



**STATEMENT OF COLLEEN M. KELLEY
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ON

**BALANCING MARITIME SECURITY AND TRADE
FACILITATION:
PROTECTING OUR PORTS, INCREASING COMMERCE AND
SECURING THE SUPPLY CHAIN**

BEFORE

**THE SUBCOMMITTEE ON BORDER AND
MARITIME SECURITY
HOMELAND SECURITY COMMITTEE
U.S. HOUSE OF REPRESENTATIVES**

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Chairman Miller, Ranking Member Cuellar, distinguished members of the Subcommittee; thank you for the opportunity to provide this testimony. As President of the National Treasury Employees Union (NTEU), I have the honor of leading a union that represents over 24,000 Customs and Border Protection (CBP) Officers and trade enforcement specialists who are stationed at 331 land, sea and air ports of entry (POEs) across the United States. CBP employees' mission is to protect the nation's borders at the ports of entry from all threats while facilitating legitimate travel and trade. CBP trade compliance personnel enforce over 400 U.S. trade and tariff laws and regulations in order to ensure a fair and competitive trade environment pursuant to existing international agreements and treaties, as well as stemming the flow of illegal contraband such as child pornography, illegal arms, weapons of mass destruction and laundered money. CBP is also a revenue collection agency, processing approximately \$2 trillion of imports--28 million trade entries a year--at the POEs and collecting more than \$32 billion in revenue for the U.S. government in fiscal year 2010.

The U.S. has more than 4,000 miles of land border with Canada and 1,993 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. In fiscal 2010, CBP Officers and CBP Agriculture Specialists at the 331 official POEs inspected 352 million travelers and more than 105.8 million conveyances—cars, trucks, buses, trains, vessels and aircraft.

Additionally, the U.S. has more than 300 seaports and 3,700 cargo and passenger terminals. Seaports are not only on the seacoasts, but also on our major lakes and rivers. Most of the nation's commercial maritime activities are concentrated in a dozen major seaports, such as the Ports of Entry at Los Angeles-Long Beach, New York-New Jersey and Houston. Over 95 percent of non-North American foreign trade arrives by ship. At container ports, cargo containers are quickly moved from container ships to trains and trucks to be transported to the interior of the U.S. and back again. (See GAO, *Maritime Security, Enhancement s Made, But Implementation and Sustainability Remain Key*, GAO-05-448T, pages 4 and 5.) CBP Officers, Agriculture Specialists and non-uniformed trade operations personnel are responsible for ensuring that cargo released into commerce in the U.S. are safe, legal and compliant with all applicable U.S. laws and the appropriate customs duties and fees are collected.

By value, the majority of all imports--38 percent--arrive by sea vessel, but in terms of quantity, a majority of imports--42 percent--arrive by truck through Canada and Mexico.

Preventing the flow of arms, drugs, nuclear material, pirated merchandise, 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 all sea, air and land POEs.

SECURING THE GLOBAL SUPPLY CHAIN

A key concern in maritime security is the effort to secure the supply chain to prevent terrorists from shipping weapons of mass destruction that arrive in one of the millions of cargo containers that arrive in the ports each year. The 9/11 Commission Act included a provision to

address this threat. The Act required that all containers entering high volume U.S. ports be scanned for nuclear and radiological materials by July 2012 (P.L.110-53, section 1701(a), 121 Stat. 266, 489-490 (2007) (amending 6 U.S.C. section 982(b)). CBP has acknowledged that it will not meet the target date of July 2012 for scanning 100 percent of all U.S.-bound cargo containers and the Department of Homeland Security (DHS) is expected to grant an extension of the target date for compliance with this statutory requirement by two years to July 2014, as allowed by the Act.

NTEU supports the 100 percent scanning requirement mandated by Congress, but has not participated in any discussions with CBP regarding this requirement and has limited information on the equipment and personnel needed to meet the 100 percent scanning requirement.

In 2006, Congress enacted the Security and Accountability for Every (SAFE) Port Act that reinforced CBP's risk based programs to secure the global supply chain such as the Container Security Initiative (CSI), and the Customs-Trade Partnership Against Terrorism (C-TPAT). Under CSI, CBP places CBP Officers in foreign ports to help target and inspect suspicious containers. Under C-TPAT, private companies agree to improve the security of their supply chains in exchange for expedited scrutiny by CBP of their shipments. Because security and trade compliance inspections are inherently governmental functions, however, NTEU strongly supported Section 218 of the SAFE Port Act (P.L. 109-347) that permitted CBP to utilize third-party entities to conduct validations of C-TPAT participants only if these third-party validations were subjected to review and approval by CBP and the C-TPAT participant paid for all costs associated with the validation.

Recently, the Administration released a *National Strategy for Global Supply Chain Security* that initiates a six month engagement period, led by DHS and the Department of State, with the international community and industry stakeholders. As the representative of 24,000 CBP employees responsible for ensuring the secure and safe movement of goods into the U.S. across air, land and sea pathways, NTEU will be requesting to participate in this collaborative engagement.

CBP STAFFING AT THE PORTS OF ENTRY

The FY 2012 funding bill for DHS provides \$8.68 billion for CBP Salaries and Expenses. This level funds 21,186 CBP Officers positions. Half all frontline CBP Officers are assigned to the 166 land border POEs, the remainder are assigned to the air and sea POEs. According to independent studies, however, CBP is understaffed at the ports of entry by thousands of CBP Officers.

In October 2009, the Southwest Border Task Force, created by Homeland Security Secretary Janet Napolitano, presented the results of its staffing and resources review in a draft report. This draft report recommends the "federal government should hire more Customs [and Border Protection] 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” a memo prepared by Armand Peschard-Sverdrup for Mexico’s Ministry of the Economy: U.S.-Mexico Border Facilitation Working Group, January 2008, pages 1 and 2.)

In addition to its border and port security mission, CBP has the mission of regulating and facilitating international trade. CBP is responsible for collecting import duties and ensuring importers fully comply with applicable laws, regulations, quotas, Free Trade Agreement (FTA) requirements, and intellectual property provisions.

Customs revenues are the second largest source of federal revenues collected by the U.S. Government after tax revenues. This revenue funds other federal priority programs. NTEU is deeply concerned with the lack of resources, both in dollars and manpower, devoted to CBP’s trade functions. Lack of sufficient focus and resources costs the U.S. Treasury in terms of customs duties and revenue loss and costs American companies in terms of lost business to unlawful imports.

Because of continuing staffing shortages, inequitable compensation, and lack of mission focus, experienced CBP commercial operations professionals at all levels, who long have made the system work, are leaving or have left the agency. Twenty-five percent of CBP Import Specialists will retire or be eligible to retire within the next few years.

When Congress created the Department of Homeland Security, the House Ways and Means and Senate Finance Committees included Section 412(b) in the Homeland Security Act (HSA) of 2002 (P.L. 107-296). This section mandates that “the Secretary [of Homeland Security] may not consolidate, discontinue, or diminish those functions...performed by the United States Customs Service...on or after the effective date of this Act, reduce the staffing level, or reduce the resources attributable to such functions, and the Secretary shall ensure that an appropriate management structure is implemented to carry out such functions.”

Congress included in the SAFE Port Act section 401(b)(4) that directed the DHS Secretary to ensure that requirements of section 412(b) of the HSA (6 U.S.C. 212(b)) are fully satisfied. CBP satisfied this statutory requirement by freezing the number of many maintenance of revenue function positions at the level in effect on the date of creation of the agency in March 2003. Even though CBP complied with the letter of Section 401 (b)(4) of the SAFE Port Act, it appears to NTEU that CBP views the “March FY 2003 Staff On-Board” numbers of revenue maintenance function positions, including such vital trade facilitation and enforcement positions as Entry and Import Specialists, as a ceiling rather than a floor.

Finally, to compensate for the inadequacy of personnel at the POEs, CBP is relying more on technology, such as non-intrusive inspections. 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.

Also, expedited inspection programs, such as C-TPAT and 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 these 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.

CONCLUSION

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. As noted by DHS's own Advisory Council, for too long, CBP at the air, sea and land POEs has been unfunded and understaffed. NTEU urges the Committee to address staffing shortages at the POEs by authorizing a significant increase in the number of frontline CBP Officer, CBP Agriculture Specialist and CBP commercial operations positions this year.

The more than 24,000 CBP employees represented by the NTEU are capable and committed to the varied missions of DHS from border control to the facilitation of legitimate trade and travel. 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, while ensuring speedy movement of goods into the country. These men and women are deserving of more resources to perform their jobs better and more efficiently.

Thank you for the opportunity to submit this testimony to the Committee on their behalf.