



TESTIMONY OF

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ON

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Chairman Reichert, Ranking Member Rangel, and distinguished members of the Subcommittee, it is an honor to appear before you today to discuss U.S. Customs and Border Protection's (CBP's) role in facilitating international trade and enforcing our Nation's trade laws.

As America's unified border agency, CBP protects the United States against terrorist threats and prevents the illegal entry of inadmissible persons and contraband, while facilitating lawful travel and trade. CBP is the second largest revenue-collecting source in the Federal Government, and our enforcement of U.S. trade laws significantly enhances America's economic competitiveness.

CBP's trade enforcement mission is highly complex. We enforce nearly 500 U.S. trade laws and regulations on behalf of 47 federal agencies, facilitate compliant trade, collect revenue, and protect the U.S. economy and consumers from harmful imports and unfair trade practices. Fraudulent trade activities, including the import of counterfeit and pirated goods, threaten America's innovation, economy, the competitiveness of our businesses, the livelihoods of U.S. workers, and, in some cases, national security and the health and safety of consumers.

Annually, CBP manages over 300,000 active unique importer-of-record numbers, accounting for 30.4 million commercial transactions, which represents approximately \$2.4 trillion dollars in imports and generates over \$40 billion dollars in duties, fees, and taxes. In addition to applying the multitude of tariffs and the processing of massive amounts of commercial shipments, CBP must also enforce complex U.S. Free Trade Agreement (FTA) commitments. The United States has existing FTAs with 20 countries, completed negotiations for the Trans-Pacific Partnership with 11 Pacific region countries, and is currently negotiating the Transatlantic Trade and Investment Partnership (T-TIP) with the European Union (EU). These are important agreements that will promote U.S. international competitiveness, American jobs, and economic growth. In Fiscal Year (FY) 2015, FTAs accounted for over \$636 billion in U.S. imports.

The enactment of the *Trade Facilitation and Trade Enforcement Act of 2015* (TFTEA, or "the Act,"), Pub. L. No. 114-125, in February 2016, demonstrates that economic competitiveness and enforcement of our trade laws are among our Nation's highest priorities. This law is a major milestone for CBP, as it is the Agency's first Authorization since its creation within the Department of Homeland Security (DHS) in 2003. It supports CBP's efforts to ensure a fair and competitive trade environment, sending a strong message that CBP will effectively enforce U.S. trade laws, including safeguarding Intellectual Property Rights (IPR), combating Antidumping/Countervailing Duty (AD/CVD) evasion, and prohibiting the importation of forced labor-derived goods.

My testimony will discuss CBP's progress in some of our key trade enforcement and trade facilitation efforts, including implementation of the Act, and our path forward in securing and enabling international commerce and promoting the growth of the U.S. economy.

### **Enforcing U.S. Trade Laws**

As the Nation's unified border agency, CBP is responsible for detecting and interdicting goods imported to, exported from, and transiting through the United States by means of fraudulent trade activities intended to avoid the payment of duties, taxes, and fees, or activities meant to evade U.S. legal requirements for international trade. Central to all of CBP's multi-layered trade

enforcement activities are the continuous enhancements to our targeting programs, the expansion of our trade intelligence, and our ability to identify and understand trade risks that may affect national security, U.S. business competitiveness, or the collection of revenue.

### *Trade Intelligence and Targeting*

Enforcement of trade laws and interdiction of illegal cargo are based on trade intelligence and advanced risk-based targeting. Partnerships with other federal agencies and the trade community are essential to expanding CBP's trade intelligence. CBP works closely with U.S. Immigration and Customs Enforcement's Homeland Security Investigations (ICE HSI), the Department of Justice's Drug Enforcement Administration, the Department of the Treasury's Financial Crimes Enforcement Network, and the Departments of Commerce and Health and Human Services to promote information sharing and the exchange of trade intelligence.

Through collaboration with industry, CBP deepens its understanding of the way businesses and industries operate in the ever-changing global marketplace and leverages that information for risk analysis and targeting. A key element in CBP's trade intelligence and targeting efforts are the 10 Centers of Excellence and Expertise ("Centers"). The Centers redefine how CBP works collaboratively with industry members by aligning with modern business practices, focusing on industry-specific issues, and providing tailored support to unique trading environments. The Centers actively track trends, identify trade risks, support CBP's efforts to target the evasion of U.S. trade laws, protect the revenue of the U.S. Government, and ensure a level playing field for U.S. industry.

Depending on the specific pathway, CBP performs targeting activities throughout the import process—prior to departure from origin, before cargo arrives at a port of entry (POE), at the time of entry, and after the cargo is conditionally released. In accordance with the *Trade Act of 2002* (Pub. L. No. 107-210) and the *SAFE Port Act of 2006* (Pub. L. No. 109-347), carriers are required to submit manifest data containing an inventory of all goods, supplies, cargo, and persons on board a conveyance or container in advance of arriving at a POE for vetting through CBP's Automated Targeting System (ATS). ATS is a critical decision support tool that CBP uses to assess the risk of goods entering the United States. Incorporating information from CBP and other law enforcement databases, ATS provides a uniform screening of all its cargo transactions and identifies anomalies based on numerous risk factors.

Shipments matching ATS targeting factors are presented to CBP officers assigned overseas with the Container Security Initiative (CSI), officers at our numerous Advance Targeting Units (ATUs) located at our domestic POEs, as well as our seasoned experts at the National Targeting Center for Cargo Operations (NTC-C). Upon arrival of cargo at a POE, using targeting results to prioritize inspection of high-risk cargo, CBP has the authority to perform an examination of the goods; detain, and where appropriate, seize, or request re-export of the goods; or release the goods. In the post-entry environment, CBP assesses duties, determines statutory and regulatory compliance, and collects import statistics. Effective targeting not only enables CBP to detect and address potential risks before a shipment arrives at a POE, but it also enables CBP to separate low-risk and legitimate shipments from those that require additional scrutiny.

When it comes to targeting shipments for potential threats to consumer safety, the Commercial Targeting and Analysis Center (CTAC) is a CBP facility designed to streamline and enhance federal efforts to address import safety issues. Created in 2009, the CTAC facilitates information sharing amongst 11 participating government agencies,<sup>1</sup> while simultaneously developing, implementing, and streamlining cohesive import-safety enforcement procedures that drive further interdiction of harmful and inadmissible goods. Supporting CBP's unified trade targeting mission, the NTC-C has an assigned liaison to the CTAC for the purpose of reinforcing the connectivity between the participating government agencies' admissibility missions and the NTC-C's 24/7 operational capabilities.

The National Targeting and Analysis Groups (NTAGs) are CBP's primary national trade targeting entities.<sup>2</sup> Providing in-depth risk analysis for high priorities, the NTAGs work in concert with the Centers, and the NTC-C Tactical Trade Targeting Unit (T3U), to enhance trade targeting expertise. These entities work with the entire life-cycle of trade fraud enforcement—from information intake, to analysis, targeting, investigative case support, and operational assessments.

Each of these entities brings a particular targeting skillset to the table. For example, by virtue of the Centers' industry- and account-based knowledge, CBP can apply critical trade intelligence toward our enforcement efforts. Additionally, because of the NTAGs' expertise, CBP can better understand the overlapping risk areas within each industry sector. Integrating these knowledge areas is an enforcement priority for the agency. By creating a common operating picture that identifies risk within the trade arena, CBP can quickly act on fraudulent trade schemes. Moreover, by leveraging expertise within each targeting unit, CBP deepens its trade enforcement posture, resulting in more effective outcomes. For example, in FY 2015, referrals from the T3U resulted in 341 seizures with a Manufacturer's Suggested Retail Price (MSRP) value of over \$92.1 million.

Integration of these national targeting groups is crucial, as each provides support for our law enforcement partners, such as ICE HSI Agents assigned to the newly formed National Targeting Center for Investigations (NTC-I). Partnerships between T3U and NTC-I personnel provide more effective sharing of information and increased outcome-based enforcement actions. For example, in FY 2015, the T3U supported ICE HSI casework concerning goods worth an estimated \$179 million total MSRP, including 132 criminal arrests, 81 indictments, 65 convictions, 179 search warrants, and 3 administrative arrests.

<sup>1</sup> The 11 federal agencies that participate in the CTAC include: CBP; ICE HSI; U.S. Consumer Product Safety Commission; U.S. Department of Agriculture Animal Plant Health Inspection Service; U.S. Department of Agriculture Food Safety and Inspection Service; U.S. Environmental Protection Agency; U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration and National Highway Traffic Safety Administration; Food and Drug Administration; U.S. Fish and Wildlife Service; and the National Marine Fisheries Services.

<sup>2</sup> There are five NTAGs, each focused on a separate trade priority: Textiles, Trade Agreements, AD/CVD, IPR, and Revenue and Drawback.

### *Trade Enforcement Operations*

In the performance of its trade enforcement operations prior to the passage of the Act, CBP identified several high-risk areas, designated as Priority Trade Issues<sup>3</sup> (PTI) that could cause significant revenue loss, harm the economy, or threaten the health and safety of the American people. PTIs drive risk-informed investment of CBP resources and enforcement and facilitation efforts, including the selection of audit candidates, special enforcement operations, outreach, and regulatory initiatives.

For example, AD/CVD<sup>4</sup> is a PTI because collection of these duties is critical to the U.S. economy and the competitiveness of U.S. businesses. While the vast majority of manufacturers, importers, customs brokers, and other parties involved in shipments of goods subject to AD/CVD orders accurately provide shipment information and pay appropriate duties, CBP has a core statutory responsibility to detect and deter the circumvention of AD/CVD laws and collect all revenue owed to the U.S. Government that arises from the importation of goods. CBP is constantly enhancing our AD/CVD detection and enforcement protocols, including advancing our targeting and analysis, streamlining our administrative processes, and utilizing all available authorities to meet the challenges posed by the increasing complexity of AD/CVD evasion schemes.

For instance, in FY 2015, entry summary reviews and cargo exams of solar panels resulted in the identification of \$56 million in potential loss of revenue of AD/CVD duties and the recovery of almost \$8 million in AD/CVD duties on shipments of solar cells and panels from the People's Republic of China and the Taiwan. Also, an audit of an importer of tapered roller bearings from China discovered a loss of revenue of \$36 million, most of which was antidumping duties. In another example, Import Specialists detected AD/CVD evasion on tires from China, with over \$7 million in AD/CVD duties identified, penalties imposed, and collection efforts ongoing. In FY 2016, CBP identified approximately \$7 million in AD/CVD discrepancies on Chinese steel plate shipments and, through CBP's Operation Flatline, recovered over \$800,000 in AD/CVD duties on imports of corrosion-resistant, flat-rolled steel products from China.

Since 2013, CBP has broadened the use of single transaction bonds and live entry<sup>5</sup> to ensure additional protection when CBP has reasonable evidence that a risk of revenue loss exists. These measures have been very effective in protecting the revenue due to the U.S. Government and facilitating compliance with AD/CVD. Furthermore, in 2014, as part of our strategy to resolve AD/CVD debts, CBP started to build a team dedicated to AD/CVD collection. The creation of the AD/CVD Collections team will enhance CBP's technical expertise to deal with the unique

<sup>3</sup> Prior to the enactment of the *Trade Enforcement and Facilitation Act of 2015*, CBP had identified five PTIs: Intellectual Property Rights; Textiles and Apparel; Import Safety; Trade Agreements and Preference Programs; and Antidumping and Countervailing Duties. The *Trade Enforcement and Facilitation Act of 2015* added Agriculture programs and Revenue to the list of PTIs.

<sup>4</sup> Under the Tariff Act of 1930, U.S. industries may petition the government for relief from imports that are sold in the United States at less than fair value ("dumped") or which benefit from subsidies provided through foreign government programs (which are ameliorated by countervailing duties). Under the law, the U.S. Department of Commerce determines whether the dumping or subsidizing exists and, if so, the margin of dumping or amount of the subsidy. The United States International Trade Commission determines whether there is material injury or threat of material injury to the domestic industry by reason of the dumped or subsidized imports.

<sup>5</sup> A single transaction bond provides security for an individual import of merchandise. Live entry means that all entry documents and duties are required to be provided before cargo is released by CBP into U.S. commerce.

complexities of the AD/CVD process; enable CBP to identify earlier those importers unwilling or unable to pay outstanding duties; and provide deeper integration of the full AD/CVD processes to anticipate AD/CVD debts, rather than simply react to those debts after they are formally established.

CBP, in collaboration with ICE HSI and the Department of Commerce, has had increasing success in identifying, penalizing, and disrupting distribution channels of imported goods that seek to evade AD/CVD. CBP personnel refer many cases of AD/CVD evasion to ICE HSI for criminal investigation and work closely with ICE HSI to establish the evidence of criminal violations. A recent example of this effort is our enforcement of AD/CVD orders on steel products. In FY 2015, CBP, in coordination with ICE HSI, was able to successfully seize over \$900,000 worth of steel products that violated AD/CVD laws and assess \$45.5 million in penalties for AD/CVD violations on importers of steel products. In FY 2015, CBP also conducted over 7,200 entry summary reviews of steel imports for AD/CVD issues, and identified violations with a value of over \$970,000. CBP industry experts at the Base Metals Center of Excellence and Expertise are actively enforcing 160 AD/CVD orders on steel products. CBP works closely with our steel industry partners and the Department of Commerce to educate both CBP personnel and steel industry members through seminars that explain how AD/CVD enforcement can best be implemented in the current trade environment.<sup>6</sup>

CBP also enforces IPR, another PTI, by seizing or excluding products that infringe on U.S. trademarks, copyrights, and by enforcing exclusion and seizure orders of the International Trade Commission with respect to, among other things, products found to infringe U.S. patents. The theft of intellectual property and trade in fake goods threaten America's economic vitality and national security, and the American people's health and safety. CBP, in close collaboration with ICE HSI, protects businesses and consumers every day through an aggressive IPR enforcement program.

CBP uses technology to increase interdiction of fake goods, facilitates partnerships with industry, and enhances enforcement efforts through the sharing of information and intelligence. In addition to seizing goods at U.S. borders, CBP conducts post-import audits of companies that have been caught bringing fake goods into the United States, issues civil fines and, when appropriate, refers cases to other law enforcement agencies for criminal investigation.

Strong partnerships with our federal enforcement counterparts, effective targeting of high-risk shipments, and frontline interceptions of cargo at U.S. POEs produced more than 28,000 seizures of fake products in FY 2015, with an estimated MSRP of \$1.35 billion that could have cheated or threatened the health of American consumers. CBP also enforced 152 exclusion orders enforcement action in FY 2015. Also in FY 2015, CBP's collaboration with the ICE HSI-led National Intellectual Property Rights Coordination Center<sup>7</sup> ("IPR Center") resulted in 538 arrests,

<sup>6</sup> In FY 2015, CBP, in partnership with the U.S. steel industry, conducted five AD/CVD seminars for CBP personnel and customs brokers in California, Georgia, Illinois, New York, and Texas. In FY 2016, CBP and the U.S. steel industry conducted Steel Seminars in Laredo, Texas; New Orleans, Louisiana; Philadelphia, Pennsylvania; Long Beach, California; and Detroit, Michigan.

<sup>7</sup> Working in close coordination with the Department of Justice Task Force on Intellectual Property, the IPR Center

with 339 indictments and 357 convictions.<sup>8</sup> IPR seizures increased nearly 25 percent in 2015 from 2014, representing DHS's busiest year on record for IPR-related seizures.

For example, in recent months, CBP officers nationwide have seized record numbers of counterfeit self-balancing scooters, commonly referred to as "hoverboards."<sup>9</sup> As of August 31, 2016, there have been 399 hoverboard seizures, totaling more than 107,975 pieces, with an estimated MSRP of \$23.9 million. Hoverboard seizures have been recorded in 54 different POEs. The seized hoverboards contained counterfeit trademarks and/or counterfeit certification marks. In most instances, the counterfeit marks were found on lithium ion batteries that were included with the hoverboards. In addition to the issue of counterfeit marks, the seized hoverboards presented safety concerns given that there have been reports of fires that appear to have been caused by the unauthorized lithium ion batteries imported with the hoverboards. The combination of counterfeit marks and exploding batteries vividly illustrates that counterfeits not only cause economic loss to the trademark owners whose marks are infringed, but also represent a threat to the health and safety of U.S. consumers.

Invaluable to the enforcement of all trade laws, CBP's Laboratories and Scientific Services Directorate (LSSD) has been part of U.S. trade enforcement since 1841. LSSD plays a key part in the enforcement of trade priorities, including AD/CVD, IPR, classification, value, and transshipment. In FY 2015, this division handled 1,035 samples relating to 294 entries of importations of suspect AD/CVD violations<sup>10</sup> and 700 samples relating to 125 importations of suspect IPR violations.<sup>11</sup> LSSD analyzes a wide range of commodities, including honey, garlic, plastic carrier bags, steel, bearings, wax candles, paper, pasta, hardwood and decorative plywood, and mushrooms.

Partnerships with the trade community are critical to rooting out unfair trading practices and illegal trading activity. U.S. industry, trade associations, and importers provide critical insight to CBP on enforcement issues related to developments in AD/CVD, IPR, and other trade sensitive imports. CBP meets regularly with U.S. industry representatives to discuss circumvention schemes, and U.S. industry representatives share valuable market and product intelligence with us.

harnesses the tactical expertise of its 23 member agencies to share information, develop initiatives, coordinate enforcement actions, and conduct investigations related to intellectual property theft.

<sup>8</sup> Intellectual Property Rights Seizure Statistics, Fiscal Year 2015,

[www.cbp.gov/sites/default/files/assets/documents/2016-Apr/FY%202015%20IPR%20Stats%20Presentation.pdf](http://www.cbp.gov/sites/default/files/assets/documents/2016-Apr/FY%202015%20IPR%20Stats%20Presentation.pdf)

<sup>9</sup> CBP officers have seized hoverboards at ports in Chicago, Illinois; Houston, Texas; Buffalo, New York; International Falls, Minnesota; Miami, Florida; Charleston, South Carolina; Puerto Rico; Savannah, Georgia; Sterling, Virginia; Norfolk, Virginia; and at John F. Kennedy airport.

<sup>10</sup> The commodities analyzed under various AD/CVD orders included: honey, garlic, monosodium glutamate, glycine, melamine, plastic carrier bags, polyethylene terephthalate film, manganese dioxide, potassium phosphate salts, stilbenic optical brightening agents, chlorinated isocyanurates, steel, steel pipe, line pipe, steel nails, steel wire hangers, steel threaded rods, stainless steel wire rod, petroleum wax candles, aluminum extrusions, aluminum tubing, electrolytic multilayered wood flooring, artist canvases, thermal paper, tissue paper, coated paper, paper clips, pencils, solar cells and panels, narrow woven ribbons, woven electric blankets, refined brown aluminum oxide, and magnesia carbon bricks.

<sup>11</sup> The commodities analyzed involving potential IPR violations included: integrated circuits, network routers, electronic memory media (compact flash, SD, USB drives, etc.), movie DVDs, wearing apparel, pharmaceuticals, smartphones, perfume, video game consoles, and food.

CBP's online referral process, e-Allegations, facilitates the process for the trade community to provide CBP with critical information. Since e-Allegations' inception in June 2008, CBP has received more than 11,500 commercial allegations. While the majority of e-allegations are IPR-related, nearly 10 percent are AD/CVD-related.<sup>12</sup> Every allegation submitted through e-Allegations is reviewed and researched to determine the validity of the trade law violation(s) being alleged. Some are reviewed and resolved internally within CBP, and some are referred to ICE HSI for further investigation. IPR holders can also use our web-based tool, e-Recordation, to record their trademarks and copyrights with CBP. Recordation makes information on protected rights available to CBP offices throughout the United States.

### **CBP's Trade Transformation**

CBP recognizes its vital role in the economy and has embarked over the past several years on a "Trade Transformation," a series of initiatives that create efficiencies for U.S. businesses, the Government, and the consumer. In addition to enhancing the import process, CBP is working to modernize its export process in support of the President's National Export Initiative to streamline the export process and foster growth for U.S. companies, and the Export Control Reform Initiative to bolster competitiveness of key U.S. manufacturing and technology sectors. Even as trade volumes continue to rise, these initiatives strengthen CBP's capabilities and the Nation's economic competitiveness by lowering the cost of doing business, strengthening enforcement efforts, and leveling the playing field for U.S. businesses.

CBP's Trade Transformation initiatives not only seek to create efficiencies within the Agency's business processes, but also seek to develop a consistent "One U.S. Government" approach at the border. CBP, in collaboration with 47 Partner Government Agencies that have equities in the trade process, is working toward standardizing government procedures, streamlining processes, driving efficiencies through automation, and aligning and harmonizing with industry business processes.

The need for consistency and harmonization has been a driving force behind our transformation efforts. Currently, there are hundreds of paper forms being used to import and export goods. In February 2014, President Obama issued an Executive Order (E.O. 13659), *Streamlining the Export/Import Process for America's Businesses*, which, among other things, directs federal agencies with a role in trade to design, develop, and integrate their requirements into an electronic "Single Window," known as the International Trade Data System, by December 2016. CBP's cargo processing system, the Automated Commercial Environment (ACE), will ultimately serve as the "Single Window" and enable businesses to electronically transmit the data required by the U.S. Government to import or export cargo. Through ACE, manual processes will be streamlined and automated, paper will be virtually eliminated, and the international trade community will be able to more easily and efficiently comply with U.S. laws and regulations. ACE is being developed and deployed in increments, and CBP is on track to deliver all core trade processing capabilities in ACE by December 31, 2016.

Close collaboration with the trade community, and developing public-private partnership programs, is an essential component of CBP's Trade Transformation efforts. The Customs-Trade

<sup>12</sup> As of September 9, 2016.



Partnership Against Terrorism (C-TPAT) program is a public-private partnership program wherein members of the trade community volunteer to adopt tighter security measures throughout their international supply chains in exchange for enhanced trade facilitation, such as expedited processing. The C-TPAT program now has more than 11,000 members, with C-TPAT imports accounting for 54 percent (by value) of all imports to the United States. Additionally, in collaboration with the U.S. Consumer Product Safety Commission and the U.S. Food and Drug Administration, CBP is working to complete another important pilot, our Trusted Trader program, which unifies C-TPAT and the Importer Self-Assessment processes.<sup>13</sup>

The C-TPAT program continues to expand and evolve as CBP works with our foreign partners to establish bilateral mutual recognition of respective C-TPAT-like programs. Mutual Recognition as a concept is reflected in the World Customs Organization's Framework of Standards to Secure and Facilitate Global Trade, a strategy designed with the support of the United States, which enables Customs Administrations to work together to improve their capability to detect high-risk consignments and expedite the movement of legitimate cargo. These arrangements create a unified and sustainable security posture that can assist in securing and facilitating global cargo trade while promoting end-to-end supply chain security. CBP currently has signed Mutual Recognition Arrangements with New Zealand, the EU, South Korea, Japan, Jordan, Canada, Taiwan, Israel, Mexico, and Singapore, and is continuing to work towards similar recognition with China, Brazil, the Dominican Republic, India, and other countries.<sup>14</sup>

Another public-private partnership program that focuses on cargo entering the United States via air is CBP's Air Cargo Advance Screening (ACAS) program. This pilot, which currently has 51 participants, has been extended until July 2017, after which we look forward to identifying a path-forward for permanent status. Additionally, CBP is implementing a multifaceted approach to e-commerce, particularly as it impacts sales and imports through the mail and express shipment environments. We are educating consumers and working with major e-commerce businesses to identify and prevent the sale and import of counterfeit or dangerous products, and look forward to continued partnerships with the trade community to help us evolve with the growth in e-commerce.

A hallmark of our transformation efforts is the implementation of the Centers,<sup>15</sup> established in 2011 to increase uniformity across the POEs, facilitate the timely resolution of trade compliance issues nationwide, and further strengthen our knowledge about industry practices to enhance our enforcement efforts. In 2015, four of the 10 Centers became fully operational, and, I'm proud to announce that, this past April, the remaining six became fully operational. These remotely-

<sup>13</sup> Federal Register Notice, June 16, 2014. Announcement of Trusted Trade Program Test.

<https://www.federalregister.gov/articles/2014/06/16/2014-13992/announcement-of-trusted-trader-program-test>

<sup>14</sup> CBP also has multiple Customs Mutual Assistance Agreements, which allow for the exchange of information, intelligence, and documents that will ultimately assist countries in the prevention and investigation of customs offenses. See <http://www.cbp.gov/border-security/international-initiatives/international-agreements/cmaa>.

<sup>15</sup> The 10 Centers are: Pharmaceuticals, Health, and Chemicals - New York, New York; Agriculture and Prepared Products - Miami, Florida; Automotive and Aerospace - Detroit, Michigan; Apparel, Footwear, and Textiles - San Francisco, California; Base Metals - Chicago, Illinois; Petroleum, Natural Gas, and Minerals - Houston, Texas; Electronics - Los Angeles, California; Consumer Products and Mass Merchandising - Atlanta, Georgia; Industrial and Manufacturing Materials - Buffalo, New York; Machinery - Laredo, Texas.

managed Centers align CBP with modern business practices, focusing on industry-specific issues, and provide tailored support to unique trading environments.

Through the implementation of CBP's Trade Transformation initiatives we are working to increase the Nation's economic competitiveness by lowering the cost of doing business, removing barriers to trade facilitation, and leveling the playing field for U.S. businesses. Additionally, these transformative efforts help CBP strengthen trade enforcement efforts and address ongoing challenges such as AD/CVD collection, by improving and modernizing our trade processes.

### **The Trade Facilitation and Trade Enforcement Act of 2015**

The Act strengthens CBP's existing trade enforcement capabilities and provides the Agency with new tools, capabilities, and collaborative efforts to better enforce U.S. trade laws. The Act emphasizes CBP's trade enforcement responsibilities in key areas, as described above, including the protection of IPR, AD/CVD evasion, and forced labor-derived goods.

For example, as part of our current AD/CVD enforcement efforts, CBP has responsibility for tracking and reporting allegations of evasion from initial receipt, vetting and enforcement actions, to final disposition of an investigation. Title IV of the Act, commonly referred to as the *Enforce and Protect Act of 2015*, or EAPA, strengthens CBP's enforcement efforts by establishing formal procedures for submitting and investigating allegations of AD/CVD evasion against U.S. importers. On August 22, 2016, CBP published an interim final rule in the *Federal Register*, effective immediately, establishing procedures for investigating claims of evasion of AD/CVD orders.<sup>16</sup> CBP has already established a website to readily communicate resources and updates to the trade as they are developed.<sup>17</sup> In addition, CBP also engaged COAC's AD/CVD subcommittee to provide comments on checklists that will assist the trade in filing EAPA allegations. Of note, the trade has already begun to file EAPA allegations.<sup>18</sup>

In addition to authorizing the IPR Center, the Act also enables CBP to build on our current IPR enforcement initiatives by strengthening our collaboration efforts with our international counterparts and with IPR holders. For example, the Act streamlines and enhances the process in which CBP communicates with IPR holders to determine IPR-infringing products. The Act requires CBP to share with IPR holders the unredacted images of any product that is suspected of infringing on copyright or trademark laws, when the shared image will help CBP determine if an infringement exists. Furthermore, in order to accommodate copyrights that are still pending registration at the Copyright Office, CBP is establishing a new process to ensure enforcement efforts do not cause delay upon entry. Additionally, in the travel environment, in accordance with the IPR outreach provisions in the Act, CBP revised Form 6059B, Customs Declaration Form, to include a warning to international travelers of the penalties associated with transporting IPR-infringing goods.

<sup>16</sup> Federal Register, Interim Regulation, Investigation of Claims of Evasion of Antidumping and Countervailing Duties. August 22, 2016. <https://www.gpo.gov/fdsys/pkg/FR-2016-08-22/pdf/2016-20007.pdf>.

<sup>17</sup> See <https://www.cbp.gov/trade/trade-enforcement/tftea/enforce-and-protect-act-eapa>.

<sup>18</sup> "Wheatland Tube Files Duty Evasion Allegation," (Sept. 15, 2016) (available at <http://www.prnewswire.com/news-releases/wheatland-tube-files-duty-evasion-allegation-300328695.html>).

CBP's enforcement of other illicit trade activities, such as honey transshipment, is also strengthened by the Act by requiring the establishment of a honey transshipment database. The Act also enhances CBP's revenue collection capabilities. As noted above, CBP has been broadening the use of single transaction bonds when a risk of revenue loss exists. The Act provides additional revenue-protecting provisions by authorizing increased bonding for high-risk imports.

The Act also eliminated the "consumptive demand" exemption for forced labor-derived imports, meaning that goods made with indentured, forced child, or other forced labor are no longer allowed into the country just to meet U.S. consumer demand. With this change, CBP is no longer legally required to weigh consumptive demand considerations to process information concerning forced labor. Since March 10, 2016, CBP has issued several withhold/release orders (WRO) based on reasonable suspicion that imported goods were made by convict or forced labor. Most recently, on September 16, 2016, I directed CBP frontline personnel to detain certain peeled garlic products believed to be produced in China with convict labor.

This past April, to harness the agency's collective trade enforcement expertise, CBP established a Trade Enforcement Task Force to focus on issues related to the enforcement of AD/CVD and the interdiction of imported goods produced using forced labor. The Task Force strengthens CBP's ability to detect high-risk activity, target illicit trade networks, and work with industry to disrupt evasion of U.S. trade laws. It will also serve as a focal point for coordination with other federal partners, including the Department of Commerce and ICE HSI. Since its creation, the Task Force has collected over \$3 million in AD/CVD payments and reviewed over 50 entities for potential AD/CVD evasion. Similarly, the Task Force's Forced Labor component has coordinated the detention of over 40 shipments suspected of sourcing using Forced Labor. These shipments represented over \$8.5 million in value.

Furthermore, this past July, the Customs Operations Advisory Committee (COAC) formally established a forced labor working group comprised of members representing the different aspects of this issue (companies, importers, nongovernmental organizations, etc.). This working group will focus on issues surrounding supply chain and compliance best practices, WRO issuance, and the process for evaluating information provided by importers seeking to have cargo released that has been held under a WRO. CBP will be working closely with the COAC working group as CBP updates its regulations to clarify the new consumptive demand provision, as well as the process through which we are notified of potential violations of forced labor laws, and the process for importers that wish to certify that their goods are not produced with forced labor. CBP is committed to working with the trade community and nongovernmental organizations to increase transparency, with the goal of fostering a predictable trade environment for legitimate importers, which have the responsibility to secure their supply chains.

In addition to strengthening enforcement efforts, the Act also authorizes several critical CBP programs and lays a strong foundation for many of our most vital initiatives. The law authorizes continued funding for operations and maintenance of ACE—the backbone of the U.S. Government's "Single Window." As we continue to drive toward the President's year-end 2016 goal for delivery of all core trade processing capabilities in ACE, this support will ensure that ACE and Single Window operations are sustained over the long term.

Supporting CBP's efforts in modernizing the way we work with the trade community and do business, the Act formally recognizes the Centers and their importance to modernizing and streamlining operations by industry sector, generating expertise that also improves CBP's enforcement capabilities. The Act also simplifies and modernizes the drawback process for duty refunds, making drawback more workable for CBP while increasing efficiencies for trade stakeholders. Furthermore, recognizing the value of our industry advisory committee in improving CBP's trade operations and policies, the Act enhances the role of the COAC within DHS, and increases involvement from our ICE HSI partners.

In the travel environment, the Act improves funding mechanisms and supports CBP's Preclearance efforts, better positioning us to push our security efforts outward and increase locations around the globe to meet our goal of processing 33 percent of U.S.-bound air travelers through Preclearance by 2024. In FY 2015, Preclearance allowed DHS to deny boarding to over 10,700 travelers (or 29 per day) before they could travel to the United States. We are currently negotiating with many of the 10 locations selected in May 2015 for potential Preclearance operations and are looking to expand this program. In May 2016, CBP announced a new "open season," running through August 1, 2016, for foreign airports to express interest in participating in the next round of preclearance expansion. CBP received 20 letters of interest and is currently in the process of evaluating each location.

The Act has a significant impact on CBP, both organizationally and operationally, and we are working aggressively to shift resources, collaborate with federal partners with trade equities, and develop processes to ensure swift and effective implementation of the numerous and complex provisions in the Act. We are establishing a Trade Remedy Law Enforcement Division and a dedicated NTAG for evasion within the Office of Trade. We are also drafting numerous regulations, covering a broad span of trade enforcement areas, including IPR information sharing with rights holders; allowing donations of certain equipment, training, and other support services from the private sector for enforcing IPR; and setting minimum standards for brokers and importers regarding importer identity verification.

As we move forward, CBP will work closely with this Subcommittee and with our trade partners to implement the provisions of the new law. For example, we will be collaborating with the private sector to ensure that participants of CBP's voluntary partnership programs, such as C-TPAT, are receiving significant and measurable trade benefits in exchange for their participation. We also look forward to working with our industry partners to educate the trade community about how to file allegations of trade violations with CBP. Since the Act was executed, CBP has hosted webinars, industry phone calls, and participated in events on a range of topics related to implementation of the numerous provisions in the Act. We look forward to continuing our strong dialogue and partnership with private industry and with this Subcommittee as we work to implement the Act's trade enforcement and trade facilitation provisions.

**Conclusion**

CBP recognizes and is committed to our vital role in supporting the U.S. trade agenda. We will continue to strengthen our enforcement capabilities and streamline trade for low-risk legitimate shipments. We will also continue to advance our risk-based targeting to enforce U.S. trade laws and interdict illegal cargo to ensure compliance with statutory and regulatory authorities and to minimize loss of revenue.

CBP is committed to working with our federal, international, and private sector partners to enhance our trade intelligence, detect and resolve unfair or unlawful trade practices, and develop solutions to facilitate legitimate trade and protect the U.S. economy.

Chairman Reichert, Ranking Member Rangel, and members of the Subcommittee, thank you for the opportunity to testify today. I am happy to answer any questions you may have.