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A Safe and Secure Canada - United States Border: Customs - Trade Partnership against Terrorism (C-TPAT); Partners in Protection (PIP); Free and Secure Trade (FAST); E-Manifest (ACE/ACI); Trusted Traveler Programs (NEXUS); and Integrated Border Enforcement

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A SAFE AND SECURE CANADA-UNITED STATES BORDER:
CUSTOMS-TRADE PARTNERSHIP AGAINST TERRORISM (C-
TPAT); PARTNERS IN PROTECTION (PIP); FREE AND SECURE
TRADE (FAST); E-MANIFEST (ACE/ACI); TRUSTED
TRAVELER PROGRAMS (NEXUS); AND INTEGRATED
BORDER ENFORCEMENT TEAMS (IBETs)

Session Chair – Birgit Matthiesen
Canadian Speaker – Warren Coons
United States Speaker – Todd C. Owen
Canadian Speaker – Joy Aldous

INTRODUCTION

Birgit Matthiesen

MS. MATTHIESEN: My name is Birgit Matthiesen. I work at the Canadian Embassy in Washington, D.C. I am in the Economic and Trade Policy section of that embassy.

This panel is going to be the border guys. These are going to be spokespersons and representatives from the Canadian Border Service Agency, the Customs and Border Protection, and the RCMP, and they are here to talk to you about not only their programs but the alphabet soup of CSI, FAST, C-TPAT, AMS, AMI,¹ et cetera, et cetera.

We are going to start with Warren Coons. He is with the RCMP – and I did not realize you are a Superintendent – and he is the Director of the Integrated Border Enforcement Team which Ambassador Wilson made reference to.

We will move to his left, Mr. Todd Owens. He is the Executive Director at U.S. Customs and Border Protection for cargo and conveyance security.

¹ See generally Canada Border Services Agency, <http://www.cbsa-asfc.gc.ca> (last visited Oct. 10, 2008); U.S. Customs and Border Protection, <http://www.cbp.gov> (last visited Oct. 10, 2008); Royal Canadian Mounted Police, <http://www.rcmp-grc.gc.ca> (last visited Oct. 10, 2008).

And we will end up with Joy Aldous, Director of Commercial Policy, Admissibility Branch of the Canada Border Services Agency. And, hopefully after her presentation we will have some dynamic Q and A.

And so I would like to hand the mike over to Warren.

CANADIAN SPEAKER

Warren Coons^{*}

MR. COONS: Thank you very much, Birgit. First of all, it is a pleasure to be here today to speak about something that is certainly very important to the RCMP and I believe very important to all law enforcement agencies that have a nexus to the border in both of our countries.

There was a question asked at Ambassador Wilson's luncheon this afternoon about how we secure the border between Minnesota and Washington,² and hopefully during this presentation, you will get a better idea of how exactly we intend to do that.

As everybody here is aware, we have a very long and unique border.³ It is characterized by remote, sparsely populated areas in some parts of the countries, our two countries, and as well, urban centers in other parts of the country.⁴ This geography and the demographics of the borders pose certain challenges to law enforcement and also opportunities for criminality.⁵

^{*} Warren Coons is the director of Integrated Border Enforcement Teams (IBETs), where the shared outcome will be enhanced border security coverage and improved international relationships along the shared border, as a result of focusing on improving information-sharing between Canadian and US law enforcement agencies and conducting intelligence-led investigations. Border-related investigations, based on intelligence from all IBET partners, will be more effective, rather than random enforcement activity. Law enforcement interoperability will improve with the development of a technically successful communications system linking multi-agencies that will facilitate joint operations, while addressing health and safety concerns for law enforcement officers along the 49th parallel.

² See generally UNITED STATES-CANADA BORDER DRUG THREAT ASSESSMENT vii (2001) available at www.rcmp-grc.gc.ca/pdfs/cid/CanadaUSDrugThreat.pdf (last visited Oct 12, 2008) (discussing how the United States and Canada are dealing with criminal issues at the border).

³ See generally UNITED STATES-CANADA BORDER DRUG THREAT ASSESSMENT ix (2007) available at <http://www.hsd.org/h slog/?q=node/4233> (follow "Border Drug Threat Assessment 2007" hyperlink) (last visited Oct. 12, 2008) (providing a general overview of the geography of the Canada United States border).

⁴ See *Id.*

⁵ See generally *Id.*

Since 9/11 in particular, there has been a change in the attitude towards the perception of the border, in some quarters the border is perceived as a threat.⁶ The level of that threat is certainly debatable;⁷ however, there are a couple of givens that we definitely accept. And they are first of all, that it is virtually impossible to eliminate 100 percent of threats along the border.⁸ And the second is that organized crime has and will continue to exploit any vulnerabilities or gaps along that border.⁹ So for these reasons, it is imperative that law enforcement remain ever-vigilant and innovative and most importantly, intelligence-led,¹⁰ something I will touch upon a little bit later as we confront the challenges at the border.

So, just to give you a brief history of the Integrated Border Enforcement Teams: in December of 2001, our two governments signed the Smart Border Declaration.¹¹ The four pillars of that Smart Border Declaration are the secure flow of goods, people, and secure infrastructure, and as well, the coordination of intelligence sharing and information sharing in the pursuit of those initiatives.¹²

The Smart Border Declaration also had a 30-point action plan included in it.¹³ One of those points was the establishment of Integrated Border Enforcement Teams across our two countries.¹⁴ Initially IBETs were a local initiative in Washington State and British Columbia, and highly successful in that area.¹⁵ As a result of 9/11, as they looked around for opportunities to improve border security, it was determined that IBET would be an appropriate response for our two countries.¹⁶

⁶ See generally John Noble, *Fortress America or Fortress North America?* 11 L. & BUS. REV. AM. 461 (2005) (arguing that the United States and Canada should continue to cooperate in the areas of police, intelligence and immigration sectors post 9/11).

⁷ See generally *id.*

⁸ See generally *id.*

⁹ See INTEGRATED BORDER ENFORCEMENT TEAMS (IBETs) CANADA-UNITED STATES IBET THREAT ASSESSMENT (2007), available at http://www.rcmp-grc.gc.ca/security/ibets_threat_assess_e.htm (last visited Oct. 12, 2008) (assessing the role of the IBET program in national security issues at the Canada-United States border).

¹⁰ See generally *id.*

¹¹ See U.S.-CANADA SMART BORDER: 30 POINT ACTION PLAN UPDATE (December 6, 2002), available at <http://www.whitehouse.gov/news/releases/2002/12/20021206-1.html> (providing an overview of the Smart Border Declaration and Associated 30-Point Action Plan).

¹² See *id.*

¹³ See *id.*

¹⁴ See *id.*

¹⁵ See Noble, *supra* note 6 (discussing Integrated Border Enforcement Teams, their creation, and use).

¹⁶ See Hon. Lawrence Macaulay, Solicitor General of Canada, Address at Launching of the Central St. Lawrence Valley Integrated Border Enforcement Team: Talking Points (Feb. 28, 2002) available at http://www.ps-sp.ca/publications/speeches/20020228_e.asp (last visited Oct. 12, 2008) (speaking about the actions by the United States and Canada in response to the

The five core agencies in the IBETs as it stands today are the Canada Border Services Agency, RCMP, U.S. Customs Border Protection Office of Border Patrol, U.S. Immigration and Customs Enforcement, ICE, and U.S. Coast Guard.¹⁷

There are 15 IBET regions and 24 IBET units across Canada.¹⁸ I say Canada because in Canada we have dedicated - the RCMP and CBSA have dedicated - resources to the

Integrated Border Enforcement Teams while *in* the United States¹⁹ they work under the IBET philosophy, that we can call upon our U.S partners in those core agencies and work closely and collaboratively with them on a regular basis,²⁰ however, they do not have dedicated resources attached to the IBET program.²¹ There are a lot of good reasons to expect that that could change in the near future, but I certainly do not want to let anything out of the bag here especially considering some of the people in the room here today. But we would hope that the IBET program is something that is embraced, and that dedicated resources will be put into this initiative on both sides of the border in the near future.

I should also, as we move forward, clear up any misunderstandings there may be about how we might operate. Even though we talk about integrated teams, from a law enforcement perspective, there is no gun-toting police officers from Canada working in the United States or vice-versa.²² When we

attacks on 9/11 and the effectiveness of those actions including the Integrated Border Enforcement Teams).

¹⁷ See Nunez-Neto, Blas, *CRS REPORT FOR CONGRESS, BORDER SECURITY: THE ROLE OF THE U.S. BORDER PATROL* at 19, available at <http://www.fas.org/sgp/crs/homesec/RL32562.pdf>.

¹⁸ See INTEGRATED BORDER ENFORCEMENT TEAMS (IBETS) CANADA-UNITED STATES IBET THREAT ASSESSMENT, *supra* note 9 (assessing the role of the IBET program in national security issues at the Canada-United States border).

¹⁹ See generally Building Cross-Border Links: A Compendium of Canada-US Government Collaboration, http://www.cspc-efpc.gc.ca/research/publications/html/p128/28_e.html (last visited Oct. 7, 2008) (providing information regarding RCMP and CBSA involvement in Integrated Border Enforcement Teams); Royal Canadian Mounted Police: Horizontal Initiatives, <http://www.tbs-sct.gc.ca/dpr-rmr/2006-2007/inst/rcm/rcm10-eng.asp> (last visited Oct. 7, 2008) (providing information regarding money invested by the CBSA and RCMP in the Integrated Border Enforcement Teams).

²⁰ See generally LEBEUF, MARCEL-EUGENE, *CANADA-US LAW ENFORCEMENT BORDER PARTNERSHIP- AN EVOLVING SITUATION* (2002) available at <http://dsp-psd.pwgsc.gc.ca/Collection/JS62-118-2003E.pdf> (last visited Oct 12, 2008) (discussing collaboration between Canada and United States at the Integrated Border Enforcement Team level).

²¹ See generally *id.*

²² See Moll, Frederic J., *The Legal & Technological Advantage of a North American Perimeter in the War Against Terrorism: How the Implementation of a Schengen-Type System will Best Serve the Security Interests of the United States and Canada*, 2004 SYRACUSE SCIENCE & TECHNOLOGY LAW REPORTER 2, at 7 (Spring 2004) (discussing whether United States agents should be permitted to carry guns in Canadian airports and joint border facilities).

are talking about actual enforcement work, there are still barriers in places that prevent us from crossing the border with our firearms.²³ That does not happen, but we work very closely together exchanging intelligence and information on a regular basis.²⁴

However, from the intelligence side, there is integration where we are working in each other's countries.²⁵ There are five co-locations Integrated Border Intelligence Teams (IBIT) across both of our countries, three in the United States, two in Canada.²⁶ And these have representatives from all the agencies who are working together, exchanging intelligence, and working through problems in the same office in each of our countries.²⁷

So the IBET model: I touched upon the intelligence-led policing, which we believe is so important. IBETs are intelligence-led enforcement teams comprised of federal, state, provincial, and local law enforcement personnel working together to enhance our border security.²⁸

So what exactly is intelligence-led? Essentially what it means is that our border is so long and diverse that it is impossible and ineffective to string law enforcement officers on each side, every mile along our border.²⁹ It simply will not work.

We must collaborate and, yes, integrate our operations to the greatest extent possible and rely on the intelligence to direct our operations to where we believe we will have the greatest opportunity for success.³⁰

And we must also ensure that there is a seamless and fluid exchange of information between our border investigative units and our inland investigative units because organized crime does not reside at the border.³¹ Organized crime is in Toronto, Montreal, Vancouver, Los Angeles, Philadelphia, New York, other places as well.³² The primary places are the large centers where it resides.³³

²³ See *id.*

²⁴ See generally Building Cross-Border Links: A Compendium of Canada-US Government Collaboration, *supra* note 19.

²⁵ See LEBEUF, *supra* note 20 at 8 (discussing the importance of integration from an intelligence standpoint and the continued collaboration between Canada and the United States).

²⁶ See Building Cross-Border Links: A Compendium of Canada-US Government Collaboration, *supra* note 19.

²⁷ See *id.*

²⁸ See generally LEBEUF, *supra* note 20 at 8.

²⁹ See Noble, *supra* note 6.

³⁰ See generally INTEGRATED BORDER ENFORCEMENT TEAMS (IBETs) CANADA-UNITED STATES IBET THREAT ASSESSMENT, *supra* note 9.

³¹ See generally *id.*

³² See generally *id.*

³³ See generally *id.*

Now, the IBET model. The way that it is structured in the IBET world is that there is an International Joint Management Team.³⁴ There is a senior representative from each of the five core agencies that meet quarterly along with U.S. attorneys and Canadian Department of Justice and a smattering of other local officials depending on where the meetings are held. This group is responsible essentially for the management of and oversees the IBET program.³⁵

At the next level there is an International Coordination Team, which is housed at RCMP headquarters in Ottawa,³⁶ which consists of representatives from all of the core agencies;³⁷ at least one representative from all the core agencies, some have more. This is the group that essentially administers the IBET program and deals with policy issues on a daily basis.³⁸

But the most critical aspect of the IBET program is its local Joint Management Teams.³⁹ These are groups of not only the five core agencies in each of the local areas, but the all of the other law enforcement agencies in that particular area recruited to participate in the JMT.⁴⁰ The joint management team meets on a monthly basis to assess - to bring the intelligence from its agencies, assess that intelligence, and prioritize targeting.⁴¹ In some of our most productive IBET units - just to give you an example - there are 13 law enforcement agencies that sit around the table.⁴² They discuss what the threats are in their areas, and they decide at that table what investigations the IBET will work on.⁴³ There is actually a secret vote that is held once they pare it down to three investigations.⁴⁴

That is the level of collaboration and cooperation that we have within some joint management teams. Now it does not mean that every agency that sits around the table is going to participate in each investigation, but rather those that can, those that have the resources, those that have the interest in that particular investigation will participate.⁴⁵ But even those that do not have

³⁴ See Nunez-Neto, *supra* note 17 at 19.

³⁵ *See id.*

³⁶ *See id.*

³⁷ *See id.* (describing the Integrated Border Enforcement Teams' National Coordination Team and its organization and structure).

³⁸ *See id.* (discussing the Integrated Border Enforcement Teams' national Coordination Team and its duties and responsibilities).

³⁹ *See generally id.* (describing IBET joint management teams' structure, organization, responsibilities and actions).

⁴⁰ *See generally* LEBEUF, *supra* note 20 (discussing the organization and effectiveness of Integrated Border Enforcement Teams).

⁴¹ *See generally id.*

⁴² *See generally id.*

⁴³ *See generally id.*

⁴⁴ *See generally id.*

⁴⁵ *See generally id.*

an understanding of what the threats are in that area and what the local JMT is working on. This serves to simplify so that we are not running over each other as we move through criminal investigations. The JMT serves a very important function, and is really at the heart of the IBET program.

Our IBET priorities are national security, organized crime, and other border criminality.⁴⁶ National security is the number one priority of all law enforcement agencies in each of our countries.⁴⁷ But the reality is that the vast majority of what we work on in the IBET program is organized crime files.⁴⁸ And of those organized crime files, primarily smuggling organizations with drugs being the second most common investigation in which we are engaged.⁴⁹

So the case for IBET and why it is the most appropriate model. First of all, like all entities, law enforcement has been impacted by significant changes in the global environment.⁵⁰ Integrated economies, technological advances, mobility, mass migration have obviously increased the number of trans-border transactions that occur on a regular basis.⁵¹ Organized crime has exploited globalization, and they are more integrated than ever before.⁵² And they are not restricted by any borders.⁵³

Based on our IBET threat assessments, which are done collaboratively for all our agencies, organized crime is the largest threat at the Canada-U.S. border.⁵⁴ They are sophisticated, and they exploit vulnerabilities in demographics and geography.⁵⁵

The picture that you see above is actually a picture of a tunnel that was constructed between Canada and the U.S. near Aldergrove, British Columbia under Zero Avenue. And thanks to the awareness of a CBSA officer who noticed some people that he had had previous dealings with around the Quonset hut in that area, we discovered this tunnel before it was completed.⁵⁶

⁴⁶ See INTEGRATED BORDER ENFORCEMENT TEAMS (IBETs) CANADA-UNITED STATES IBET THREAT ASSESSMENT, *supra* note 9.

⁴⁷ See generally LEBEUF, *supra* note 20.

⁴⁸ See INTEGRATED BORDER ENFORCEMENT TEAMS (IBETs) CANADA-UNITED STATES IBET THREAT ASSESSMENT, *supra* note 9.

⁴⁹ See *id.*

⁵⁰ See generally Richard B. Stewart, *The Global Regulatory Challenge to U.S. Administrative Law*, 37 N.Y.U. INT'L L. & POL. 695 (2005) (discussing the effects of globalization on administrations including law enforcement).

⁵¹ See CHRISTOPHER RUDOLPH, INTERNATIONAL MIGRATION AND HOMELAND SECURITY: COORDINATION AND COLLABORATION IN NORTH AMERICA, 2005 L. & BUS. REV. AM. 433, 434 (discussing migration, homeland security, and globalization).

⁵² See INTEGRATED BORDER ENFORCEMENT TEAMS (IBETs) CANADA-UNITED STATES IBET THREAT ASSESSMENT, *supra* note 9.

⁵³ See generally *id.*

⁵⁴ See generally *id.*

⁵⁵ See generally *id.*

⁵⁶ See Terry Frieden, *Drug Tunnel Found Under Canada Border*, CNN NEWS, July 22,

You should know that law enforcement waited for it to be completed and actually prevented the smuggling organization from smuggling contraband during their maiden voyage through the tunnel.⁵⁷ The second picture is just a little snippet...

In the second photo - and we can just talk about it - but essentially you would have seen a helicopter come down, a little video, a helicopter come down and drop a load of narcotics as part of Project E Printer/Frozen Timber, which occurred in British Columbia and Washington state.⁵⁸ Essentially that investigation involved a smuggling ring that would move narcotics across the border via helicopter and drop in remote areas, remote places in the U.S. state and national parks.⁵⁹ It was a very successful investigation led by U.S. ICE, Washington state police, RCMP and CBSA.⁶⁰

These are some of the kinds of investigations that we encounter, although perhaps the more dramatic, but the point is that organized crime is very adaptable.⁶¹ If we are just positioned along the border in a line, they will go over us, or they will go under us.⁶² So we need to be integrated, intelligence-led and focus our collective resources where the intelligence demonstrates that they would be most effective.⁶³

Challenges for the IBET program however still exist, and those challenges - for instance, maintaining sovereignty in an integrated world is a constant challenge for us. In some of the remote areas, for instance in the prairies, the nearest back-up for a law enforcement officer may be a representative from a U.S. agency, if it is in Canada, or vice-versa.⁶⁴ So those are the kind of things that we still confront and still deal with on a regular basis. Sometimes we do not even want to know how those are dealt with to be quite frank with you.

Other operational issues that we deal with are radio interoperability and technology acquisition.⁶⁵ All of these things that we are trying to build to be

2005, available at <http://www.cnn.com/2005/US/07/21/border.tunnel/index.html> (last visited Oct. 12, 2008).

⁵⁷ See *id.*

⁵⁸ See generally Integrated Border Enforcement Teams (IBETs) 2006 Joint Cross-Border Operations, http://www.rcmp-grc.gc.ca/security/ibets_success_e.htm (last visited Oct. 11, 2008).

⁵⁹ See *id.*

⁶⁰ See generally *id.*

⁶¹ See INTEGRATED BORDER ENFORCEMENT TEAMS (IBETs) CANADA-UNITED STATES IBET THREAT ASSESSMENT, *supra* note 9.

⁶² See *id.*

⁶³ See generally *id.*

⁶⁴ See generally *id.* (discussing how the U.S. and Canada agencies have worked together and been successful and also where they need to cooperate more).

⁶⁵ See generally INTEGRATED BORDER ENFORCEMENT TEAMS (IBETs) CANADA-UNITED STATES IBET THREAT ASSESSMENT, *supra* note 9.

a modern integrated police entity. Whereas before we only had to worry about the acquisition process in one agency, now we are looking at five agencies and attempting to ensure that everything we deliver to the field is interoperable or at least has open architecture so that sometime down the road we will be able to integrate our technological assets.⁶⁶

Another challenge is from a policy standpoint. There are different agencies, different mandates, and different policies on information sharing, something which has a very big issue for both countries.⁶⁷ These issues take time and education for each of our agencies to try and get it right.⁶⁸ And I am not saying that we have it right yet, but I think we are moving a lot closer to that now.

And then finally, legal challenges. I am not going to touch upon that too much right now other than to say there are a multitude of legal and regulatory issues.⁶⁹ If we are going to become more integrated, then perhaps legislative changes will be required in order to make us more effective.⁷⁰

I am also pleased to report that our two countries are presently in the negotiation stages of an agreement designed specifically to address many of these policy and legal issues that I have alluded to here today, but only in the marine security law enforcement operations area.⁷¹ We are hopeful that some of the barriers to greater integration will be resolved as we move forward with these negotiations and have a bi-national agreement in the security marine environment.

So when we talk of IBET successes; timely intelligence, sharing of intelligence, leveraging of resources, these are the kind of things that we believe we bring to the table. Law enforcement recognizes that border integrity is crucial to ensuring economic security and the public safety of Canada and the United States.⁷² We also recognize that no one agency,

⁶⁶ See CANADA-UNITED STATES BORDER DRUG THREAT ASSESSMENT, *supra* note 2, 1-2 (discussing the many agencies cooperating and some of the issues facing them from the perspective of both sides of the border).

⁶⁷ See generally REPORT OF THE CANADIAN PARLIAMENTARY DELEGATION OF THE CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP TO THE CANADIAN/U.S. BORDER: AU UNIFIED FOCUS CAN/AM BORDER TRADE ALLIANCE (2006) available at http://www.parl.gc.ca/IIAPublications/index-E.aspx?sectionpage=1149_1 (last visited Oct. 12, 2008) (discussing the different problems that need to be resolved between the United States and Canada in order to ensure better cooperation).

⁶⁸ See generally *id.*

⁶⁹ See generally *id.*

⁷⁰ See generally *id.*

⁷¹ See generally Canadian Press, *Marine Security Riddled with Gaps: Whistleblower*, CBC NEWS, Jan. 23, 2008, available at <http://www.cbc.ca/canada/story/2008/01/23/transportcanada.html> (last visited Oct. 12, 2008) (Discussing issues in the Canadian Marine Security program).

⁷² See generally LEBEUF, *supra* note 20 (discussing the efforts of law enforcement agencies to help secure the Canada United States border).

entity, or country has the wherewithal to get all of it right and to eliminate all of the threats.⁷³

We need to make our limited resources more effective. We need naiveté's such as IBET to make our operations more interoperable so that we can share information in real time across organizations and across borders and focus on common goals to ensure that the four pillars of the Smart Border Declaration are sturdy, and that the Canada-U.S. border remains open to trade and commerce.⁷⁴

Just some final thoughts. Securing the border does not start or stop at the physical border.⁷⁵ It requires a seamless multilayered approach.⁷⁶ And finally we must continue the progression from mere coordination to integration, leveraging, and maximizing intelligence, technology, and resources.⁷⁷

Thank you.

MS. MATTHIESEN: Thanks, Warren. We are going to hold the questions until the very end if you do not mind.

And we are going to bring the focus back to the actual port of entry. IBET teams as you probably have realized operate in between ports of entries.⁷⁸ The two border agencies at ports of entry are U.S. Customs and Border Protection and CBSA,⁷⁹ and I am pleased now to give the mike to Mr. Todd Owen.

⁷³ See generally *id* (noting the highly collaborative efforts of many different agencies from both Canada and the United States).

⁷⁴ See generally *id* (discussing how the Integrated Border Enforcement Teams help achieve the bi-national goals of integration and collaboration).

⁷⁵ See *id* (discussing the need to collaborate at all levels because the threat exists at all levels).

⁷⁶ See *id*.

⁷⁷ See *id*.

⁷⁸ See INTEGRATED BORDER ENFORCEMENT TEAMS (IBETs) CANADA-UNITED STATES IBET THREAT ASSESSMENT (2007), *supra* note 9 (discussing Integrated Border Enforcement Teams and their operation localities).

⁷⁹ See generally *id* (discussing agencies that support the Integrated Border Enforcement Teams).

UNITED STATES SPEAKER

Todd C. Owen[†]

MR. OWEN: Thank you. Well, good afternoon everybody. It is a pleasure to be here and to speak to you a little bit about some of the cargo security programs that U.S. Customs and Border Protection has in place today to both help secure the border as well as to facilitate legitimate trade and travel.

And I would like to pick up on a theme that Warren started with the importance of an intelligence-driven, data-driven, multilayered seamless approach to securing the borders. I am going to focus mostly on the cargo aspect of this, and I think most of you are familiar with who U.S. Customs and Border Protection is and how we came to be created after the Department of Homeland Security was established in March of 2003.⁸⁰ We combined the inspection resources from the former U.S. Customs Service, the Immigration Naturalization Service, and the Department of Agriculture quarantine inspection.⁸¹ Their inspectors, as well as the Office of the Border Patrol, the three previous groups, Customs, INS, and Agriculture work at the ports of entry whereas Border Patrol worked between the ports of entry.⁸²

And to give you an idea on the scope of the challenges that CBP faces. On a typical day we have over 1.1 million passengers and pedestrians that gain entry into the country.⁸³ 653,000 of them do so,⁸⁴ and they are foreign

[†] Todd C. Owen is the Executive Director of the Cargo and Conveyance Security Office within U.S. Customs and Border Protection's Office of Field Operations. As the Executive Director for the Cargo and Conveyance Security (CCS) Office since May 2006, Mr. Owen is directly responsible for all cargo security programs and policies for CBP. Included within the CCS Office are the Container Security Initiative Office, the Secure Freight Initiative Office, the Non-Intrusive Inspection Technology Office (which includes radiation detection equipment and large scale imaging equipment, policies, and programs), the Customs-Trade Partnership Against Terrorism Program (C-TPAT) Office, the national Canine Enforcement Program, the Cargo Verification Office which manages cargo enforcement policies and activities with the U.S. Coast Guard and the Transportation Security Administration, the Cargo Control Office which oversees trade security policies and programs including in-bond, manifest and carrier compliance programs, and the National Targeting Center for Cargo, located in Northern Virginia. Previously, Mr. Owen was the Director of the C-TPAT program.

⁸⁰ See generally Customs and Border Protection Today: One Team, One Fight, <http://www.cbp.gov/xp/CustomsToday/2003/March/one.xml> (last visited Sept. 30, 2008) (providing extensive information on the creation of U.S. Customs and Border Protection).

⁸¹ See *id.*

⁸² See generally *id.*

⁸³ See generally US Customs and Border Protection, http://www.cbp.gov/xp/cgov/about/mission/cbp_is.xml (last visited Sept. 30, 2008) (describing the activity that United States Customs and Border Control sees on a daily basis).

⁸⁴ See generally *id.*

visitors into the country. We have over 70,000 truck, rail, and sea containers that enter the country every day,⁸⁵ and 304,000 personally-owned vehicles.⁸⁶ On an average day we see at least 2,200 pounds of narcotics at the ports of entry, and 5,100 pounds between the ports of entry.⁸⁷ And that is a significant role when you look at what the IBETs are doing for that smuggling avenue that occurs between the legitimate border crossings.⁸⁸

We also refuse entry to over 800 aliens who are attempting to enter the United States and found inadmissible,⁸⁹ and these are the ones who presented themselves at the official port of entries, not the individuals that are interdicted by the border patrol trying to cross between the ports.⁹⁰ And we deploy over 1,100 K-9 teams, 10,000 vehicles, 267 aircraft, 175 watercraft, and 188 horse teams on the borders, so we have quite a challenge if you look at what we are doing every single day.⁹¹

To meet that challenge, we employ a multilayered enforcement strategy again which starts with the advanced data that we receive.⁹² Under various pieces of the legislation, starting with the Trade Act of 2002, U.S. Customs began to require advanced submission of electronic manifest data.⁹³ That information helps us to target before the cargo either arrives in the country or is even laid onboard a vessel in a foreign port as in the case of Maritime cargo.⁹⁴

That advanced information is run through a complement of our automated targeting systems, and every single shipment that is coming into the United States is screened for risk before it even gets here.⁹⁵ That way we can direct the limited resources that we do have into those, again, 70,000 containers, truck and rail, every day that pose the greatest risk, and those are the ones that we can target for inspection.

We have two national targeting centers, both in Northern Virginia - one that focuses solely on passengers, one that focuses solely on cargo, and they add another layer to what we are doing to again help screen all the cargo before it arrives in the United States.⁹⁶

⁸⁵ See generally *id.*

⁸⁶ See generally *id.*

⁸⁷ See generally *id.*

⁸⁸ See generally INTEGRATED BORDER ENFORCEMENT TEAMS (IBETs) CANADA-UNITED STATES IBET THREAT ASSESSMENT, *supra* note 9.

⁸⁹ See generally US Customs and Border Protection, *supra* note 83.

⁹⁰ See generally *id.*

⁹¹ See generally *id.*

⁹² See generally *id.*

⁹³ See generally E-Manifest Gateway, <http://www.ecustoms.com/vg/e-manifest-gateway.cfm> (last visited Oct. 7, 2008) (describing the electronic manifest data system).

⁹⁴ See generally *id.*

⁹⁵ See generally *id.*

⁹⁶ See generally *id.*

With that advanced manifest information, that was a good starting point back in 2002.⁹⁷ But over the last few years, CBP has realized that in order to enhance our targeting to better identify the high-risk shipments and facilitate the low-risk recurring shipments, we can benefit from even greater data.⁹⁸ We have an initiative underway now that you may have heard of called the 10+2 Security Filing, and this is a move to require importers to submit 10 additional data elements prior to the loading of the foreign vessel.⁹⁹ Information is such as where is the container stuffed, who is doing that information¹⁰⁰ - additional pieces of data that identify the entities involved in each of these shipments.¹⁰¹

From the sea carriers, we are requiring electronic transmission of the stowage plans, the mapping, if you will, of all the containers that are on a certain vessel.¹⁰² From that we can automatically identify any cargo that has not been declared - you know, that container that was added on at the last minute that CBP and that the Coast Guard may not be aware of.¹⁰³ So even though we start with the data, we realize that we further enhance that process, and we have that move underway now known as the Security Filing 10+2.

So with that data, once we determine the shipment is high-risk, we can either order what is called a do-not-load order, which keeps the cargo from being loaded onboard the vessel,¹⁰⁴ or we can look at it overseas as part of our container security initiative,¹⁰⁵ or we can look at it when the cargo arrives here in the United States.¹⁰⁶

I would like to talk a little bit about our CSI program. Under the Container Security Initiative, U.S. Customs and Border Protection officers are deployed overseas at up to - we are at 58 seaports now around the world.¹⁰⁷ The first CSI deployment occurred in February of 2002 in

⁹⁷ See generally *id.*

⁹⁸ See generally Security Filing 10+2,

http://www.cbp.gov/xp/cgov/trade/cargo_security/carriers/security_filing (follow “Security Filing, 10+2 Regulatory Assessment and Initial Regulatory Flexibility Analysis for the Notice of Proposed Rulemaking” hyperlink) (last visited Oct. 11, 2008) (providing information regarding the 10+2 filing initiative which acts to facilitate trade).

⁹⁹ See generally *id.*

¹⁰⁰ See generally *id.*

¹⁰¹ See generally *id.*

¹⁰² See generally *id.*

¹⁰³ See generally *id.*

¹⁰⁴ See generally *id.*

¹⁰⁵ See

generally CSI in Brief, http://www.cbp.gov/xp/cgov/trade/cargo_security/csi/csi_in_brief.xml (last visited on Oct. 7, 2008) (providing general information on the initiative).

¹⁰⁶ See generally *id.*

¹⁰⁷ See generally *id.*

Vancouver,¹⁰⁸ and that was followed by deployments in Montreal and Halifax.¹⁰⁹

So now we have an opportunity in 58 countries around the world where we have over 200 officers permanently stationed to identify the high-risk shipments and examine them before they are even laid onboard a vessel coming to the United States.¹¹⁰ And that is not only a great security benefit, but it is also a great trade facilitation benefit.¹¹¹ Prior to these types of actions, if you had a very hot suspect container on a ship that caused a great deal of concern, working with the Coast Guard, we often kept that ship outside of the port to address that risk.¹¹²

Here we have an opportunity to address that risk before the container's onboard so that everybody else's containers that are on that ship are not unnecessarily held up. So the Container Security Initiative really is an enhancement to the security the U.S. has in place.¹¹³ In 2006 we conducted over 78,000 of these high-risk inspections overseas, and in 2007 that almost doubled to 137,000.¹¹⁴

So clear are the benefits of having U.S. officers overseas working with our host countries to identify the high-risk shipments, look at them, make sure they do not pose a threat before they get put on a cargo ship and they get mixed in with the general trade.

Whether the inspection is conducted overseas or here in the United States, we have a full complement of inspection technology that allows us to quickly facilitate that examination, and if there are no concerns, move the cargo through.¹¹⁵ We have large-scale nonintrusive inspection equipments.¹¹⁶ These are the large x-ray and gamma ray systems you may have seen.¹¹⁷ We have almost 200 of those deployed at our land borders as well as at our seaports.¹¹⁸

We also now have a full complement of radiation portal monitors in all of our land border and our seaport ports of entry.¹¹⁹ The first radiation portal

¹⁰⁸ See generally *id.*

¹⁰⁹ See generally *id.*

¹¹⁰ See generally *id.*

¹¹¹ See generally *id.*

¹¹² See generally *id.*

¹¹³ See generally *id.*

¹¹⁴ See generally *id.*

¹¹⁵ See generally Inspections and Surveillance Technology – Extended, http://www.cbp.gov/xp/cgov/newsroom/fact_sheets/port_security/fact_sheet_cbp_securing.xml (last visited Sept. 23, 2008).

¹¹⁶ See generally *id.*

¹¹⁷ See generally *id.*

¹¹⁸ See generally Acquisition and Deployment of Radiation Detection Equipment, <http://www.gao.gov/new.items/d03235t.pdf> (last visited Sept. 23, 2008).

¹¹⁹ See generally, Mobile Radiation Portal Monitors, <http://www.globalsecurity.org/security/systems/mobile-rpm.htm> (last visited Sept. 25, 2008).

monitor was deployed in October of 2002,¹²⁰ and we have over 1,100 of them deployed today.¹²¹ And what that gives us is that 100 percent of the trucks that arrived from Mexico are scanned for radiation before it leaves the border.¹²² From Canada we are at 91 percent, and we will reach 97 percent by the end of this calendar year.¹²³ We have 84 more radiation portal monitors going in over the summer.¹²⁴ We have three times as many land border crossings with Canada as we do for Mexico,¹²⁵ so it is a greater challenge to get a lot of those smaller crossings equipped with the technology that we need. And in our U.S. seaports, we now scan 98 percent of the Maritime cargo when it gets off the ship before it enters the commerce.¹²⁶

Eighteen months ago we were only scanning 37 percent.¹²⁷ So you can see here's a great significant improvement of the security of the United States. And since we started this program, we have now screened over 243 million conveyances,¹²⁸ and we have resolved 1.4 million alarms.¹²⁹ And to give you an idea on the impact of the workload on the CBP officers in the port of Long Beach, the largest seaport in the United States,¹³⁰ we resolve 400 to 500 alarms every day.¹³¹ We have a team of about a hundred officers over the three shifts that all they do is resolve these radiation portal alarms.¹³² So this

¹²⁰ See *Combating Nuclear Smuggling: Efforts to Deploy Radiation Detection Equipment in the United States and in Other Countries*, <http://www.gao.gov/htext/d05840t.html> (last visited Sept. 25, 2008).

¹²¹ See Vayl Oxford, Speech at IFPA-Fletcher Conference (Sept. 26, 2007).

¹²² See generally Robert C. Bonner, Remarks at Kansas City Chamber of Commerce (May 16, 2005).

¹²³ See Vayl Oxford, *supra* note 121.

¹²⁴ See generally *Mobile Radiation Portal Monitors*, *supra* note 119.

¹²⁵ See US Department of Transportation, *JWC U.S./Mexico Border Transportation Planning*, (Jan./Feb. 2005) available at

http://www.borderplanning.fhwa.dot.gov/current_article1.asp (stating, “[T]ruck crossings at the U.S.-Canada border reached 13.3 million, and truck crossings from Mexico into the United States reached 4.2 million in 2003.).

¹²⁶ See generally Ben Bain, *Commerce Versus Security*, FCW, July 7, 2008, http://www.fcw.com/print/22_20/features/153046-1.html?type=pf (last visited Oct. 12, 2008).

¹²⁷ See Vayl S. Oxford, Director, Domestic Nuclear Detection Office of DHS, Speech at House Committee on Homeland Security Subcommittee on Border, Maritime and Global Counterterrorism: SAFE Port Act: Status of Implementation One Year Later (Oct. 11, 2007).

¹²⁸ See generally *Preventing Nuclear Terrorism: Hearing Before the S. Comm. On Homeland Sec. and Gov't Affairs*, 110th Cong. (Sept. 25, 2008) (Testimony by Thomas S. Winkowski, Assist. Commissioner).

¹²⁹ See generally *id.*

¹³⁰ See generally Dan Keane, *Mexico's Seaport*, WASHINGTON TIMES, Sept. 3, 2008, available at <http://www.washingtontimes.com/news/2008/sep/03/mexicos-seaport/> (last visited Oct. 12, 2008).

¹³¹ See generally *Preventing-Nuclear Terrorism supra* note 128.

¹³² See *id.*

is a great effort to help secure the United States, but it is a significant impact on our resources.

So if you look at the CSI deployments where we have officers overseas, we have the radiation equipment and we have the imaging technology.¹³³ The next natural evolution of these programs is what concept that has come to be known as 100 percent scanning.¹³⁴ You may have heard of this.

We have two recent pieces of legislation in the United States. The Safe Port Act in October of 2006 that required CBP to go out and test the concept of 100 percent scanning at the foreign locations.¹³⁵ Scanning according to the legislation means the radiation read as well as the imaging to see what is inside the container.¹³⁶

A significant amount of challenges that come with this from a technical standpoint, an infrastructure standpoint within your ports all the way down to the political and the diplomatic things like weather.¹³⁷ Under the Safe Port Act where we were required to go out and pilot this on a three-location basis,¹³⁸ we have been operational since October of 2007 in Qasim, Pakistan, in Cortez, Honduras, and in South Hampton in the U.K.¹³⁹ And in those three locations, a hundred percent of the containers go through a radiation scan, go through an imaging, before they are put on a vessel destined to the United States.¹⁴⁰

Those three locations are primarily gate traffic. It is easy to control this type of activity if you have a single choke point where everything is going to come through. The real challenge comes in the Singapores, the Hong Kongs where you have significant trained shipment where it moves from one vessel to another and never really comes through an entrance port at a gate.

So to test that, we have smaller scale pilots going on in Hong Kong right now. We will be going live in Korea and in Salalah, Oman by the end of May.¹⁴¹ And then we have some work underway to get us in Singapore as

¹³³ See generally An Overall Picture of Port Security, http://www.cbp.gov/xp/cgov/newsroom/fact_sheets/port_security/securing_us_ports.xml (last visited Sept. 25, 2008).

¹³⁴ See generally *id.*

¹³⁵ See generally *id.*

¹³⁶ See generally H.R. 4954 (Enrolled-Bill),

http://thomas.loc.gov/home/gpoxmlc109/h4954_enr.xml (last visited Oct. 9, 2008).

¹³⁷ See generally GlobalSecurity.org, Homeland Security: SBInet, <http://www.globalsecurity.org/security/ops/sbinet.htm> (last visited Oct. 9, 2008).

¹³⁸ See generally Steward Baker, Assistant Sec'y of DHS, Speech before the Committee on Homeland Security and Governmental Affairs: One Year Later: A Progress Report on the SAFE Port Act (Oct. 16, 2007).

¹³⁹ See generally *id.*

¹⁴⁰ See generally An Overall Picture of Port Security, *supra* note 133.

¹⁴¹ See generally, Report to Congress on Integrated Scanning System Pilots (Security and Accountability for Every Port Act of 2006, Section 231),

well.¹⁴² That is really going to give us additional data to test how well this concept works.

It is very challenging. The IT infrastructures in many of these developing countries do not support this type of technology,¹⁴³ so there is a cost incurred with bringing it up-to-date all the way down to things like the weather.¹⁴⁴ In Qasim, it is so hot there in the summer that the non-intrusive inspection equipment would just shut down.¹⁴⁵ It was not built for those extreme heats, so we had to build a special canopy to try to keep it cool.¹⁴⁶ And then you have things like the political unrest that we experience in Pakistan quite frequently where the cables will be cut, and there will be things like that. So there is a lot of challenges that went into this. Again, the Safe Port Act said go ahead and pilot this and take the lessons learned, and come back to Congress and let us see what the path forward will be.

Then the 9/11 Commission Act that was passed a year later in August of 2007 basically trumped the Safe Port go-out-and-pilot-this and said do 100 percent of all containers by 2012.¹⁴⁷ So this is a huge significant challenge to have over 700 seaports around the world that export cargo to the United States.¹⁴⁸ I do not think it is feasible that we would ever be in 700 locations for exactly the reasons we mentioned - the technical, the infrastructure, the political, types of things like that.

So we are trying to be responsive to the 9/11 Act legislation. We are going to further these pilots and see the lessons that can be learned, and then figure out a way to go forth as part of risk management approach more likely in high-risk trade corridors like the Qasim, Pakistan situation where it makes sense to deploy that type of equipment in a very high-risk environment. Do you need that array of technology, the costs that are incurred at every seaport around the world? I would think not. But again, this is a big issue that is under debate within the United States. The trade community is very opposed to this because of the impact that it will have on the throughput of these ports, the additional costs that will be incurred. But again, U.S. Customs Border Protection, we have to be responsive to the legislative act that is out

http://commerce.senate.gov/public/_files/SFIREport_PublicRelease_FINAL_Consolidated.pdf (last visited Sept. 29, 2008).

¹⁴² See generally *id.*

¹⁴³ See generally *id.*

¹⁴⁴ See generally *id.*

¹⁴⁵ See generally Weather: Karachi, Pakistan,

http://www.bbc.co.uk/weather/world/city_guides/results.shtml?tt=TT002700 (last visited Oct. 11, 2008).

¹⁴⁶ See generally *id.*

¹⁴⁷ See generally The SAFE Port Act and Efforts to Secure Our Nation's Seaports, <http://www.gao.gov/new.items/d0886t.pdf> (last visited Oct. 6, 2008).

¹⁴⁸ See generally Supply Chain Security: Challenges to Scanning 100 Percent of U.S.-Bound Cargo Containers, <http://www.gao.gov/htext/d08533t.html> (last visited Oct. 6, 2008).

there so we are working towards how we can adopt 100 percent scanning in certain high-risk trade corridors as we go forward through here.

The last program that I just want to touch upon is the Customs Trade Partnership Against Terrorism program, C-TPAT.¹⁴⁹ This is the last piece of our layered enforcement strategy, and this really is our industry partnership program with the trade. CBP has long recognized that in order to secure the national trade supply chains, we cannot do this alone.¹⁵⁰ We need the help of other governments. That is how we, you know, started things with the container security initiative. We need to help with industry, and that was what we are doing within C-TPAT.¹⁵¹

Under C-TPAT, we have clearly defined minimum-security criteria that U.S. importers and service providers, such as carriers, must adopt.¹⁵² The adoption of these security practices makes their supply chains more secure.¹⁵³ Once we go out and conduct onsite validations to make sure that the security measures they claimed to have adopted are in fact in place, then we can go ahead and treat that supply chain as low-risk and afford it fewer inspections.

Today we have over 8,300 members in this program, and we have conducted over 7,600 validations.¹⁵⁴ So 7,600 times, teams of U.S., CBP, supply chain security specialists working with the partners, with the companies that import into the United States conduct a physical onsite evaluation from the point of stuffing a container where those goods are made all the way through their supply chain and look for security deficiencies and then work for ways to close the hole.¹⁵⁵

So then here again, here's another program that is working 7,600 times. We have worked in partnership to identify the weaknesses and tighten those holes. We have conducted these validations in 87 countries around the

¹⁴⁹ See generally What is Customs-Trade Partnership Against Terrorism, http://www.cbp.gov/xp/cgov/trade/cargo_security/ctpat/what_ctpat/ (last visited Oct. 6, 2008).

¹⁵⁰ See generally Maritime Cargo Security In The Age Of Global Terrorism, http://www.cbp.gov/xp/cgov/newsroom/highlights/trade_news/cargo_security.xml (last visited Oct. 6, 2008).

¹⁵¹ See generally Fact Sheet: C-TPAT, http://www.cbp.gov/xp/cgov/newsroom/fact_sheets/port_security/ctpat_sheet.xml (last visited Oct. 6, 2008).

¹⁵² See Minimum-Security Criteria for C-TPAT Foreign Manufacturers in English, http://www.cbp.gov/xp/cgov/trade/cargo_security/ctpat/security_criteria/sec_criteria_foreign_mfc/foreign_mfc_security_criteria.xml (last visited Oct. 6, 2008).

¹⁵³ See generally *id.*

¹⁵⁴ See C-TPAT Program Addresses Exports, GAO Fixes, http://www.americanshipper.com/fc/FLC_story.asp?news=95898 (last visited Oct. 6, 2008).

¹⁵⁵ See generally CHARLES BROWNSTEIN ET AL., HOMELAND SECURITY INSTITUTE, REPORT OF THE DHS NATIONAL SMALL VESSEL SECURITY SUMMIT (Oct. 19, 2007), http://www.dhs.gov/xlibrary/assets/small_vessel_NSVSS_Report_HQ_508.pdf (last visited Oct. 12, 2008).

world.¹⁵⁶ And again this is an anti-terrorism program. We are not going to the garden spots. I mean, we are doing Bangladesh in August and some - you know, there are no trips to Paris in the springtime under this program, so it is a very intensive program. We have over 200 officers that are dedicated just to this program. We have recently opened a new office in Buffalo, New York to help greatly facilitate the interaction with the Canadian trade environment.¹⁵⁷ A third of the members in C-TPAT are Canadian truckers or Canadian importers, so that is our largest partnership group if you will.¹⁵⁸ That is why we have established a new office in Buffalo to quickly facilitate that.

So what I wanted to do hopefully this afternoon is give you an idea on some of the cargo security programs that CBP has in place, how they all are interacted, and our approach being that any one layer can be defeated, but through multiple layers, the likelihood of success is greatly diminished.

Thank you.

MS. MATTHIESEN: Thanks, Todd. I am really hoping there are going to be very good questions after this panel. The last speaker, but not the least, is Joy Aldous from the Canadian Border Services Agency.¹⁵⁹

CANADIAN SPEAKER

Joy Aldous[‡]

MS. ALDOUS: Thank you very much. Good afternoon everyone.

I am very, very happy to be here today to talk about border security. I have been with the agency, the Canada Border Services Agency, for about 30

¹⁵⁶ See W. Ralph Basham, Remarks at National Customs Brokers & Forwarders Assoc. of America (Apr. 9, 2008) (transcript available at http://www.cbp.gov/xp/cgov/newsroom/commissioner/speeches_statements/ncbfaa.xml) (last visited Oct. 12, 2008).

¹⁵⁷ See generally CBP.gov, Buffalo Station, http://www.cbp.gov/xp/cgov/border_security/border_patrol/border_patrol_sectors/buffalo_sector_ny/stations/buffalo.xml (last visited Oct. 6, 2004).

¹⁵⁸ See generally C-TPAT Cost/Benefit Survey 2007, http://www.virginia.edu/surveys/press/2007/ctpat/2007_CTPAT_Final%20Report%20Only.pdf (last visited Oct. 6, 2008).

¹⁵⁹ See Border Commercial Consultative Committee Record of Meeting (Feb. 26 – 27, 2008), <http://www.cbsa-asfc.gc.ca/agency-agence/consult/bccc-ccacf/2008-02-26-eng.html> (last visited Oct. 6, 2008).

[‡] Joy Aldous is the Director of the Licensing, Export and Accounting Policy Division in the Admissibility Branch of the Canada Border Services Agency. She has over 30 years of experience in the agency and has contributed to many initiatives including Customs Self Assessment, ACROSS, Titan and the Customs Commercial System.

years under various names.¹⁶⁰ We were created in 2003 under the public safety mandate to integrate almost identically to what the Americans did.¹⁶¹

We are under the public safety umbrella, which not surprisingly, as it absolutely makes sense, was aligned very, very similarly to the U.S.¹⁶² This facilitates many things: for example the exchange of information allows us to talk about common problems where an organizational structure is not your biggest issue. But we have an enormous responsibility. All of us do. Both sides of the fence: business and government. It is a constant balancing act between security and facilitation, and it really does require innovation, cooperation, and flexibility.¹⁶³ And I know you guys do not think we are very flexible, but we try to wear two hats wherever possible.

But we have to recognize the synergy between these two things, between access and security. An accessible border can only be maintained if Canadians and Americans are satisfied with the underlying level of security, its costs, its respect for personal and economic freedoms.¹⁶⁴ We were all raised on those. They are basic values within our system, our economies.¹⁶⁵

Under the Smart Border Accord that was implemented seven years ago, we have done everything we can within our country to work with the U.S. in an effective joint approach to the border.¹⁶⁶ We understand that having different requirements increases cost for trade.

Some of the presentations this morning talked about the large percentage of businesses where there is a Canadian corporation and an American corporation. They trade between them. And we have to recognize that and accept it, but we have not been able to match the U.S. with everything. As I was listening to his impressive list of staff and equipment, I was only dreaming that we could be even so close, we have to do a little bit less with a

¹⁶⁰ See generally *id.*

¹⁶¹ See Memorandum of Understanding Between the Department of Citizenship and Immigration, The Canada Border Services Agency and The Immigration and Refugee Board of Canada, <http://www.cic.gc.ca/ENGLISH/department/laws-policy/mou/mou-cbsa.asp> (last visited Oct. 6, 2008).

¹⁶² See generally *id.*

¹⁶³ See generally Canada Border Services Agency: Overview, <http://www.tbs-sct.gc.ca/rpp/2008-2009/inst/bsf/bsf01-eng.asp> (last visited Oct. 6, 2008).

¹⁶⁴ See generally Joint Statement by President Bush, President Calderon, Prime Minister Harper, The White House (April 22, 2008), available at http://www.commerce.gov/NewsRoom/PressReleases_FactSheets/PROD01_005566?format_f or_print=true (last visited Oct. 12, 2008).

¹⁶⁵ See generally *id.*

¹⁶⁶ See generally U.S.-Canada Smart Borders Accord, http://www.sourcewatch.org/index.php?title=U.S.-Canada_Smart_Borders_Accord (last visited Oct. 6, 2008).

little bit less money. We also have to dispel the myth that Canada has a more-relaxed view on border security.¹⁶⁷ That is absolutely not the case.

Let me just talk a little bit about how we look at security, and surprisingly enough, you are going to hear exactly the same words that you have heard from everybody. We have three fundamental strategies. First is to receive advanced information, electronic information on who and what is coming to our country.¹⁶⁸ Same as the Americans. Second, turning that information into intelligence using sophisticated risk assessment systems.¹⁶⁹ There was a lot of discussion this morning about setting a score. We are there; we are doing it. And third of course - and really also very, very important especially to you - is building secure access programs such as NEXUS,¹⁷⁰ such as FAST so that we can stop spending the time on the lower risk shipments and concentrate on the areas of high-risk.¹⁷¹ Absolutely essential.

So we have a multiple borders approach. Heard this term already. We are trying to push out the border wherever possible. It is been mentioned already. Our migration integrity officer network, it works overseas to intercept improperly documented travelers before they get to Canada.¹⁷² There has been 45,000 already that we have stopped before they got here.¹⁷³ We also collaborate on the U.S. perimeter security to facilitate and accelerate the travel of people and goods across the land to their ultimate North American destination.¹⁷⁴

Well, there has been no great policy or political advancement that would differentiate between the perimeter and the 49th parallel. Many of our policies do that. When we sit there and think where is the biggest risk, where should we be dedicating our resources, certainly an offshore situation is almost always higher.

We have the same systems and processes in place as you just heard from my colleague. We have joint targeting in our national risk assessment

¹⁶⁷ See generally 2007 Public-Private Sector Summit on National Security: Stronger Borders, Better Trade (May 10-11, 2007), available at <http://www.conferenceboard.ca/conf/may07/security/agenda.pdf> (last visited Oct. 12, 2008).

¹⁶⁸ C-TPAT Cost/Benefit Survey 2007, *supra* note 159.

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

¹⁷¹ *Id.*

¹⁷² See Immigration Intelligence – Irregular Migration, <http://www.cbsa-asfc.gc.ca/media/facts-faits/030-eng.html> (last visited Oct. 6, 2008).

¹⁷³ See generally Anne McLellan, Speech at 15th Annual Summit of the Pacific North West Economic Region (July 15, 2005), available at <http://www.publicsafety.gc.ca/media/sp/2005/sp20050715-eng.aspx> (last visited Oct. 12, 2008).

¹⁷⁴ See generally Canada Border Service Agency: Analysis of Program Activities, <http://www.tbs-sct.gc.ca/rpp/0607/bsa-asf/bsa-asf02-eng.asp> (last visited Oct. 6, 2008).

center.¹⁷⁵ We get the advance cargo information on our container ships and the timeframes for advanced information for cargo, for marine and air mode are harmonized with the Americans.¹⁷⁶ Our process for “hold for more information” is very similar because the shippers coming to the country do not want to have 15 different systems if they can avoid it. So wherever possible, we do try to harmonize processes, data elements. Certainly cannot be identical, but we do try. We try to use the same message maps, the same standards, the same communication language.

Our multiple border philosophy also means that most of our trade programs and revenue collection activity occurs away from the border inland, and we have been moving more and more towards concentrating our front line officers’ concentration on determining admissibility.¹⁷⁷ Is there a health, safety, or security risk? We let the other stuff happen later. And we have been working very hard with trade to continue to do that. Number one, not to congest the border, and number two, to meet our financial responsibility as we also collect significant revenue. Although the money is not secondary, it can be managed, we believe in a different way using audit-based processes after the fact.

And finally, multiple borders mean working in the Canadian communities with our security partners to prevent smuggling of guns and drugs, and to detain and remove individuals who pose a danger to the public.¹⁷⁸ So many different fronts we are working on. But we have a particularly rich tradition of cooperation with the U.S. from free trade through the smart border onto the security and prosperity partnership (SPP).¹⁷⁹

But the U.S. does have more money. You are a lot bigger than we are. We are sort of the poor cousin. But it makes us very, very careful and I think very strategic in terms of where we invest our funds. But I do know we need to do more to ensure that the 49th parallel accommodates an efficient, secure two-way street for both travel and commerce.

The recent Canada-U.S. Chambers of Commerce report has been mentioned a few times already today: reducing border costs while strengthening security.¹⁸⁰ While many of the recommendations are actually

¹⁷⁵ See generally Canada Border Services Agency: National Risk Assessment Centre, <http://www.cbsa-asfc.gc.ca/media/facts-faits/039-eng.html> (last visited Oct. 6, 2008).

¹⁷⁶ See generally *id.*

¹⁷⁷ See generally Chris Thatcher, Connecting Data Points: The National Risk Assessment Centre, <http://www.vanguardcanada.com/DataSiftingThatcher> (last visited Oct. 6, 2008).

¹⁷⁸ See generally Claudette Deschenes, Vice-President, Enforcement Branch Canada Border Services Agency, Presentation: Enforcement Branch Overview (Oct. 11, 2006), available at <http://www.cscb.ca/listinfo/EnforcementBranchBCCCOct06.ppt> (last visited Oct. 12, 2008).

¹⁷⁹ See generally Smart Border Action Plan Status Report, <http://geo.international.gc.ca/can-am/main/border/status-en.asp> (last visited Oct. 6, 2008).

¹⁸⁰ See U.S. Chamber of Commerce, Finding the Balance: Reducing Border Costs While

very consistent with the direction for SPP, we do recognize that as the report asserts, border dependent businesses cannot wait for long-term solutions,¹⁸¹ and we must work on a daily basis to further prevent that thickening of the border.¹⁸²

The U.S. Western Hemisphere Travel Initiative, WHTI,¹⁸³ has also been mentioned today, and that was a particular flash point for one of our bilateral challenges over this last year.¹⁸⁴ We have worked very hard to ensure that Canadians are aware of this. They are informed, and they are prepared for the new requirements in order to facilitate the implementation. We are very pleased that the U.S. agreed to delay that until June '09 for land and water,¹⁸⁵ mainly because the percentage of population that use those modes with passports was much, much lower than the other modes.¹⁸⁶

But as of June, we will be required - Canadians - to present a valid passport, a NEXUS or FAST card when we enter the U.S.¹⁸⁷ We are very encouraged that negotiations have led to lowering this requirement for children and that a birth certificate will be acceptable for children.¹⁸⁸ And that we continue to discuss the possibility of the acceptance of a secure certificate of Indian status card or Canadian enhanced driver's license.¹⁸⁹ Our province of British Columbia has announced that they are implementing a more sophisticated card with security measures, and we have signed a memorandum of understanding with Customs Border Protection dealing with information sharing so that we can share the information we have collected on the driver's licenses.¹⁹⁰

Strengthening

Security,

http://www.uschamber.com/publications/reports/0802_finding_balance.htm (last visited Oct. 6, 2008)

¹⁸¹ See *id.*

¹⁸² See *id.*

¹⁸³ See [State.gov](http://travel.state.gov), Western Hemisphere Travel Initiative,

http://travel.state.gov/travel/cbpmc/cbpmc_2223.html (last visited Oct. 9, 2008).

¹⁸⁴ See generally David H. Wilkins, U.S. Ambassador to Canada, Remarks at Tourism Association of Nova Scotia (Dec. 4, 2006), available at http://ottawa.usembassy.gov/content/textonly.asp?section=embconsul&document=wilkins_120406 (last visited Oct. 12, 2008).

¹⁸⁵ See Documents for Travel to the United States Chronology, <http://www.cbsa-asfc.gc.ca/whti-ivho/chron-eng.html> (last visited Oct. 9, 2008).

¹⁸⁶ See generally NPR.org, U.S. Passport Relief May Come Too Late for Many, <http://www.npr.org/templates/story/story.php?storyId=10876269> (last visited Oct. 9, 2008).

¹⁸⁷ See generally Documents for Entry into the United States, <http://www.cbsa-asfc.gc.ca/whti-ivho/tourist-touriste-eng.html> (last visited Oct. 9, 2008).

¹⁸⁸ See generally DHS.gov, Crossing U.S. Borders, <http://www.dhs.gov/xtrvlsec/crossingborders/> (last visited Oct. 9, 2008).

¹⁸⁹ Documents for Entry into the United States, *supra* note 187.

¹⁹⁰ See generally Privacy Impact Assessments: High-Risk Traveler Identification Initiative, http://www.cbsa-asfc.gc.ca/agency-agence/reports-rapports/pia-efvp/hrti_ivre_20051003-

And we will continue to engage our federal partners in this project. It has huge potential impact to our economy.¹⁹¹ People were talking about families, families who live on either side of the border. These changes are huge cultural changes I believe, and we are hoping that we can move forward in a common-sense way.

NEXUS. NEXUS is a wonderful example of what can be achieved working together with the U.S. to more efficiently process low-risk travelers.¹⁹² And again, that frees us to spend our time looking at the stuff that should be higher risk. NEXUS has now been implemented at all major Canadian airports and harmonized against the modes, air, land, and marine.¹⁹³ It verifies the low-risk status of the participant.¹⁹⁴ There is a really exhaustive risk assessment done.¹⁹⁵ It is one application for two countries.¹⁹⁶ And it actually uses iris technology.¹⁹⁷

NEXUS uses 260 characteristics of the eyeball to identify who the machine is talking to.¹⁹⁸ Great idea. Our membership is up to 185,000 now,¹⁹⁹ of which four and five are in this room. We recently also got another \$17 million from our federal budget to further expand this program.²⁰⁰

We have an initiative called e-Manifest which lines up quite closely with ACE,²⁰¹ which is going to now mandate the pre-arrival electronic information in the rail and marine modes, both from carriers, freight forwarders, and importers.²⁰² Radiation detection as well, we talked about that. U.S. Customs has talked about that. We as well will have our implementation completed this year at all our major marine ports.

eng.html (last visited Oct. 9, 2008).

¹⁹¹ See generally Todd Hataley, *Catastrophic Terrorism at the Border: The Case of the Canada-United States Border*, HOMELAND SEC. AFFAIRS J., Sept. 1, 2007, <http://www.hsaj.org/?special:fullarticle=supplement.1.2> (last visited Oct. 12, 2008).

¹⁹² See Border Access Improvement Projects: Southbound FAST and NEXUS Lanes, <http://www.wcog.org/Completed-Border-Projects/FAST-And-NEXUS-Lanes/204.aspx> (last visited Oct. 9, 2008).

¹⁹³ See generally NEXUS Centre Opens in Falls, <http://www.ffmpeg.com/node/214519> (last visited Oct. 9, 2008).

¹⁹⁴ See generally *id.*

¹⁹⁵ See generally *id.*

¹⁹⁶ See generally *id.*

¹⁹⁷ See generally Iris-scan Technology,

<http://www.edmontonsun.com/News/Edmonton/2007/09/14/pf-4497893.html> (last visited Oct. 9, 2008).

¹⁹⁸ See generally *id.*

¹⁹⁹ Border Access Improvement Projects, *supra* note 192.

²⁰⁰ See generally Notes for an Address to the House of Commons Budget Debate (Mar. 3, 2008), <http://www.gordbrown.com/EN/6850/68648>.

²⁰¹ See generally ECustoms.com, A Powerful Web-based E-Manifest Solution, <http://www.ecustoms.com/vg/e-manifest-gateway.cfm> (last visited Oct. 9, 2008).

²⁰² See generally *id.*

We have a PIP program, Partners in Protection, which as of this June will receive mutual recognition with the United States C-TPAT program.²⁰³ It is a first step, it is not what we had hoped to achieve. We had dreamed of a NEXUS-type process where there is one application, both countries do the risk assessment, and either they are in or out. But it is defined as compatibility or similarity between the programs. The minimum standard requirements will be met, the validations will be met, and it is a critical first step in moving forward. Once again trying to make it as simple as possible, especially for businesses that use the same supply chains. They are just located on different sides of the border.

We also have an initiative with the OGD, Other Government Department, single window, where we are trying to address the extensive information requirements required by trade by the very many agencies that are involved in government.²⁰⁴

We are basically going to move towards a single electronic message that will then be shared with all the appropriate partners, the other governments' agencies. It will eliminate some of the final barriers we have to fool electronic commerce with paper permits.²⁰⁵ The other government departments will have to "go EDI or die."²⁰⁶ We are taking the position that other government agencies must move to electronic processes. We cannot manage in a paper world anymore.

We have also just recently announced some amendments to the Customs Act to strengthen border security that will allow us to more effectively implement our Customs control areas to designate areas such as ports or airports.²⁰⁷ Right now, for anybody coming up to Customs, we can question and examine whatever goods they have on them, but if they are working in the airport and walking through these zones, we do not have that authority other than when they leave.

And we have concerns about false documents, for example, changing hands between cleaning staff and passengers arriving in the country, and so

²⁰³ See generally U.S., Canada Sign PIP/C-TPAT Cargo Security Mutual Recognition Arrangement, <http://www.brokerpower.com/snippets/2008/08070215.html> (last visited Oct. 9, 2008).

²⁰⁴ See generally Exporters: Other Government Departments – Requirements, <http://www.cbsa-asfc.gc.ca/export/ogdr-eam-eng.html> (last visited Oct. 9, 2008).

²⁰⁵ See generally Program Activity: Science and Technology-based Innovation, <http://www.tbs-sct.gc.ca/rpp/0708/bsa-asf/bsa-asf-PR-eng.asp?printable=True> (last visited Oct. 9, 2008).

²⁰⁶ See generally Electronic Commerce, <http://www.cbsa-asfc.gc.ca/eservices/menu-eng.html> (last visited Oct. 9, 2008).

²⁰⁷ See generally The Government of Canada Proposes Amendments to the Customs Act to Strengthen Border Security, <http://www.cbsa-asfc.gov.gc.ca/media/release-communique/2008/2008-02-15-eng.html> (last visited Oct. 9, 2008).

we have got that legislation moving forward that will now allow us to question and search people within the areas.

Another initiative and support of Canadian competitiveness is the Canadian government business burden reduction project.²⁰⁸ We have to reduce our “musts, shalls, and wills” by 20 percent. It is a huge job for government because we like “musts, shalls, or wills.” We like data elements, we like forms. And since the front end of the process, the pre-arrival process, will see an increase in our reporting requirements, we need to drastically reduce what has to be done after the fact.

Looking at this very, very hard, CBSA, our agency, has 8,000 requirements.²⁰⁹ And we are supposed to have it done by November this year. I am afraid we will not meet the 20 percent by November this year, but we are taking this very, very seriously because we do see cost to business, our government sees as an absolute key in surviving in this world. Business simplification then - very important. We have a safe third country agreement,²¹⁰ new bilateral issue between Canada and the U.S. on the immigration side, under which persons seeking refugee protection must normally make a claim in the first country they arrive in.²¹¹ There was a legal challenge, and the legal challenge was upheld.²¹² We are appealing that challenge.²¹³ And until a final decision is made - I believe it is the end of May that the date has been set - we can still maintain the existing process. That change will create some new challenges and flashpoints. A border vision. The time and energy we spend on managing specific border issues really says you always have to work ahead, to a long-term vision of where you are going to go. We have started consultations with trade on a commercial vision for 2017,²¹⁴ so basically 10 years down the road. It will guide our planning and investment in the commercial program - that is goods coming into the country - over the next 10 years. It will make sure that both

²⁰⁸ See generally Canada Border Services Advisory Committee Meeting Summary, <http://www.cbsa-asfc.gc.ca/agency-agence/consult/cbsac-ccsfc/2008-04-17-eng.html> (last visited Oct. 9, 2008).

²⁰⁹ See generally Ensuring Compliance in Your Supply Chain, http://www.caie.ca/events/2008/emerging_issues/2008-Semi-Annual-Brochure-04-17.pdf (last visited Oct. 9, 2008).

²¹⁰ See generally Canada-U.S. Safe Third Country Agreement, <http://www.cbsa-asfc.gc.ca/agency-agence/stca-etps-eng.html> (last visited Oct. 9, 2008).

²¹¹ *Id.*

²¹² See generally Rabble.ca, Safe Third Country Ruling Overturned on Appeal, http://www.rabble.ca/news_full_story.shtml?x=73439 (last visited Oct. 9, 2008).

²¹³ See generally *id.*

²¹⁴ See generally A New CBSA Commercial Vision for 2017, [http://www.dominiongroup.com/uploads/A_New_CBSA_Commercial_Vision_for_2017_Synops\(1\).pdf](http://www.dominiongroup.com/uploads/A_New_CBSA_Commercial_Vision_for_2017_Synops(1).pdf) (last visited Oct. 9, 2008).

the anticipated trade trends and border challenges can be met and that all programs do work together synergistically to address our challenges.

We have also had internal government discussions ourselves in Canada on the concept of a perimeter strategy, and we are working with the United States to interdict suspect travelers or goods before they arrive. Risk assessment has shown indeed that many of our risks are from outside the perimeter.

So between our migration integrity officer and, container security programs – we will be getting advanced information on who and what are coming to our country. We are now starting to talk about a board/no-board process for airline passengers. Right now we actually wait until they get here even though we get electronic information on them before we decide how to deal with them. But we want to push that back. So these are different things that we can talk about in terms of perimeter security as we move further.

So the past several years have shown tremendous change. As I have said, I have been with the agency 30 years, and we are running hard. I think we have made great strides in securing the border. We have a much better idea of who is coming across and what the goods are and where they are coming from. And to be honest, too much is at stake if we do not get the border right.

Thank you.

MS. MATTHIESEN: Well, I do not know about you guys, but I heard more about verification and trust and obligations and investments. Starting to sound like my pre-nup, but thanks for that.

I know you have questions, and I will give the first question to Miss Sue Ross. And I know to whom it is addressed, but go ahead.

DISCUSSION FOLLOWING THE REMARKS OF WARREN COONS, TODD C. OWEN AND JOY ALDOUS

MS. ROSS: I may actually fool you with this one, Birgit. Todd, I will address this to you, but I will ask Joy to answer it as well because what we heard both of you talk about was a lot of stuff that for many of us would fall in the category of enforcement, at least impediments. And one of the kinds that we heard earlier today from more than one panelist was there is a feeling, particularly with C-TPAT, that there are not that many benefits.

So if the two of you could please address from the C-TPAT, Todd, the question of the benefits and what is being planned, but more generally, sort of the issue of what are, for example, the top three or four things that your agencies are doing in the category of pure trade facilitation as distinct from security?

MR. OWEN: Well, I first off, we hear this often. We hear that FAST lanes are not fast enough, those types of comments whenever we go out and speak to the trade.

So, we commissioned the University of Virginia last year to conduct a comprehensive analysis of all of our members to say what is in it for you, what are the benefits that you are receiving for your participation within C-TPAT.²¹⁵ We had about a third of our members at that time, about 1,800 of the 6,000 or so that we had in the program that did respond. And you can see the full results of our survey on our CBP website.

But by and large from that survey, most of the members were pleased. They felt that the benefits either equaled or outweighed the cost of the investment they made to join the program. When you look at it, clearly it differs across the different types of entities that conjoin C-TPAT.

The benefit that importers receive is reduced inspections. And we have our data that shows they do receive fewer security inspections, and they do receive fewer trade compliance inspections than non-C-TPAT members. What people need to remember when we often hear is I am receiving the same amount of inspections that I did before I joined the program before 9/11, you have to look at what CBP has done since 9/11. Our rate of exam has gone up significantly. When you look at the truck traffic today, one of every four trucks is inspected for different causes and different concerns.

The rail environment is significantly higher. We have 100 percent scanning imaging equipment of all the rail traffic that comes in from Mexico, and we are at a very high percentage coming in from Canada as well.²¹⁶ When you look at the Maritime environment, the level of exams has increased in that role, too.

So if you are only seeing an increase or a slight increase or the same amount of exams that you saw before 9/11, then you are seeing the benefits of being a member of C-TPAT because a non-C-TPAT member has seen that jump. Someone is getting those exams, and if it is not a C-TPAT member - and we have the data that is in that University of Virginia study,²¹⁷ so I would encourage everyone to take a look at that.

The other service entities, the Customs brokers, the seat carriers, when they say, well, what is in the program for me, the benefits that they receive are not directly benefits that they receive from the U.S. government. The benefit that they receive comes in terms of marketing themselves. Your largest U.S. importers are all a member of C-TPAT because they want to do the right thing. They want to help secure their supply chain, they want fewer

²¹⁵ See generally Customs-Trade Partnership Against Terrorism: Report of Results of Cost/Benefit Survey 2007, <http://www.virginia.edu/surveys/press/2007/ctpat/text.htm> (last visited Oct. 9, 2008).

²¹⁶ See generally Thomas S. Winkowski, Hearing Before the Senate Homeland Security and Government Affairs Committee (Sept. 25, 2008), available at http://hsgac.senate.gov/public/_files/092508Winkowski.pdf (last visited Oct. 12, 2008).

²¹⁷ Customs-Trade Partnership Against Terrorism, *supra* note 215.

supply chain disruptions, and they will require contractually that their service providers also join C-TPAT. So if you are a seat carrier, if you are a Customs broker, the benefit comes in being able to attract that repeat business, those big companies.

In the land border, the highway carriers, the benefit of C-TPAT is FAST. You do not receive FAST unless you are in C-TPAT.²¹⁸ Again the carriers are driven by the desire to gain that business from, you know, the big three automakers, that recurring business who again contractually require that their carriers be a member of C-TPAT in order to receive access to the FAST lanes.

One thing I think you need to keep in mind - and we have not really touched on border wait times and all those issues that we are all familiar with - but the infrastructure at all of our land borders are significantly outdated.²¹⁹ These are very old crossings that have not been updated in many locations for decades.²²⁰ And you look at a three-lane bridge, like you have the Peace Bridge in Buffalo, it is only three lanes. You know, you are going to get backups at peak times.

So I think the infrastructure really contributes to the perception that FAST is not fast enough. When you look to the trucker actually getting to the primary booth, there is a time savings that they receive by being C-TPAT, but they waited in line for an hour which is the same as every other truck because it is only a two-lane highway to get to the bridge, they are going to feel as though the program is not working for them. So I think those are some of the benefits that we do see from the program, and again, we have that comprehensive University of Virginia survey that is on our website.²²¹

MS. ROSS: The top three things you are doing for trade facilitation?

MR. OWEN: FAST lanes, the reduced inspections, and again, deployment of the technology significantly. You look at the large-scale imaging systems. Before we had that, if we wanted to look at your cargo, it would go to the warehouse to be stripped out, and you would lose a whole day. Now with the large-scale imaging systems, we scan your trailer, your truck, your container in less than a minute. If there are no anomalies, if there are no concerns, it is on down the road.

So I think the agency has taken a great step to add facilitation as well as address our security concerns.

²¹⁸ See generally Free and Secure Trade (Fast) Highway Carrier Application Process, <http://www.cbsa-asfc.gc.ca/publications/pub/rc4299-eng.pdf> (last visited Oct. 9, 2008).

²¹⁹ See generally Jesse Goldman & Milos Barutciski, *The Challenges of A Thickening U.S. - Canada Border*, Metrocorp counsel, Oct. 2008, <http://www.metrocorp counsel.com/current.php?artType=view&EntryNo=8878>.

²²⁰ See *id.*

²²¹ Customs-Trade Partnership Against Terrorism, *supra* note 215.

MS. ALDOUS: Very similar answer. I do not think there is a lot more I can add other than for our FAST participants on the importer side, we also have a custom self-assessment program which does significantly I believe reduce their back-end cost, the cost for the entry summary. They can self-assess their own revenue, they manage their own books and records, and they actually report to us from their commercial books and records rather than from a Customs inventory control process. And I think there has been some significant savings there.

MS. MATTHIESEN: There was another - The gentleman there, please.

MR. CRANE: David Crane from Toronto. Just as an opening comment, it is amazing to think of the amount of resources we have had to divert to security since 9/11 all over the world, and how this is an ongoing impact the terrorists themselves must never have dreamed of that the amount of effort and inconvenience and other things that have resulted from that since 9/11 going forward into the future.

I have a couple of questions. One is I wondered how effective all these measures really are. I think it is one thing to generate statistics which can give numbers of inspections, numbers beside the other, but we have seen this in many instances in the past where in the Vietnam War and in other conflicts people can give long lists of statistics, but they do not necessarily reveal the reality of what is being accomplished.

And just to use one example in Canada-U.S., the United States continues despite all these efforts to be very concerned about the volume of drugs flowing into the United States from Canada, often express themselves publicly on this.²²² The Canadians are very concerned about the level of weapons being smuggled into Canada from the United States, and this continues to be a concern despite all of these new measures that you have introduced.²²³ So I wondered what you can really say about the effectiveness of these things. I think statistics are one thing, but real effectiveness?

Secondly, I wondered how you define high-risk. We are told there are 137,000 hits last year. What did those hits reveal? I mean, what triggers a hit? Is it just any slightest kind of suspicion of somebody looking the wrong way? And as a result of these hits, how many actual illegal activities did we uncover as a result of those? Is it one percent, 10 percent? Do we have any data on that? And what did they consist of? I mean, counterfeit goods or drugs or what kinds of things?

And finally, one of the effects of this heightened border security is a lot of what I would consider to be innocent people now being caught up in this

²²² See Integrated Border Enforcement Teams (IBETs) Canada-United States IBET Threat Assessment 2007, http://www.rcmp-grc.gc.ca/security/ibets_threat_assess_e.htm (last visited Oct. 9, 2008).

²²³ See *id.*

traffic. If you are referring to people who did stupid things - maybe when they were teenagers or something else - now have a criminal record, now they are getting turned away at the border just for some silly thing they did many, many years ago, and we now have the data that just increases significantly the number of people who get stuck at the border for no good purpose. And I just wondered what you could say about that and how that interferes with privacy of individuals. And that kind of thing can jack up statistics quite a bit without being the least bit meaningful.

MS. MATTHIESEN: There were quite a few questions in that, but I actually welcome those questions. I thought they were very on point. I am not sure if there is one person in particular you wanted to address your questions to or -

MR. CRANE: Anybody who wants to, or maybe nobody wants to.

MS. MATTHIESEN: Okay. I am going to give first shot of that to Warren.

MR. COONS: Yeah. If you do not mind, just with respect to how successful we have been - and I agree with you on the first to a degree - and that is one of the challenges that we have in IBET, that statistics do not necessarily tell the story. And that is why we believe that the sharing of intelligence that goes back and forth and within the parameters of each of our country's laws, too, I might add, but the sharing of intelligence that allows us to be in the right place at the right time which would not have happened before.

So for instance, I will give you two examples. First of all, I just read in my hotel room, I read a press release from DHS that talked about seizure of narcotics along the border between Quebec and the state of Vermont in which U.S. Border Patrol saw the two vehicles there, arrested two people, seized 700 pounds of marijuana. IBET unit was called and immediately responded on the Canadian side. We arrested three suspects that were in the camouflage gear and two others subsequent to that and \$70,000 cash. It is merely an anecdote I understand, but what I am saying is that unless those relationships were actually formed and people had that working relationship, that cooperative relationship that we have now, I do not believe that we would have seen those kind of successes previously.

Now that may be a bigger case however, on a weekly basis we get reports of just one or two people coming across the border illegally. It does not sound like a big deal, but it is Canada and U.S. surveillance being at the border collaboratively because we have intelligence that says those people are going to arrive at that point at that given time. That did not happen before. It is not something that is going to make the news and, you know, capture the imagination of people in both countries, but the reality is - and not to overstate it - but we do not know who those people are until we actually interdict them, and that is the importance of what we do - I believe -

between the ports of entry along the border because the people that we are interdicting are people that are committing criminal acts because they are going between the ports of entry. So these are people that for whatever reason have ill intentions.

And as far as the rest of those, I will turn it over.

MR. OWEN: I will speak to the 137,000 statistic that I put out there. That was the number of high-risk shipments that were inspected as part of our container security initiative in FY07 overseas. So 137,000 containers were stopped because there was some trigger that made us concerned enough to work with our host country to examine it before it got put on the vessel.

The triggers why we cannot talk about them, we have that advanced data, we know who is involved in the transaction, we have our intelligence community feeding us that information as well. So those 137,000 containers that we stop as part of the container security initiative are really the higher risk for terrorism purposes. We are not looking for trade compliance overseas. We are not looking for counterfeits, anything like that. There was something in the manifests, something in our intelligence that drove us to those 137,000 containers that said, you know, we have enough of a concern to stop it and look at it before it gets put on a vessel.

And again, this is a significant improvement about where we were about six years ago where the first time we have that opportunity would be when it was sitting within our U.S. port of entry. And if there was something terrible in that container, that is the wrong time to find out about it.

So you know, I think we have done a good job to do that. There is a lot of unintended positives that come out of a lot of these security programs, too. When you look at the radiation portal monitors that we now have deployed all around the country, you would not believe the level of contaminated metals that are imported into the United States or attempted to be imported, everything from contaminated belt buckles to manhole covers, shipments coming out of the far east, you know, some of the lesser developed countries that will melt down, you know, different materials that are contaminated.

Prior to this ring of RPMs around the country, all of that would just come in, and the U.S. consumer would be buying these contaminated products unbeknown to them. So on a regular basis, we interdict and stop, and either seize or reject this contaminated material. So there are other benefits that come from the stronger security than we envisioned when we deployed that technology.

MS. MATTHIESEN: I am going to give one of the last questions to this gentleman here who has had his hand up for a bit.

MR. CONROY: Hugh Conroy with the Whatcom Council of Governments in Washington state. I wanted to get back to Joy's mention of an expected mutual recognition for the Partner in Protection program, PIP. At the Blaine border crossing of Pacific Highway in Washington, Washington

state recently completed a northbound FAST lane, so now we have FAST lanes in both directions.²²⁴ But as we have looked to build the user base for that new lane, we have been reacquainted with the fact that beyond the driver FAST card, the FAST program is the assemblage of each country's various program for the carriers and the shippers.

So I was wondering does this mutual recognition of PIP - my understanding is that is the shipper side - but do you expect these types of mutual recognitions to give one country's FAST enrollees better access to the FAST lane in both directions or vice-versa, I mean, to sort of push together these various components under the umbrella of FAST in one bi-nationally administered way?

MS. ALDOUS: I am not actually sure I understand your question. Today you can with - to be in FAST you have to be PIP in Canada, you have to be C-TPAT in U.S. There are some additional requirements for Canadian importers.²²⁵

So the mutual recognition is simply a first step in saying that our PIP program will now be compatible with the minimum standards of the U.S. including the site validations. And it is the first step. Ideally one application someday.

MR. CONROY: So a PIP enrollee would not necessarily get access to the FAST lane southbound as a result of this mutual recognition? They would have to separately still enroll in the C-TPAT, and the same with the carriers in the CSA and C-TPAT program?

MS. ALDOUS: Correct.

MR. OWEN: Right. At this point as the first step, they would still be needed to enroll in both programs. But a benefit that will come is once we have a mutual recognition is that U.S. CBP will be able to accept the findings of the onsite validation or review what is performed by CBSA.

We have our first mutual recognition agreement with New Zealand in place for about a year now, and the way this works on the operational side is that the New Zealand exporter supply for what is called the New Zealand Secure Export scheme. New Zealand Customs goes out and verifies that it has adopted the stronger measures, and they start affording them export benefits on their end.

Prior to the mutual recognition agreement, U.S. officers would travel to New Zealand, conduct very much a redundant inspection, if you will, and

²²⁴ See generally WSDOT.wa.gov, Less Congestion Expected at Nation's Fourth Busiest Commercial Border Crossing, http://www.wsdot.wa.gov/News/2007/11/14_sr543newtrucklanesopen.htm (last visited Oct. 9, 2008).

²²⁵ See generally Partners in Protection, <http://www.cbsa-asfc.gc.ca/security-secure/pip-pep/menu-eng.html> (last visited Oct. 9, 2008).

come to the same conclusion. So now that we have two comparable programs, we can accept the findings from New Zealand Customs, and we no longer need to go out to New Zealand to form these validations.

And on the U.S. program, you have three tiers of benefits for the importers. The more significant trade facilitation benefits in terms of reduce inspections come after you have had this onsite validation. So now you are already a member of New Zealand, you are quickly already receiving Tier 2 or Tier 3 status in the United States.

We envision the same type of operation with Canadian Partners in Protection. I mentioned before that a third of the CBP members are Canadian non-resident importers or highway carriers. When you look at the numbers for Canada's PIP program, very, very comparable. We have a lot of the same companies enrolled in both programs. And while now they still need to enroll in the two programs, they are no longer going to have to go through a redundant review by a CBP team and then by a CBSA team. So there will be some benefits from there.

And again, this is just an initial first step. Ideally we would like to get to a program where you have one comparable application process, if both is vetted against the same types of law enforcement databases. We have agreement on the types of prior bad acts, if you will, that should not allow you to be considered a low-risk trader. So this is a first step. This is a significant first step, but there is more work to be done in here.

MS. MATTHIESEN: We have time for one last question, and I am going to give it to Kim.

MS. O'NEAL: I think we are missing the 800-pound gorilla in the room. A lot of this border protection, increased security, it has all happened because of terrorists. I have not heard anything about how many bad guys we are getting at the border. Is this really increasing our security in that way? Obviously with organized crime, we have got two-way traffic that we have always been working against that. What improvements have we done and achieved on the terrorist side?

MR. COONS: With respect to the IBET program and national security, it is important to understand that since 9/11, the way that the RCMP broke up their programs and got into the national security area was to implement Integrated National Security Enforcement Teams (INSETs). So these are the teams that are the equivalent of the FBI in the United States who are primarily responsible for the investigation of national security.

Our priority is national security because we are on the border, and we may be the first responders to national security. When we interdict people, one of the first things that we do is obviously run various checks through a number of databases, secure databases, to try to determine whether or not individuals have some kind of nexus to national security.

But the national security, as soon as we get some kind of hit or some kind of indication that this is something worthy of a national security investigation, those files are immediately transferred to our national security enforcement teams, and IBET teams do not participate in that investigation unless they are asked to do so by our national security people. So we are just the pointy end of the stick, if you will, first responders for national security, but we will refer all of our national security issues to our national security sections.

In terms of specific numbers, to be quite frank with you, the referrals that we make to national security I would not be prepared to discuss in this room anyway because I am not satisfied that the data is 100 percent accurate. But it is not a great number. I can tell you that much.

MS. O'NEAL: But is it working?

MR. COONS: Well, is it working? That is a very difficult question to answer because ultimately, some people argue, well, it is working because we have not had another incident since 9/11, and that we have had investigations where we have actually been successful in preventing attacks in Canada and the United States during the planning process.²²⁶

So is it working from that perspective? We could make the argument that it is. But I would be a fool to sit here before you and tell you that we are safe against a terrorist attack because there could be something that is being planned for tomorrow. Hopefully we know about it, but we do not necessarily.

MS. MATTHIEN: Thank you very much. Thanks to our panelists, and thank you for the questions.

²²⁶ See generally *Five Years After 9/11 Attacks: U.S. Ports More Secure Than Ever; Progress Must Continue AAPA Cites Advances In Guarding America's Seaports Against Terrorism*, <http://www.aapa-ports.org/Press/PRdetail.cfm?itemnumber=1092> (last visited Oct. 9, 2008).

