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Use of Technology to Facilitate Trade and Enhance Security at our Ports of Entry

**Before the 112th Congress
Committee on Homeland Security
Subcommittee on Border and Maritime Security
U.S. House of Representatives**

INTRODUCTION

Acting Chairman McCaul, Ranking Member Cuellar, distinguished members of the Subcommittee: it is a privilege and an honor to appear before you today to provide testimony regarding the "Use of Technology to Facilitate Trade and Enhance Security at our Ports of Entry.

First, I commend the Subcommittee for holding the field hearing here in Laredo, Texas, the port with the highest volume of trucks along the U.S.-Mexico border and for inviting representatives of the local stakeholders to provide testimony.

CBP Officers at the Port of Laredo do an incredible job of keeping our country safe. I had an opportunity to go behind the scenes and get an introduction into the training and technology that CBP Officers' utilize to do their job effectively and efficiently when I participated in the inaugural eight week CBP Field Operations Citizens Academy last year and I was thoroughly impressed at how much CBP Officers do and how quickly they do it. Searching for alternatives to reduce delays while increasing security at the Port of Laredo for commercial traffic is not an easy task. Regardless of how well CBP Officers are doing given their resources, I believe that there is always an opportunity to improve - especially with additional funding for technology and personnel.

ADDITIONAL INFRASTRUCTURE REQUIRES ADDITIONAL PERSONNEL

In May 2011, seven new primary inspection booths for commercial traffic were opened, nearly doubling the capacity at the World Trade Bridge. With a total of 15 primary inspection booths and improvements to the secondary express and exit gate areas, the World Trade Bridge has the infrastructure to handle a record number of shipments. The improvements to the infrastructure can only be fully utilized with additional CBP Officers. Additional personnel are needed now because northbound traffic currently peaks between about 9 am to nearly 4pm every day during the week.

TECHNOLOGY AND PERSONNEL FOR NON-INTRUSIVE SCANNING OF CARGO

Technology for the non-intrusive scanning of cargo has drastically reduced the slow and costly physical inspection of goods that required unloading the imported merchandise. Currently, CBP Officers at the World Trade Bridge utilize fixed and mobile scanning units to detect contraband.

Comparing the fixed and mobile scanning units, the mobile scanning units are more efficient as they can scan approximately 55 conveyances per hour as compared to the fixed scanning units that can scan approximately 20 conveyances per hour. Of course, fewer conveyances are actually processed in that amount of time because in addition to scan time, additional time of approximately 2 to 7 minutes are needed for an officer to analyze the image and compare it to the manifest data.

In the short term, the port of Laredo would benefit from additional mobile scanning units to expedite the flow of legitimate trade. In the long term and upon the availability of the technology that can scan in less than one minute, each primary booth should have its own fixed scanning unit so that each conveyance is scanned prior to entering CBP's import lot.

THE ACCURACY OF DATA USED BY CBP TO ASSESS RISK DEPENDS ON WHO FILES

The filing of certain information with CBP should be done by a party that is qualified to identify all the issues, follow the appropriate analysis, and make the appropriate determinations so that accurate information is filed. While U.S. licensed customs brokers are trained to analyze and identify the determinative factors, other parties in the supply chain are not. The validity of the information is dependent upon the skills and knowledge of the individuals who prepare those filings. To the extent that the integrity of the filings is called into question, CBP's targeting determinations for shipment scrutiny are compromised. Allowing untrained individuals to make determinations relating to matters of public health and safety is a material compromise of supply chain security.

The Government Accountability Office (GAO) identified certain weaknesses in the current in-bond system in a report to Congress dated April 2007. The GAO concluded that the in-bond system collects inadequate information about the in-bond merchandise, thus undermining CBP's efforts to manage associated security risks and ensure proper targeting of inspections. In response to the GAO report, CBP published a notice of proposed rulemaking in the Federal Register¹ on Feb. 22, 2012 advising that it intends to make changes to the in-bond process.

In its attempt to collect adequate information to manage associated security risks and ensure proper targeting of inspections, CBP has proposed requiring the party submitting the in-bond application to provide a statement setting forth the rule, regulation, law, standard or ban to which the merchandise is subject to and the name of the government agency responsible for enforcing the rule, regulation, law, standard or ban, but only if the filing party has this knowledge. In essence, untrained individuals that cannot provide accurate data would not have to provide the statement simply because they have no knowledge of the rules, regulations, laws, standards or bans that may apply.

These data elements are highly technical and relate with specificity to the merchandise itself and are interpretative in nature. The reality is that many shippers and importers will rely upon their service providers to develop this information. Moreover, even where detailed information is available, the validity and reliability of the information that CBP receives is in large part dependent upon the party who prepares and files the data. There are any number of complex rules and regulations which govern restrictions placed on special classes of merchandise, be they trade policy restrictions, or restrictions imposed by other federal agencies for health, safety or conservation purposes.

Similarly, the Importer Security Filing (ISF) contains data that is reasonably necessary to improve CBP's ability to identify high risk shipments so as to prevent smuggling and ensure cargo safety and security. One required data element is the harmonized tariff schedule number to the sixth digit. This number is used to identify what is being imported. An inaccurate classification number will compromise CBP's targeting. Only licensed U.S. customs brokers have demonstrated mastery in the classification of goods.

For these reasons, CBP should reexamine the role of the customs broker as it relates to analyzing data, making determinations, and providing accurate information to CBP. The definition of customs business should encompass areas where a customs broker's expertise would increase the accuracy of data utilized by CBP to assess risk.

¹ 77 Fed. Reg. 10622

C-TPAT PARTNERS SHOULD BE AFFORDED DUE PROCESS

The Customs and Trade Partnership Against Terrorism, commonly called "C-TPAT" is a joint government-business initiative to build cooperative relationships that strengthen overall supply chain and border security. In exchange for adopting these stronger security practices and after verification by CBP that the measures are in place, CBP generally affords C-TPAT partners reduced inspections and in the event that their cargo is scanned or unloaded it gets front-of-the-line priority.

In order to qualify for the benefits of C-TPAT, the foreign manufacturer, the foreign long-haul carrier, the cross-border drayage carrier, and the U.S. importer must all participate in the C-TPAT program. In addition, the driver must also be enrolled in the Free and Secure Trade (F.A.S.T.) program.

Despite the elevated security, C-TPAT shipments are not 100% secure and CBP has discovered contraband in C-TPAT shipments. Once a security related incident occurs, all C-TPAT partners connected to that shipment are immediately suspended from the program without due process, including the foreign manufacturer, the foreign long-haul carrier, the cross-border drayage carrier, and the U.S. importer despite the low probability that all of these entities were involved with the security breach. This policy merits reconsideration because the immediate suspension from the program has serious consequences and causes irreparable injury to some C-TPAT partners.

One such example that occurred within the last month involved a C-TPAT certified carrier that has 330 tractors and crosses 25,000 shipments a month, including both northbound and southbound shipments. One of the carrier's shipments was found to contain contraband and the carrier was immediately suspended from the C-TPAT program prior to an investigation.

Upon suspension from the program, the carrier's C-TPAT clients automatically received an electronic notification of the carrier's suspension from the C-TPAT program. Consequently, its clients held hundreds of shipments at the border while they scrambled to find other C-TPAT carriers with whom they could make alternate arrangements.

One of the carrier's clients that imports approximately 300 shipments a day found itself with a big problem considering that it was relying on the services of the carrier that was suspended from C-TPAT program. Realizing its failure to have a back-up plan, the client will likely split its future shipments between two or more C-TPAT carriers thereby causing irreparable injury in the form of lost business for the suspended C-TPAT partner.

For this reason, CBP should afford its C-TPAT partners with due process by investigating security breaches before taking hasty, immediate action with such serious consequences. If immediate action must be taken prior to a full investigation then the action should be reasonable and it should be limited only to the individuals involved in that transaction instead of the entire company.

CONCLUSION

Acting Chairman McCaul, Ranking Member Cuellar and distinguished members of the Subcommittee, I commend you for your leadership and continued efforts to increase the security of our country while expediting the flow of trade. Although CBP is doing a great job with its current resources, I believe that increasing the accuracy of the data CBP receives, treating partners like true partners, and providing CBP with additional technology and personnel will further your goal of increasing security and accelerating the flow of legitimate trade. Thank you for the opportunity to testify today. I will be happy to answer any questions you may have and I look forward to working with you in the future.