment (ACE)**

The goal of ACE is to migrate CBP's trade entry procedures into a modern electronic processing system to assist in the facilitation of cargo moving across U.S. borders. Key milestones in the development and implementation of ACE processing have been realized over the last year.

### **Electronic Manifests**

The number of e-Manifests received in March 2006 grew 75 percent to 849 e-Manifests representing 146,712 shipments. CBP received 484 e-Manifests representing 96,299 shipments in February. ACE processed an average of 14,245 trucks, 21,682 shipments, and 27 e-Manifests per day in March 2006. There are now 197 Electronic Data Interchange (EDI) certified companies, including 181 carriers and 16 service

bureaus. Four companies are in the testing stage. CBP has received 301 letters of intent to achieve EDI certification.

Truck processing capabilities are currently operating in the El Paso, Texas, cluster of ports, including Columbus and Santa Teresa, New Mexico, Presidio Texas, and El Paso, Texas, including the El Paso Bridge of the Americas and Ysleta. Truck processing through ACE is currently deployed in 40 ports across the Northern and Southern Border. The next deployment will be to Laredo, Texas, in mid-April.

### **Periodic Payment**

As of April 5, 2006, 481 portal accounts and 958 non-portal accounts have been approved to pay duties and fees monthly. CBP collected \$378.8 million in duties and fees, representing 17.6 percent of adjusted total statement collections, through the March 21, 2006, Periodic Monthly Statement. By comparison, CBP collected \$383.5 million, representing 19.2 percent of adjusted total statement collections, via the February 22, 2006, Periodic Monthly Statement. Total receipts of duties and fees collected since the inception of the monthly statement capability in June 2004 now total \$3.6 billion.

### **Account Creation**

As of April 10, 2006, 1,736 ACE portal accounts have been created, including 486 importer, 314 brokers, and 936 carrier accounts.

### **International Trade Data System (ITDS)**

The Concept of Operations (CONOPS) has been briefed to Four Participating Government Agency (PGA). These discussions are part of the process leading to the new PGA Memoranda of Understanding for ACE. Each CONOPS document outlines how the PGA intends to use ACE in the future and includes details on applicable interactions with CBP at the border. A series of follow-up meetings with some of the agencies to explore the specifics of the operational scenarios and explore common interests between agencies for the same commodity areas are planned. Coordination with the Federal Motor Carrier Safety Administration (FMCSA) continues. An agreement on the FMCSA data elements in the ITDS Standard Data set has been reached.

ITDS has been part of the CBP team that examined the information needs of the CBP Agriculture Specialists in support of the "one face at the border" goal. The ITDS team determined that it would be possible to use existing data in the CBP Automated Commercial System, augmented with our other targeting and recordation systems, to provide an automated process for the specialists to record the results of their work and provide the necessary data to the U.S. Department of Agriculture. It is the goal of the ITDS team to implement this new capability before the end of calendar year 2006.

## **Conclusion**

Mr. Chairman, Members of the Subcommittee, we have briefly addressed CBP's critical initiatives today that will help us protect America against terrorists and the instruments of terror, while at the same time enforcing the laws of the United States and fostering the Nation's economic security through lawful travel and trade. We realize there is more to do, and with the continued support of the President, and the Congress, CBP will succeed in meeting the challenges posed by the ongoing terrorist threat and the need to facilitate ever-increasing numbers of legitimate shipments and travelers. Thank you again for this opportunity to testify. I will be happy to answer any of your questions.