

TESTIMONY OF

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U.S. CUSTOMS AND BORDER PROTECTION
DEPARTMENT OF HOMELAND SECURITY**

**COMMITTEE ON FINANCE
UNITED STATES SENATE**

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Chairman Baucus, Senator Grassley, members of the Committee, it is a privilege to appear before you today to discuss my qualifications to lead U.S. Customs and Border Protection (CBP) and the important work we do to protect the American public while facilitating international trade and travel.

I am honored that President Obama appointed me to lead an agency that is so important to the security and the economic vitality of our country, and I am grateful for the continuous support and confidence of Secretary Napolitano. I recognize that this Committee has an important responsibility to evaluate my qualifications to serve in this position, and I stand ready to answer any questions you may have about my background and vision for CBP.

CBP's job is enormous—and complicated—and important not only to the security of our country, but also to our economy. We protect America's way of life, and we must do so while collecting revenue, enforcing intellectual property and other laws at the border, and facilitating legitimate commerce and travel.

CBP is responsible for verifying the integrity of every person or vehicle crossing our land borders, every passenger who lands in our airports or seaports, and every product that arrives on our shores. We protect more than 7,000 miles of border on our Northern and Southern borders, and with the Coast Guard, we guard 95,000 miles of maritime borders. Each year, more than 11 million maritime containers arrive in our seaports. At our land borders, another 11 million arrive by truck and 2.7 million by rail. We are responsible

for knowing what is inside, whether it poses a risk to the American people, and ensuring that the proper revenues are collected.

As Commissioner, I want to continue to use the considerable resources that you in Congress have provided CBP – for personnel, technology, and infrastructure – to protect the American public from dangerous people and dangerous things. At the same time, I want to focus on expediting secure trade and travel so that commerce flows faster, the cost of doing business diminishes, our country remains competitive in an era of economic globalization, and our economic recovery is sustainable over the long run.

Background and Qualifications

My experience in the private and public sectors has prepared me to lead CBP in its dual security and trade-related missions. As a corporate lawyer from 1975 to 1992, I practiced commercial law in a business context, including numerous matters involving trade and finance. During this time period, the matters I worked on included a variety of contractual, intellectual property, piracy, and counterfeiting issues.

From 1993 to 1998, I served as the United States Attorney for the Southern District of California and, from 1995 to 1998, as the Attorney General's Southwest Border Representative. These positions provided extensive leadership and interagency opportunities in border security, immigration and narcotics enforcement, facilitation of legitimate cross-border transit of people and goods, coordination of federal strategies and activities with local and state law enforcement agencies, and cooperative cross-border

public safety efforts with Mexican authorities. An important dimension of this work involved demonstrating that enhanced security is part and parcel of supporting increased trade. In the Clinton Administration, I was an early proponent of the “trusted traveler” SENTRI program, first implemented at land ports of entry in Southern California. More recently, my work as Special Representative for Border Affairs and Assistant Secretary for International Affairs at DHS has provided me further opportunities to advance this perspective, as well as experience in implementing it.

My position as Chairperson of the San Diego County Regional Airport Authority from 2006 to 2009 provided me significant experience with issues attendant to major infrastructure, including matters of security and facility master planning and construction. Finally, my involvement in the education sector – as Superintendent of Public Education in the San Diego City Schools from 1998 to 2005, as California Secretary of Education from 2005 to 2006, and as a Member of the State Board of Education from 2005 to 2009 – afforded me additional useful experience and knowledge of the state and local policy making processes.

Security and Trade

My experience in the private sector and government has convinced me that the goals of security and commerce are not antithetical; they are complementary. We must -- and can -- have both. By focusing law enforcement efforts on the relatively small fraction of goods and people who pose a threat to public safety and economic prosperity, we can reduce the costs and inconvenience of legal commerce and travel while better detecting

and intercepting potential threats to public safety. The challenge for CBP, in coordination with other agencies of government both inside and outside the United States, then, is to segment flows of people and goods by the level of risk. We facilitate the movement of people and goods about which we have sufficient, reliable information, and we focus our enforcement resources on those people and goods about which we know nothing or have derogatory information.

One key element of this strategy is the creation of trusted traveler and shipper programs, which now include more than 700,000 enrollees. CBP currently operates Secure Electronic Network Traveler Rapid Inspection (SENTRI), Free and Secure Trade (FAST), and NEXUS. These programs are designed to expedite CBP processing for pre-approved, low risk, trusted travelers by providing dedicated inspection processes in the land, air, and marine environments. All applicants are subject to thorough and continuous background checks, collection of biometrics, and an interview with a CBP officer. Another example is the Global Entry trusted traveler pilot program, which began in 2008. This program streamlines the screening process for pre-approved, low-risk air travelers through biometric identification – allowing CBP to improve customer service at airports and concentrate our resources on higher-risk travelers. The program currently operates at 20 airports nationwide, with more than 47,000 members enrolled.

The Customs-Trade Partnership Against Terrorism (C-TPAT) brings the same concept of risk management to trusted shippers. This is a voluntary public-private sector partnership program that recognizes that CBP can provide the highest level of cargo security only

through close cooperation with participants in the international supply chain: importers, carriers, consolidators, licensed customs brokers, and manufacturers. Through this initiative, CBP asks businesses to ensure the integrity of their security practices and verify the security guidelines of their business partners within the supply chain. Today, C-TPAT includes over 9,800 members, which benefit from a reduced number of CBP inspections (they are examined five times less frequently than non-members). C-TPAT members can also join the Importer Self Assessment program, which establishes and validates trade compliance standards to identify low risk importers. Currently ISA has 206 members. We need to take these and similar programs to the next level.

Private Sector Concerns

I am aware of the concerns expressed by the trade community that CBP has not given sufficient priority to its trade facilitation mission. S. 1631, the Customs Facilitation and Trade Enforcement Reauthorization Act, reflects longstanding concerns by the Committee and the trade community regarding CBP's commitment to trade facilitation and security, the cumulative cost of government decisions on the trade community, and the lack of consultation and transparency in the decision making process. I look forward to working with you to address many of the problems that the bill seeks to address.

We have asked the trade community to assume its fair share of the burden – to exercise reasonable care in customs matters, to provide information to better understand the parties to a transaction, and to invest in the resources necessary to keep up with current requirements. CBP needs to strive continually to provide an environment built upon

predictability, transparency, and uniformity in the importing process. We need to weigh the cumulative costs of our decisions on business and, when possible, provide for simplified commercial processing. CBP and the trade community must be partners, allowing CBP to multiply our presence by leveraging both parties' expertise.

I firmly believe that transparency and consultation in the decision making process is good government. This does not mean satisfying everybody all the time. That is an impossibility. What it does mean is reinvigorating the role of the Advisory Board on Commercial Operations (COAC) and ensuring adequate consultation on significant rulings and regulations with stakeholders inside and outside of government.

Transparency in government is a key commitment of this Administration, and I commit to improving our communication and consultation with all of our stakeholders.

Border Protection

CBP's trade mission is of critical importance, but the first responsibility of the Department of Homeland Security is the protection of the American public. The attempted bombing of Flight 253 on December 25 and the recent attempt to detonate a car bomb in Times Square make clear that we continue to face serious threats.

To meet its mission requirements, CBP has undergone unprecedented growth since 2004. Thanks to the support of Congress, CBP is now an agency of more than 57,000 employees. The Border Patrol is better staffed today than at any time in its 85-year history, with the number of agents nearly doubling from approximately 10,000 in 2004 to

more than 20,000 in 2009. Of 652 miles of tactical infrastructure that field commanders have identified as necessary, we have completed 646 miles of pedestrian and vehicle fencing. To adapt to an ever-changing threat environment, we have highly trained agents, officers, and analysts who use sophisticated targeting, detection, and other forms of technology in their work. In short, we are more secure than ever before.

As I begin my tenure as Commissioner, CBP must adapt to the current fiscal environment. We must expand our capabilities by more carefully aligning our resources with our mission requirements, leveraging advances in technology, and building partnerships. In short, we need to work smarter.

Border enforcement is a means to an end; that end is to prevent dangerous people and things from causing harm to our society. To accomplish this goal, we must stop thinking of border security simply as the defense of a legal boundary. Instead, we must aim to secure the flow of people and goods coming through our country, intercepting threats as far away as possible. By doing this, we can increase our security while, at the same time, facilitating the lawful flow of people and goods. As Commissioner, one of my central goals will be to identify the best way CBP can respond at each stage in the movement of a potentially dangerous shipment or person toward our shores. Accomplishing that goal will require closer partnership with the private sector; border communities; foreign governments; state, local, and tribal law enforcement; and other federal agencies – all of which have access to crucial information that CBP needs to do its job.

Conclusion

CBP's twin missions of security and trade facilitation are not in conflict, but are complementary. Many liken our mission to finding a needle in a haystack. We must find terrorists, criminal aliens, and unlawful entrants in a daily flow of nearly one million passengers and pedestrians every day. We must find weapons, illicit drugs, currency, dangerous plants, and counterfeit goods in the midst of more than 57,000 truck, rail, and sea containers and more than 270,000 incoming vehicles every day. One important way to accomplish our mission is to use intelligence to reach inside the haystack to find the needle. Another important way – and I believe the key to trade facilitation – is to blow more hay away from the needle. This means focusing less attention on those who have gained our trust by providing reliable, advance information. CBP has already made great strides in the use of technology to target passenger and cargo risk. But there is great opportunity for improvement.

Once again, it is a privilege to appear before you today. I look forward to answering any questions that you may have.