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BORDER TRADE ALLIANCE

TRADE AND COMMERCE AT U.S. PORTS OF ENTRY  
SUBCOMMITTEE ON INTERNATIONAL TRADE, CUSTOMS, AND GLOBAL  
COMPETITIVENESS  
SENATE COMMITTEE ON FINANCE  
JULY 18, 2018

The Border Trade Alliance thanks the Committee for the opportunity to provide this written testimony for the record and to provide oral testimony at the hearing on July 18, 2018.

The BTA is committed to working with the administration and Congress to devise policies that ensure our ports of entry are best equipped to speed the passage of legitimate trade and travel, while preventing the entrance of contraband or individuals who would seek to do harm.

**The Border Trade Alliance**

For over 30 years, the BTA has provided a forum for analysis and advocacy on issues pertaining to the U.S.-Canada and U.S.-Mexico border regions. A network of public and private sector representatives from all three NAFTA nations, our organization has been involved in a number of important border issues, ranging from the implementation of the North American Free Trade Agreement, to the original organization of the Department of Homeland Security to the perennial issues of staffing, infrastructure and trade processes.

**Ports of entry: Gateways to U.S. commerce, last line of defense**

Nearly nine million U.S. jobs depend on trade with Canada. Five million U.S. jobs can be attributed to trade with Mexico. Our three nations' supply chains are deeply integrated, which has created a highly efficient, just-in-time manufacturing environment that has resulted in an enhanced quality of life throughout the region. Just moving goods across the continent was responsible for nearly 50,000 jobs in the trucking industry alone in 2016.<sup>1</sup>

Our ports of entry are where we see this incredible enterprise take place. Component parts moving back and forth before they become part of a finished product. Fresh fruits and vegetables on their way to U.S. grocery stores ensuring that produce is never out of season. Workers, shoppers, and tourists crossing to enjoy attractions on either side of the border or to visit family and friends. By any measure, well-functioning ports of entry are essential to our nation's economic health.

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<sup>1</sup> American Trucking Associations' Economics Department

But our ports of entry are also highly integral to our country's security. Without the proper resources – personnel, technology, and infrastructure – our ports can be exploited by smugglers or others with motives that run counter to the rule of law.

The BTA has long supported additional resources for Customs and Border Protection personnel at the ports of entry.

The reason is simple: More resources devoted to inspecting and clearing legitimate freight and travelers means more resources for interdiction.

### **Ensuring our ports are adequately staffed**

The U.S.-Canada and U.S.-Mexico borders are challenging environments for those of us whose daily livelihoods depend on cross-border trade. Most U.S. citizens also benefit from this trade, which delivers greater variety and lower prices on store shelves.

Staffing levels by our inspection agencies, specifically Customs and Border Protection, are not commensurate with today's trade volumes. Despite funding provided previous budget agreements to hire thousands of new CBP officers, a large percentage of those allocated positions remain unfilled.

In an April 2016 hearing of the Border and Maritime Subcommittee of the House Homeland Security Committee, CBP acknowledged the agency's 18-month hiring process proves challenging to its recruitment efforts.<sup>2</sup> Earlier this year, that same House subcommittee heard testimony from CBP's employee union that the agency has nearly 1,200 open positions.<sup>3</sup>

I can assure you, if those of us in the private sector took 18 months to recruit new talent, or if we were unable to fill positions essential to our economic success, we would soon be facing a catastrophe.

Encouragingly, the trendlines on hiring appear headed in the right direction, but it is a process that is still taking too long.

According to a GAO report released last month, thanks to improved recruiting efforts, applications to CBP (Office of Field Operations, Border Patrol, and Air & Marine) for FY 13-FY 17 more than tripled, and a larger percentage of applicants are getting hired. Unfortunately, however, it still took more than 300 days, on average, for CBP officer applicants to complete the hiring process.<sup>4</sup>

Our organization and members of both parties have supported reforms that would ease CBP's hiring struggles, including legislation that would streamline the recruitment process by waving

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<sup>2</sup> <https://mcsally.house.gov/media-center/press-releases/us-rep-mcsally-leads-hearing-border-infrastructure-manning-needs>

<sup>3</sup> <https://federalnewsradio.com/hiring-retention/2018/01/as-trump-debates-border-security-field-agents-decry-existing-dire-staffing-shortages/>

<sup>4</sup> <https://www.gao.gov/products/GAO-18-487>

the existing polygraph exam process for current state or local law enforcement officers in good standing if they have already completed a polygraph examination as a condition of their employment or, in the case of federal law enforcement officials, if they have already completed a Tier 4 or 5 background investigation.

Approaches to recruitment like these are important as we seek new ways to attract talented, qualified individuals into CBP careers with as few redundant, bureaucratic hurdles as possible, while still strengthening border security and ensuring the highest degree of confidence in new recruits.

The BTA also appreciates the efforts of the Chairman, who has pursued legislation in previous Congresses that would authorize funding for CBP staffing increases directed specifically to land border ports of entry and to infrastructure upgrades.

The BTA recognizes that federal budget dollars are not unlimited, and there are plenty of interests competing for funding attention on Capitol Hill. However, we believe strongly that the American taxpayer would be well served by federal spending on CBP port personnel.

The National Center for Risk and Economic Analysis of Terrorism Events at the University of Southern California found in 2013 that the addition of just one CBP officer can inject \$2 million into the U.S. economy and create 33 jobs.<sup>5</sup> Quite simply, trade means jobs. The private sector cannot wait until the government makes the necessary budget corrections to meet the market-driven demands of trade and commerce.

### **Innovative inspection processes**

Delays at the border lead to increase costs for consumers, poorer air quality in and around border communities due to idling trucks, and diminish the overall competitiveness of the U.S.-Canada and U.S.-Mexico regions.

There have been developments of late, however, that the BTA hopes are a sign of positive things to come.

#### Unified cargo processing

The BTA is very encouraged by the concept of unified cargo processing (UCP) that has been deployed at ports of entry along the Mexico border.

Under UCP, U.S. and Mexican customs personnel work side by side on U.S. soil to conduct outbound and inbound inspections. Each country's officer can make the determination as to whether to send a shipment to secondary inspection. Even in the case where a more invasive inspection is required, UCP ensures that a shipment is only unloaded once, if at all, rather than what exists under the legacy inspection model, whereby a truck could be unloaded in its country of origin and its country of destination.

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<sup>5</sup> <http://www.cbp.gov/border-security/ports-entry/new-report-links-cbp-officer-staffing-economic-growth>

UCP represents an example of making our ports of entry more efficient through better regulations, while ensuring security and increasing capacity. Coupled with new technology that increases non-intrusive cargo searches, the port of the future will deliver real improvements in security and freight mobility, which will expand job-creating commerce and trade.

In the case of the international bridge in Rio Grande City, Texas, for example, 100 percent of northbound cargo is eligible for UCP, essentially doubling the bridge's importing infrastructure capacity. The port still maintains the ability to electronically scan 100 percent of cargo and share inspection images with Mexico.

We're seeing the concept in the air environment, too. At the Phoenix Mesa Gateway Airport outside Phoenix, UCP now allows Mexican-bound cargo flights to depart the airport as Mexican domestic flights because the cargo has already been inspected by U.S. and Mexican customs.

UCP represents an approach to inspections that should be the norm in a 21<sup>st</sup> century economy in the world's most consequential trade pact. It also reflects the incremental progress achieved in previous pilot programs conducted between the U.S. and Canada and the U.S. Mexico to inspect cargo before it leaves its country of origin.

### **Border infrastructure that leads to fewer delays, less congestion**

Aging, outmoded infrastructure is also a major challenge for the trade community. Land border ports of entry average 40 years in age, many built before the North American Free Trade Agreement was even a consideration.<sup>6</sup> As a result, their configurations are oftentimes not well suited to the throngs of commercial trucks they must process on a daily basis.

The trade community's concerns over staffing levels and infrastructure are not mutually exclusive. Both must be addressed if we are to realize the full benefits of international trade.

For example, Nogales, Arizona's Mariposa Port of Entry is home to one of the nation's busiest commercial ports for produce, specifically winter fruits and vegetables grown in Mexico.

In order to keep pace with the Mariposa port of entry's ever-growing trade volumes, the General Services Administration in fall 2014 officially completed an eight-year-long \$250 million reconfiguration of the port campus that doubled from four to eight the number of commercial lanes. The port was originally constructed in 1973 and was not suited to process the nearly 4,000 trucks that make their way through it each day.

Unfortunately, the port is not reaching its full potential due to CBP's struggles to staff the port at full capacity during peak traffic periods, which leads to lane closures.<sup>7</sup> As you can imagine, a remodeled Mariposa port of entry that is not fully operational is a source of frustration for the produce community and Nogales-area stakeholders.

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<sup>6</sup> <http://www.bloomberg.com/news/articles/2013-05-15/border-delays-cost-u-s-7-8-billion-as-fence-is-focus>

<sup>7</sup> [http://tucson.com/news/local/border/staffing-shortages-keep-expanded-port-of-entry-partly-closed/article\\_6bd41f7e-6304-5d43-b259-3dfda6daca96.html](http://tucson.com/news/local/border/staffing-shortages-keep-expanded-port-of-entry-partly-closed/article_6bd41f7e-6304-5d43-b259-3dfda6daca96.html)

Similarly, the growth in South Texas ports of entries from manufacturing to produce was predictable 10 years ago when Mexico started making significant infrastructure improvements like new transnational highways and the construction of the world's highest suspension bridge.

We would encourage congressional committees with relevant jurisdiction, as they consider future border station construction, to work closely with committees with oversight over CBP staffing, federal and state highway needs, Department of Transportation and state DOT inspection staffing issues. Better coordination will help ensure that precious taxpayers dollars pay dividends to our citizens and the businesses that drive our economy by aligning infrastructure expenditures with staffing expenditures.

### **Leveraging private sector resources to improve border crossings: Section 560**

Section 560 (and its successor, Section 559) is, in many ways, part of the answer to the trade community's ongoing calls for a creative response to consistent concerns over border port infrastructure challenges, while also an acknowledgement that federal budgets are tight and that we must fund future construction in new ways.

Thanks to innovative thinking within the Department of Homeland Security, CBP, and leaders in Congress, the trade community now has a viable option to work in tandem with state and federal partners to supplement staffing levels and improve infrastructure to support secure international trade.

Under these reimbursable service agreements, local governments and private sector entities can apply available funds to secure expanded services at their POE to facilitate trade and travel processing. Under the agreements, CBP must exhaust its available budgeted resources before tapping those of its partners.

Beginning in 2014, Sec. 559 expanded its eligible service offerings to include customs, agricultural processing, border security services, and immigration inspection-related services at POEs. Sec. 559 also opened the possibility of infrastructure improvements under a donation acceptance authority with CBP and the General Services Administration, which allows for the transfer of real or personal property intended for the construction of a new POE or the maintenance of an existing one.<sup>8</sup>

### **Flexibility and ROI: Making the DAP attractive**

While we applaud the Donation Acceptance Program, or DAP, between CBP and GSA, which allows a local government or private sector entity to donate real or personal property to the federal government, the federal agencies must recognize that a demonstrable return on investment will be critical to attract private dollars.

To be blunt, real estate investors and members of the international trade community are not charities. CBP should be prepared to demonstrate the financial upside for a private sector

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<sup>8</sup> <https://www.cbp.gov/newsroom/blog/meeting-challenge-alternative-funding-helps-cbp-serve-stakeholders>

participant in the DAP, including increased trade throughput, whether by value of commodities or traffic volumes.

The BTA has had conversations with CBP, and will continue to do so, regarding our belief that new mechanisms to pay off the debt on donated priorities must be developed in order to encourage greater participation in the program.

### **Responding to the skeptics**

We occasionally hear from some corners that these reimbursable service agreements have set an unhelpful precedent by shifting to local governments and the private sector responsibilities that should be borne solely by the federal government as part of its obligation to manage the nation's borders.

We are sensitive to critics' arguments and, in a perfect world, would prefer that federal budget allocations were able to keep pace with growing trade volumes. But these Reimbursable Services Agreements have given the trade community something it did not have before: choice.

Before the law that made these agreements possible went into effect, we had no options to help alleviate the long backups at our ports and had to suffer the consequences and the loss of competitiveness and tax dollars. Now we have the choice to enter into a contract with CBP to augment the agency's services to respond to our most pressing needs and, hopefully, receive a strong return on that investment. We hope our contributions can be replaced when budgets can pay for federally delivered services.

### **Making wise investments**

A final note about infrastructure: The BTA recommends that construction of new ports of entry should only be undertaken where trade flows justify new facilities.

The planned construction of a new international bridge linking Detroit, Michigan and Windsor, Ontario, Canada, is an example of a new facility that we believe should not be a priority and is unnecessary at this time. Its construction would be an unwise use of budgetary resources that would create an ongoing financial burden for United States taxpayers and run counter to Congress' appropriations role.

The BTA believes strongly that our nation's land border infrastructure is central to our country's ability to maintain its physical security, efficiently process trade and travel, and secure its economic competitiveness.

In light of finite federal resources, and because of infrastructure's importance to the U.S., we also believe that infrastructure improvements and new construction should be made only at those land ports where traffic volumes make such upgrades absolutely necessary. New construction where traffic volumes are flat or declining diverts limited resources – especially budget dollars allocated for inspection personnel – away from those locations where they are needed most.

Construction of the Gordie Howe International Bridge would prove to be one such resource diversion. The Ambassador Bridge, a privately-owned bridge in the region, already is meeting the area's traffic needs. That bridge's owners are the midst of preparing plans for the construction of a new span at a cost of \$400 million that will replace the current 90-year-old bridge. Traffic volumes in Detroit and across the U.S.-Canada border indicate that the \$2 billion Gordie Howe is unnecessary at this time.

According to data compiled by the Public Border Operators Association, which is comprised of representatives of border crossings linking Ontario with New York and Michigan, commercial truck traffic across the existing Ambassador Bridge fell nearly 27 percent between 2000 and 2016, and 20 percent across the PBOA ports combined. Total traffic – private vehicles, commercial trucks, and buses – fell nearly 45 percent in the same 16-year span at the Ambassador Bridge, and over 35 percent total across all of PBOA's Michigan and New York crossings. This is hardly an environment that would necessitate the construction of a new bridge to supplement the existing bridge.

Advocates for the construction of the Gordie Howe argue that the government of Canada will bear 100 percent of the bridge construction costs. The BTA believes, however, that the Gordie Howe project fails to account for the ongoing U.S.-funded resources that a new bridge would require.

The Department of Homeland Security estimates that inspection personnel costs would be \$100 million in the first year and approximately \$50 million annually thereafter, which undercuts Congress' role as appropriator and could run afoul of the Anti-Deficiency Act and other laws limiting authority to accept donations. U.S. taxpayers will also be responsible for ongoing maintenance costs and non-agency support staff.

Committing U.S. taxpayer dollars to an ongoing expenditure should be the responsibility of the U.S. Congress, not a foreign government. Further, ongoing expenditures should be used wisely. In the case of international trade-facilitating infrastructure and inspections, resources should be aligned with real need. Such a need does not currently exist in the Detroit-Windsor trade corridor.

We would encourage this Committee to investigate the impact the Gordie Howe International Bridge's construction would have on CBP's ability to securely process existing cross-border trade and travel volumes if, as we believe, the new bridge's construction would require the diversion of significant ongoing investments by the U.S. federal government.

Once again, the BTA thanks the Committee for the opportunity to share our organization's collective insights on issues facing our ports of entry. Please do not hesitate to count on the BTA as a resource to you in the future.