

## **U.S. Customs Service Northern Border Resources and Shortfall and Trade Facilitation Needs**

**Testimony before the Senate Finance Committee  
May 13, 1999**

Mr. Chairman and members of the Senate Finance committee, I appreciate the opportunity to appear before you today to present the views of the Canadian/American Border Trade Alliance.

The CANADIAN/AMERICAN BORDER ALLIANCE (Can/Am BTA) is a transcontinental/ bi-national broad-based organization with participation from all 22 states on or near the U.S./Canada Border (from the State of Washington to Maine including Alaska) plus the Canadian provinces with a combined network which involves over 60,000 companies and organization in their individual memberships. Can/Am BTA participants; include producers; shippers; brokers; mode transportation providers; bridge and tunnel operators; chambers of commerce; business and trade corridor associations; economic development and government agencies.

Over the past ten years I have had first-hand opportunities to participate and experience most aspects of U.S. Customs and INS border protection and facilitation activities on-site at a number of U.S./Canada border crossing locations.

### **U.S. CUSTOMS WORKLOAD INDICATORS:**

**U.S./Canada two-way trade, "is the largest trading partnership in the world.** It is the fastest growing segment of major economic activity in the global economy. It is a fundamental element of U.S. economic viability which directly translates to job creation and is critical to the continued growth of the U.S. economy.

In 1998, the year "before" the Free Trade Agreement was implemented, U.S./Canada Trade was \$194 billion. Since then U.S./Canada Trade has doubled and is now crossing our Northern Border at a rate of \$40 million every hour reaching \$387 billion in 1997 (see chart below)



#### At the Northern Border U.S. Customs processes:

- ε 62% of the total trucks (growing at 11% per yr.).
- ε 85% of the trains
- ε 40 million privately owned vehicles (1/3 of national total)
- ε 104 million passengers and pedestrians (23% of national total)

Total containers (1994-1996) increased at an annual growth rate of 8%. Of more timely importance, containers processed in 1997 increased 44 % over 1996 and in 1998 was increased 33% over 1997.

In the last three years, commercial entries increased at an annual growth rate of 11%. The current number of authorized U.S. Customs Inspectors working on the Northern Border is essentially the same number employed in 1980. The formal entries on the Northern Border have increased sixfold since 1980. The formal entries on the Northern Border have increased sixfold since 1980 from 1 million to 6 million a year.

#### NARCOTICS THREAT - NORTHERN BORDER CONSIDERATION:

In the period 1996 to 1998, the number of narcotics seizures have increased at an annual growth rate of 19%, the majority occur on the Southern and Southwestern Borders. However, several factors are at work portending future escalation threats on the Northern Border where U.S. Customs Inspection staffing remain at 1980's levels. Threats encompass:

1) A change in current Cargo traffic along the Northern Land Border. Whereas previously U.S. Customs found that the majority of cargo processed along the Northern Border originated in Canada, changes in maritime shipping patterns "now" results in cargo crossing which originates anywhere in the world. Cargo arriving by vessels now

offloaded at one of several new large container ports in Canada and travels to the a U.S. by truck or rail entering at a Northern Border land port;

As the size of these large ocean vessels increase (some vessels now carry 8,000 containers requiring 4,000 or more trucks to unload) to arrive in Canada with cargo destined for U.S. delivery. This is an increased opportunity "Threat" for Customs and one which will need to be addressed through the same aggressive means Customs has undertaken to address smuggling in other venues. the fatal flaw to providing effective and appropriate response to this new situation lack of adequate staff and resources to meet current needs much less this new threat to the U.S. Origin reviews by Customs also significantly affects duty collection. With the current Customs under staffing on the Northern Border, capability to perform adequate investigation is a concern;

2) Current escalation of hydroponically grown marijuana. It is understood that this species is exceedingly potent and commends a street price in the U.S. of \$4,000 a pound double that of the street price in British Columbia where it is being grown. The necessary additional enforcement/inspcction to combat this situation without benefit to added staff is resulting in traffic congestion delays of 1 to 2 hours at the major Washington State/British Columbia crossings;

3) Additional U.S. Custom staff and resources (plus that of other federal agencies) have rightfully been authorized on the Southern Borders in order to combat major levels of narcotics activity. As they succeed in their mission, the specter of increased illegal trafficking being initiated through the understaffed Northern Land Border (as the "weakest link" alternative) is raised.

### **VIEW OF THE NORTHERN BORDER SITUATIONS:**

From extensive observation and exposure to U.S. Customs border crossing activities and counsel with CAN/Am BTA members, who make their livelihoods on and at the border I offer this testimony to provide information for your review and consideration.

In the early '90 border crossing infrastructure lane capacity and plaza constraints were a major limitation along with lack of adequate U.S. Customs staffing at the Michigan and New York Bridge and Tunnel crossings which carry 70% plus of the total U.S./Canada trade and traffic.

In the past six years, the Michigan and New York crossing operators have made or are making \$750 million of new capacity additions and improvements (and may I add that no public or tax funds are used).

During the same six year period, quantum leaps were made in technology development and utilization by bother operators and

federal agencies active at the border for automatic toll collection, transponders computerization, systems development, enforcement equipment, and techniques, license plate readers, biometrics, remote port entry techniques, video cameras, voice analyzers and NATAP and NCAP pilots achieving seamless commercial passage under selective conditions. These technical developments however are just scratching the surface since enough funding is not currently made available in U.S. Customs Appropriations to actually activate these devices on the Northern border in any volume.

Much improvement in inter-governmental agency cooperation and modernization (especially U.S. Customs and INS cooperation, Agriculture and U.S. Customs cooperation and FDA computerization) has been achieved with more to be done.

The Canada/United States Accord on Our Shared Border agreement commenced harmonization, exchange, shared training, equipment and joint facilities between U.S. and Canadian agencies. This essential bi-national initiative needs to continue to be given priority to finalize achievable improvements which are of paradigm shifting importance.

U.S. Customs has recently appointed a Northern Border Coordinator for increased focus on work with Canada. This initiative is welcome and will enhance progress. In spite of the aforementioned positive improvements, some of which are of historic proportions, while communities and private sector entries have stepped up, current authorized U.S. Customs and INS staffing cannot service the existing required border crossing lane capability. The downside of the success in the array of mentioned improvements is that they "mask" the need for added staff by averting outright crises which would occur without these improvements.

For the past two years, the Bridge and Tunnel operator members of the Can/Am BTA unanimously report that U.S. Customs under staffing is by far the number one cause (coupled with INS to a slightly lesser degree) of congestion and non-operation of in-place crossing processing lanes. This is echoes in the Central and Western regions at Northern Land Border crossings. Perhaps the most telling example is at the Rainbow Bridge in Niagara Falls, New York where new facilities were constructed doubling the primary inspection lanes to remove long standing choke points and accommodate large, new increased traffic demands from Canadian Casino gaming. No new permanent U.S. Customs inspectors have been provided so the new capacity remains essentially unused while traffic congestion and time delays mount.

Because of current inadequate funding levels, U.S. Customs has to make "lose/lose" choices continuously at the Northern Land Border crossing, i.e., operate a passengers car lane vs. a truck lane and when both are needed and when an illegal activity/seizure occurs,

make a choice to close one or both types of primary lanes in order to provide staff to handle the seizure.

Trade and tourism are critical to the U.S. economy. Both are growing annually in double digits while inspection agency staffing is capped on the Northern border leaving the crossings area communities to "deal with the resultant congestion and delays" within each individual state.

At land border crossings in the State of Washington, Montana, North Dakota, Minnesota, Michigan, New York, Vermont and Maine, routinely half of the existing primary inspection booths (in total) remain closed due solely to under staffing of U.S. Customs and INS inspectors.

U.S. Customs has dual important missions neither of which should be comprised.

1. Enforcement and interdiction of illegal goods and activities to protect the Country.
2. Facilitation of legal trade and tourism which contributes directly to economic growth, taxes and job creation.

U.S. Customs should and must do both, but current imposed funding constraints prohibit their ability to effectively do so.

The Southern Border has a proven serious protection threat with narcotics and illegal aliens. In the period 1990-1998 every additional U.S. Customs position authorized by Congress was directed to the Southern Border. Total U.S. Customs inspection staffing on the Southern Border more than doubled and they need even more personnel.

In deploying all new resources to the Southern Border the Northern border was forced to "make do". Actual work load demands in every category grew sharply. Customs has done "yeomen duty" with what they were given to work with. Today their staff is over extended.

Enforcement's protect our populace and cannot be sacrificed. It is mission number one but not at the expense of sacrificing facilitation. The current situation for Customs to provide adequate, much less appropriate, services at current funding levels is untenable. They are continually forced to choose on the facilitation side i.e., air vs. sea vs. land; Northern Border vs. Southern Border and passenger vs. cargo. These critical areas cannot continue to be "either/or".

The Northern border embodies 40% of the total 301 ports/crossing in the U.S. but has only 14% of the currently deployed inspectors who perform 33% of the national Customs workload. **The total current primary inspection on the entire Northern Land Border is under 900 (men and women), the same level it was in 1980. Compare**

**that to the 500 required inspectors currently staffing JFK Airport.** The "shortage" of Northern Border customs inspectors is not a "media event" as it would be for Southern border drug activity or massive delays at busy airports but are just as real.

## **RECOMMENDATIONS:**

### **A PERSPECTIVE FOR FUNDING U.S. CUSTOMS OPERATION**

A retrospective view of actual Customs Commercial Processing growth in the period from 1993 to 1997 reflects: The number of importers increased 66%; the value of imports increased 32%; the number of entries increased 35% and the total revenue (the collection of duties, taxes and fees) actually increased 4% to \$22.6 billion in 1997.

It was predicted in 1989, when the Free Trade Agreement with Canada was about to be introduced phasing duties out over 10 years, that gross duty collection by U.S. Customs would substantially decrease thus reducing the revenue available to the government for spending purposes. Since neither duty collected or the mandated Merchandise Processing Fee is dedicated to cover the costs of collection, enforcement and related expenses before utilizing it for general spending programs, history shows that other priorities have usurped the ability to provide appropriate funding to the critical collection related operational cost necessities i.e. U.S. Customs. The current situation will only get substantially worse. If the current approach to funding Customs isn't changed with trade volume growth projected to increased 10% a year through 2005, Customs current processing workload, already dangerously under funded, will be double what it is today.

Since unexpectedly, U.S. Customs continues to collect approximately \$20 billion annually in duty fees today in spite of the full implementation of FTA duty removal and the NAFTA provisions as well, one could make the case that this is found money. This duty "income" should first be appropriated to cover the duty "collection cost" which include the annual operating budget of U.S. Customs related to Trade and Commercial Automation System development, Operation Cost, System Maintenance and upgrades.

It would amount to - less than 13 cents of each dollar - of duty income actually collected each year by U.S. Customs, to fund the entire U.S. Custom's Annual budget (\$1.71 billion for 1999), plus the additional \$300 million a year needed for the desperately required increased staff, technology and equipment proposed in Senator Moynihan's Bill S.219 , coupled with Senator Gramm's Bill.

This view reflects that additional user fee generation is in fact not related to covering adequate cost to operate U.S. Customs, but for the non related programs currently benefiting from being funded with

Duty revenue.

Duty is collected from trade and manufacturing activities which translate directly to economic growth, task generation and most important "Job Creation".

### **AIRPORT PRECLEARANCE POSITIONS**

It is of great concern that U.S. customs will "not be able" to meet the demand for service this summer in its Canadian preclearance program unless a legislative remedy such as that contained in S.262 is enacted.

When the enhanced U.S. Customs user fee provision under NAFTA expired on September 30, 1997, U.S. Customs lost the funding mechanism for twenty-six existing preclearance positions in Canada. Since that time, I understand that U.S. Customs, at the request of Congress, has maintained existing services by increasing overtime and sending personnel to Canada on temporary duty. Having experienced a forty-percent increase in air passenger traffic since 1994. U.S. Customs faces a growing demand for services. U.S. preclearance officers in Canada now inspect more than 9 million U.S. passengers each year.

Recognizing that it could take between two and three months to fill the aforementioned twenty-six positions prompt enactment of legislation to fund these positions is indicated. U.S. Customs cannot and should not be expected to continue to provide preclearance inspection services without having a proper funding mechanism in place.

Constrained or eliminated preclearance operations in Canada would have an extensive negative effect on U.S. tourism. We urge authorization of continued use of positions to maintain effective service to the traveling public.

### **U.S. CUSTOMS AUTOMATION MODERNIZATION**

Automation is integral to the competitive movement of goods internationally thus is a necessity not an option.

The continued success of the U.S. Economy and U.S. Job Creation growth are based in large part on the effective and efficient facilitation and enforcement of U.S. border trade.

In order for the U.S. Customs Service to effectively carry out it's mission and necessary automation capability i.e., to efficiently facilitate and enforce Border trade activities upon which the U.S. Economy and JOB creation depend.

The current Automated Commercial System (ACS) process is

outdated and over burdened. It is estimated \$1.2 billion is required over the next 4 yrs. to provide a critically needed replacement system ACS before it impedes trade.

The President's budget proposes a "new additional" user fee to fund this effort in an amount that would take far too many years (8 to 10) to accomplish thus risking system failure resulting in shutdown or serious interruption of U.S. Border Trade. The imposition of a new user fee as proposed by the President's budget appears to be in violation of NAFTA provisions and is unconscionable since industry has already provided funds.

Industry already pays a mandated Merchandise Processing Fee (\$800 million a year as it has for the past ten years) which "is not" but should be appropriated" to provide the funds for U.S. Customs automation needs.

### **NEEDS OVERSIGHT**

In past years U.S. Customs continued to request resources for increased inspection and cargo personnel, technology and equipment which has not survived elimination from the final budget request presented to Congress so that you are unaware of repeated statement of needs.

In the role of oversight it suggested that the Senate Finance Committee receive a copy of all original budget request "directly" to allow for an assessment of the "deletion rationale" (for the critical needs of U.S. Customs) made in the budget process.

While Section 110 of the 1996 IIRIRA Legislation is not in itself a subject of this hearing, it is relevant to state that the proposed additional Customs staffing provided for in Senator Moynihan's bill S.219 and Senator Gramm's Bill and the INS staffing provided for in Senator Abraham's Bill (S.745), will far more effectively deter potential and real terrorist, narcotic and illegal alien activities than Section 110 will ever do while avoiding logistic nightmares and border gridlock, which Section 110 in its present form will cause.

The Southern Border needs and deserves every U.S. Customs position it has and more as proposed. The Northern Border need is even more acute, but while remaining at 1980 levels is perhaps less apparent on the surface. The Northern border now has less than half of the inspector positions of those on the Southern Border. Yet just the Detroit Port processes more commercial transactions that ALL the Southern Border ports combined. My point is that additional Customs staff is needed at both the Northern and Southern Land Borders for different reasons. It is a wise and prudent investment in the present and future of our country.

I appreciate your invitation to appear before you today to present a

unified voice of the Northern Border private sector Trade and Tourism community describing the U.S. Customs Northern Border resource shortfall and trade facilitation needs which impact directly on maintaining and increasing U.S. Trade and jobs both of which affect the U.S. economy.

Thank you,

James D. Phillips