

**STATEMENT OF  
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At the hearing before the Senate Finance Committee  
March 13, 2008**

Chairman Baucus, Senator Grassley, and other Distinguished Senators, thank you for the opportunity to appear before you regarding the United States Customs and Border Protection (CBP).

The perspective I will provide today is based on having been a career officer in the U.S. Customs Service and ultimately serving as the Deputy Commissioner until February of 2000. Since then, I have worked with numerous multinational businesses engaged in cross-border trade and am currently serving on the Commercial Operations Advisory Committee (COAC) which is the official industry advisory board to DHS and CBP. I request to have my full statement entered into the record, and I will summarize my comments.

I would like to address three issues:

1. Trade benefits for participating in CBP Initiatives
2. Support for Automated Commercial Environment (ACE) and International Trade Data System (ITDS)
3. CBP adoption of modern business practices

**Trade Benefits for participating in CBP Initiatives**

CBP is responsible for a myriad of challenging missions critical to our nation's future. CBP must secure our homeland against terrorism, reduce illegal immigration, prevent unsafe products and contraband from entering our nation, and enforce U.S. trade laws—all the while facilitating the flow of legitimate trade and travel which are essential for our country's prosperity and global competitiveness.

The Government frequently is accused of inaction, but this cannot be said of CBP. The number and magnitude of current CBP programs and initiatives is staggering. The acronyms for these programs cover the alphabet—ACE, ISF, SFI, GTX, SBI, ITDS, CSI, ISA, C-TPAT, WHTI, and so forth— suffice it to say, each acronym represents a major program.

CBP certainly has its hands full managing all these programs as each one represents significant change and complex challenges. However, you also need to understand that each of these programs also affects the trade and travel industries. The collective and cumulative effect of all these programs being implemented simultaneously places a serious strain and financial burden on the international business community.

The good news is that CBP is working diligently on developing these initiatives to fulfill its missions and, for most of the programs, CBP is partnering constructively with industry to ensure that the initiatives succeed. In return for industry's willing participation, CBP has promised benefits to the trade. The bad news is that many of these programs are very costly, offer few direct benefits to industry, and require companies to make significant investments in changing their operations and information systems at a time when global competitive pressures are at an all time high. Quite frankly, the position of many people in industry is the promised benefits that could assuage these costs have not been realized.

The trade community generally has been supportive of most CBP initiatives as these companies want to contribute to the security of the U.S. and the international supply chain. At the same time, these companies need to be able to compete efficiently and prosper in the global marketplace; otherwise the good impacts on security the agency seeks will not accrue if our industries suffer economically. What industry is asking of CBP is to provide some measureable, tangible benefits to the trade. The industry leaders working with CBP need some concrete evidence they can take to their boardrooms to support continued participation and investment in CBP initiatives.

CBP has sponsored studies to prove the trade does benefit from programs such as C-TPAT, but these studies have only partially allayed industry skepticism. Several industry representatives have made specific recommendations to CBP describing benefits that would be valuable to the trade and do not appear to compromise or contravene CBP's policies or mission, but little has happened.

A few quick examples of potential benefits are:

1. CBP could assist importers in their logistics planning by sending notifications of the "conditional release" of a shipment immediately when the vessel sails from the last foreign port instead of the current CBP policy to notify the trade five days prior to arrival in the U.S.
2. Companies participating in C-TPAT are promised expedited processing but there is no mechanism to go to the "head of the line" when exams are required by CBP.
3. CBP too often requires highly compliant companies to submit voluminous paper entry documents after the cargo is released—if the IRS can accept electronic tax filings, why can't CBP accept the information electronically?
4. CBP requires all importers to have similar bond coverage, why can't the amounts be reduced for companies who are highly compliant?
5. If CBP determines a random exam or compliance exam is required on a shipment from a highly compliant company, couldn't the exam be conducted at an interior port of the company's choosing?

It is in CBP's interest to promote and retain industry's cooperation by embarking on a focused, candid, and open dialogue to explore, define, and mutually agree upon satisfactory benefits for the trade. The trade community would appreciate any actions that this Committee can do to encourage such an outcome.

## **Support for ACE and ITDS**

The one program which historically has provided the most significant benefits to industry is CBP's automation of its commercial systems. Over the past three decades, CBP's commercial information systems, such as the Automated Commercial System (ACS) and now the Automated Commercial Environment (ACE), have resulted in huge cost savings for international businesses by eliminating paper, expediting shipments, and achieving exceptional efficiencies. CBP also achieved comparable efficiencies.

ACE has even greater potential to deliver significant improvements in trade facilitation, efficient processing, and improved enforcement. One of the early features of ACE enables industry to pay duties on a monthly basis versus a daily payment process. This has saved some companies millions of dollars. The ACE Portal delivers instant access to information for companies to improve their business practices and compliance programs. The ACE Portal has also enabled government agencies to improve their oversight of international trade. The implementation of the ACE electronic manifest for truck cargo at CBP land border ports resulted in significant reductions in the processing time for cargo crossing the northern and southern borders, while allowing for advanced security targeting of that cargo.

CBP understands the importance of ACE and is working diligently to deliver it. ACE is not only critical for CBP's trade mission, it is also critical for CBP's border security mission. ACE is, in essence, a "huge pipeline" for industry to submit their global supply chain and shipment information to CBP and other government agencies. To comprehend the size of this "information pipeline," you only need to realize that it will contain comprehensive data on the nearly 32,000 ocean containers that arrive at U.S. ports every day and the information on over \$2 trillion of U.S. imports annually. It is this data that feeds CBP's targeting systems to identify high-risk shipments for terrorism, contraband, unsafe products, etc.

Many in industry are not convinced that officials at the Department of Homeland Security share this understanding of how important ACE is to security, trade, and the safety of imported products. DHS officials have referred to ACE as strictly a "trade" program, not recognizing its critical role in cargo security, and it usually seems that DHS treats ACE with benign neglect. There were even concerns in this past year that DHS was trying to divert authorized ACE funding to other DHS programs.

I think you would find unanimity within the business community that ACE should receive continued funding to maintain the momentum and progress. The Senate Finance Committee has demonstrated its commitment to ACE in the past and it is hoped that your resolve will continue.

If anything, the recent crisis over the safety of imported products and foods has highlighted the importance of ACE and its companion program, the International Trade Data System (ITDS) to our nation. ITDS and ACE can integrate all relevant U.S.

Government agencies into a single information system on imports and exports into a “single window” for government and industry.

If ACE is the huge pipeline to receive data on imports, ITDS represents a collection of “feeder pipes” that distribute the appropriate data to the 43 federal agencies that participate in ITDS and which are responsible to oversee and enforce programs on import safety, intellectual property rights, trade agreements, and the myriad of other national priorities.

The President’s Interagency Working Group on Import Safety issued their report in November 2007 and it is replete with references to ACE and ITDS as vital to the Government’s success in preventing unsafe products from reaching American consumers. In addition, on September 10, 2007, the Office of Management and Budget instructed all the Heads of all Departments and Agencies to develop action plans to participate in ITDS.

This rhetoric is heartening; however, the reality is that the Administration has not added one more penny in 2008 for ACE, ITDS, or for any of the agencies to directly participate in ITDS.

As this Committee considers legislation to deal with import and food safety issues or to enforce trade programs, industry hopes you will think of the potential for ACE and ITDS to achieve those goals and the funding for those programs.

### **CBP adoption of modern business practices**

CBP deserves credit for adopting a number of modern business practices over recent years, but they could achieve much more. Two examples of successful innovations are:

- ACS, ACE, and ITDS are real-life examples of “e-gov” initiatives that support vast numbers of users in both industry and government.
- CBP was an early adopter of sophisticated risk management systems similar to credit card companies’ fraud prevention programs.

However, one area in which CBP could and should make more progress in replicating successful business practices is in the trade arena. The concept of “customer accounts” exist throughout the business world, in fact, many companies offer everything from “frequent flyer” status to “gold accounts.”

CBP also embraced an “account” approach in dealing with major U.S. importers instead of the historic transaction-by-transaction process for each shipment. Their vision was to ensure a large importer like General Motors or Wal-Mart was compliant across the entire company instead of CBP trying to check or inspect on a shipment-by-shipment basis. To date, CBP has selected some 32 National Account Managers for major importers and most of these importers are pleased to have a primary contact within CBP.

But the reality is that importers who are National Accounts still have to deal with local port offices in addition to their CBP Account Manager. The reality is that 32 CBP Account Managers cannot possibly manage the top 1,000 importers. The reality is that not only would industry benefit from greater uniformity and consistency of treatment from CBP, but CBP also would benefit with improved compliance.

CBP should not only be more aggressive in internally adopting the practice of account management, CBP should be talking with other federal agencies to collaborate on shared account focus and should start this expansion by addressing the Import Safety issues discussed earlier. Looking at individual shipments will not identify every threat to food, toys, and other products entering the country's ports, and will not address the root problems. Working with major importers through an account management process, on the other hand, will engage their resources and focus their attention on the foreign suppliers where these problems originate.

Thank you, Mr. Chairman and members of the Committee, this concludes my oral statement.