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Testimony

Before the Subcommittee on Trade
Committee on Ways and Means
House of Representatives

**For Release on Delivery
Expected at
11:00 a.m. EDT
on Tuesday
April 13, 1999**

U.S. CUSTOMS SERVICE

**Budget Authorization
Issues**

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U.S. Customs Service: Budget Authorization Issues

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today at this Customs oversight hearing to discuss work we have done, mostly for this Subcommittee, addressing Customs' efforts to interdict drugs, combat corruption, and comply with the Results Act.¹ For the most part, our testimony is based on products we have issued on each of these subjects since 1997. You also asked us to discuss the basis for the \$163 million access fee to be charged to nongovernment organizations for the use of Customs' automation systems as included in the President's fiscal year 2000 budget. Our discussion of the user fee is based on interviews with the Office of Management and Budget (OMB), the Department of the Treasury, and Customs officials and a review of sections of the President's fiscal year 2000 budget.

Created in 1789, the U.S. Customs Service is one of the federal government's oldest agencies. Customs is responsible for collecting revenue from imports and enforcing customs and related laws. Customs collects revenues of about \$22 billion annually while processing an estimated 15 million import entries and 450 million people who enter the country. A major goal of Customs is to prevent the smuggling of drugs into the country by creating an effective drug interdiction, intelligence, and investigation capability to disrupt and dismantle smuggling organizations. Customs' workforce totals almost 20,000 employees at its headquarters, 20 Customs Management Centers, 20 Special Agent-in-Charge (SAC) offices, and 301 ports of entry around the country.

Drug Interdiction

Our work on Customs' efforts to interdict drugs has focused on four distinct areas: (1) internal controls over Customs' low-risk cargo entry programs; (2) the missions, resources, and performance measures for Customs' aviation program; (3) the development of a specific technology for detecting drugs; and (4) Customs drug intelligence capabilities.

Low-Risk Cargo Entry Programs

In July 1998, at the request of Senator Dianne Feinstein, we reported on Customs' drug-enforcement operations along the Southwest border of the United States.² Our review focused on low-risk, cargo entry programs in use at three ports—Otay Mesa, California; Laredo, Texas; and Nogales, Arizona. To balance the facilitation of trade through ports and the interdiction of illegal drugs being smuggled into the United States, Customs initiated and encouraged its ports to use several programs to

¹ Government Performance and Results Act of 1993, P.L. 103-62.

² Customs Service Drug Interdiction: Internal Control Weaknesses and Other Concerns With Low-Risk Cargo Entry Programs (GAO/GGD-98-175, July 31, 1998).

identify and separate low-risk shipments from those with apparently higher smuggling risk. The Line Release Program was designed to expedite cargo shipments that Customs determined to be repetitive, high volume, and low risk for narcotics smuggling. In 1996, Customs implemented the Land Border Carrier Initiative Program, which required that the Line Release shipments across the Southwest border be transported by Customs-approved carriers and driven by Customs-approved drivers. After the Carrier Initiative Program was implemented, the number of Southwest Border Line Release shipments dropped significantly. We identified internal control weaknesses in one or more of the processes used at each of the three ports we visited to screen Line Release applicants for entry into the program. These weaknesses included (1) an absence of specific criteria for determining applicant eligibility at two of the three ports, (2) incomplete documentation of the screening and review of applicants at two of the three ports, and (3) lack of documentation of supervisory review and approval of decisions. During our review, Customs representatives from northern and southern land-border cargo ports approved draft Line Release volume and compliance eligibility criteria for program applicants and draft recertification standards for program participants.

The Three Tier Targeting Program—a method of targeting high-risk shipments for narcotics inspection—was used at the three Southwest border ports that we visited. According to officials at the three ports, the Three Tier program had two operational problems that contributed to their loss of confidence in the program’s ability to distinguish high- from low-risk shipments. First, there was little information available in any database for researching foreign manufacturers. Second, local officials doubted the reliability of the designations. They cited examples of narcotics seizures from shipments designated as “low-risk” and the lack of a significant number of seizures from shipments designated as “high-risk.” Customs suspended this program until more reliable information is developed for classifying low-risk importations.

One low-risk entry program—the Automated Targeting System—was being pilot tested at Laredo. It was designed to enable port officials to identify and direct inspectional attention to high-risk shipments. The Automated Targeting System is designed to assess shipment entry information for known smuggling indicators and thus enable inspectors to target high-risk shipments more efficiently. Customs is evaluating the Automated Targeting System for expansion to other land-border cargo ports.

Aviation Program

In September 1998, we reported on Customs' aviation program missions, resources, and performance measures.³ Since the establishment of the Customs Aviation Program in 1969, its basic mandate to use air assets to counter the drug smuggling threat has not changed. Originally, the program had two principle missions:

- border interdiction of drugs being smuggled by plane into the United States and
- law enforcement support to other Customs offices as well as other federal, state, and local law enforcement agencies.

In 1993, the administration instituted a new policy to control drugs coming from South and Central America. Because Customs aircraft were to be used to help carry out this policy, foreign counterdrug operations became a third principal mission for the aviation program. Since then, the program has devoted about 25 percent of its resources to the border interdiction mission, 25 percent to foreign counterdrug operations, and 50 percent to other law enforcement support.

Customs Aviation Program funding decreased from about \$195 million in fiscal year 1992, to about \$135 million in fiscal year 1997—that is, about 31 percent in constant or inflation-adjusted dollars. While available funds decreased, operations and maintenance costs per aircraft flight hour increased. Customs Aviation Program officials said that this increase in costs was one of the reasons they were flying fewer hours each year. From fiscal year 1993 to fiscal year 1997, the total number of flight hours for all missions decreased by over one-third, from about 45,000 hours to about 29,000 hours.

The size of Customs' fleet dropped in fiscal year 1994, when Customs took 19 surveillance aircraft out of service because of funding reductions. The fleet has remained at about 115 since then.⁴ The number of Customs Aviation Program onboard personnel dropped steadily, from a high of 956 in fiscal year 1992 to 745 by the end of fiscal year 1997.⁵

³ Customs Service: Aviation Program Missions, Resources, and Performance Measures (GAO/GGD-98-186, Sept. 9, 1998).

⁴ Customs' fleet will increase because additional aircraft were funded in the Fiscal Year 1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act, P.L. 105-277, 112 Stat 2681-553, 2681-583.

⁵ Staffing for the Aviation program is expected to grow to 817 in fiscal year 2000, according to Customs' latest budget justification.

Customs has been using traditional law enforcement measures to evaluate the aviation program (e.g., number of seizures, weight of drugs seized, number of arrests). These measures, however, are used to track activity, not measure results or effectiveness. Until 1997, Customs also used an air threat index as an indicator of its effectiveness in detecting illegal air traffic.⁶ However, Customs has discontinued use of this indicator, as well as selected other performance measures, because Customs determined that they were not good measures of results and effectiveness. Having recognized that these measures were not providing adequate insights into whether the program was producing desired results, Customs says it is developing new performance measures in order to better measure results. However, its budget submission for fiscal year 2000 contained no new performance measures.

Pulsed Fast Neutron Analysis Inspection System

The pulsed fast neutron analysis (PFNA) inspection system is designed to directly and automatically detect and measure the presence of specific materials (e.g., cocaine) by exposing their constituent chemical elements to short bursts of subatomic particles called neutrons. Customs and other federal agencies are considering whether to continue to invest in the development and fielding of this technology.

The Chairman and the Ranking Minority Member of the Subcommittee on Treasury and General Government, Senate Committee on Appropriations, asked us to provide information about (1) the status of plans for field testing a PFNA system and (2) federal agency and vendor views on the operational viability of such a system. We are issuing our report on that work today.⁷

Customs, the Department of Defense (DOD), the Federal Aviation Administration (FAA), and Ancore Corporation—the inspection system inventor—recently began planning to field test PFNA. Because they are in the early stage of planning, they do not expect the actual field test to begin until mid to late 1999 at the earliest. Generally speaking, agency and vendor officials estimated that a field test covering Customs' and DOD's requirements will cost at least \$5 million and that the cost could reach \$8 million if FAA's requirements are included in the joint test. Customs officials told us that they are working closely with the appropriate applicable congressional committees and subcommittees to decide

⁶ The air threat index used various indicators, such as the number of stolen and/or seized aircraft, to determine the potential threat of air drug smuggling.

⁷ Terrorism and Drug Trafficking: Testing Status And Views on Operational Viability of Pulsed Fast Neutron Analysis Technology (GAO/GGD-99-54, Apr. 13, 1999).

whether Customs can help fund the field test, particularly given the no-federal-cost language of Senate Report 105-251.⁸ In general, a complete field test would include (1) preparing a test site and constructing an appropriate facility; (2) making any needed modifications to the only existing PFNA system and its components;⁹ (3) disassembling, shipping, and reassembling the system at the test site; and (4) conducting an operational test for about 4 months. According to agency and Ancore officials, the test site candidates are two seaports in California (Long Beach and Oakland) and two land ports in El Paso, Texas.

Federal agency and vendor views on the operational viability of PFNA vary. While Customs, DOD, and FAA officials acknowledge that laboratory testing has proven the technical feasibility of PFNA, they told us that the current Ancore inspection system would not meet their operational requirements. Among their other concerns, Customs, DOD, and FAA officials said that a PFNA system not only is too expensive (about \$10 million to acquire per system), but also is too large for operational use in most ports of entry or other sites. Accordingly, these agencies question the value of further testing. Ancore disputes these arguments, believes it can produce an operationally cost-effective system, and is proposing that a PFNA system be tested at a port of entry. The Office of National Drug Control Policy has characterized neutron interrogation as an “emerging” or future technology that has shown promise in laboratory testing and thus warrants field testing to provide a more informed basis for deciding whether PFNA has operational merit.

Federal Counterdrug Intelligence Coordination Efforts

At the request of the Subcommittee on National Security, International Affairs, and Criminal Justice, House Committee on Government Reform and Oversight,¹⁰ in June 1998 we identified the organizations that collect and/or produce counterdrug intelligence, the role of these organizations, the federal funding they receive, and the number of personnel that support this function.¹¹ We noted that more than 20 federal or federally funded organizations, including Customs, spread across 5 cabinet-level departments and 2 cabinet-level organizations, have a principal role in

⁸ Senate Report 105-251 (July 1998) on the fiscal year 1999 Treasury and General Government Appropriations bill directs the Commissioner of Customs to enter into negotiations with the private sector to conduct a field test of the PFNA technology at no cost to the federal government.

⁹ The existing (prototype) PFNA system is located at the vendor’s plant in Santa Clara, CA.

¹⁰ This is now the Subcommittee on National Security, Veterans’ Affairs, and International Relations of the House Committee on Government Reform.

¹¹ Drug Control: An Overview of U.S. Counterdrug Intelligence Activities (GAO/NSIAD-98-142, June 25, 1998).

collecting or producing counterdrug intelligence. Together, these organizations collect domestic and foreign counterdrug intelligence information using human, electronic, photographic, and other technical means.

Unclassified information reported to us by counterdrug intelligence organizations shows that over \$295 million was spent for counterdrug intelligence activities during fiscal year 1997 and that more than 1,400 federal personnel were engaged in these activities. The Departments of Justice, the Treasury, and Defense accounted for over 90 percent of the money spent and personnel involved.

Among its many missions, Customs is the lead agency for interdicting drugs being smuggled into the United States and its territories by land, sea, or air. Customs' primary counterdrug intelligence mission is to support its own drug enforcement elements (i.e., inspectors and investigators) in their interdiction and investigation efforts. Customs is responsible for producing tactical, operational, and strategic intelligence concerning drug-smuggling individuals, organizations, transportation networks, and patterns and trends. In addition to providing these products to its own drug enforcement elements, Customs is to provide this information to other agencies with drug enforcement or intelligence responsibilities. Customs is also responsible for analyzing the intelligence community's reports and integrating them with its own intelligence. Customs' in-house collection capability is heavily weighted toward human intelligence, which comes largely from inspectors and investigators who obtain information during their normal interdiction and investigation activities.

Corruption

On March 30, 1999, we issued a report to the Chairman of the Senate Caucus on International Narcotics Control on the efforts of Customs and the Immigration and Naturalization Service to address employee corruption on the Southwest border.¹² We said that both agencies could do more to prevent drug-related employee corruption. The following reflects our findings and recommendations relative to Customs and Customs' response to our report.

Customs has policies and procedures designed to ensure the integrity of its employees. These policies and procedures consist mainly of mandatory background investigations for new staff and 5-year reinvestigations of employees, as well as basic integrity training. As required, Customs

¹² Drug Control: INS and Customs Can Do More to Prevent Drug-Related Employee Corruption (GAO/GGD-99-31, Mar. 30, 1999).

generally had completed background investigations for new hires by the end of their first year on the job. However, reinvestigations were typically overdue, in some instances by as many as 3 years. Customs officials said that the basic training that new employees are to receive includes integrity training. Agency records for 88 of 100 randomly selected Customs employees on the Southwest border showed that they received several hours of integrity training as part of their basic training. According to Customs officials, the remaining employees likely received basic training, but it was not documented in their records.

However, Customs was not taking full advantage of these policies and procedures, as well as the lessons it should have learned from closed corruption cases, to address fully the increased threat of employee corruption on the Southwest border. Some Customs employees on the Southwest border have engaged in a variety of illegal drug-related activities, including waving drug loads through ports of entry, coordinating the movement of drugs across the Southwest border, transporting drugs past Border Patrol checkpoints, selling drugs, and disclosing drug intelligence information. Customs' Office of Internal Affairs is required to formally report internal control weaknesses identified from closed corruption cases, but has not done so. Our review of nine cases involving Customs employees assigned to the Southwest border who were convicted of drug-related crimes between fiscal years 1992 and 1997, revealed internal control weaknesses that were not formally reported and/or corrected.¹³ These weaknesses included instances where

- drug smugglers chose the inspection lane at a port of entry,
- employees did not recuse themselves from inspecting individuals with whom they had close personal relationships, and
- employees disclosed drug intelligence information.

Also, Customs had not formally evaluated its integrity procedures to determine their effectiveness. For example, we determined that financial information required for background investigations and reinvestigations was not fully reviewed.¹⁴

¹³ If employees entered guilty pleas, we considered them to have been convicted of the crime.

¹⁴ The Department of the Treasury's Office of Professional Responsibility published a report on corruption with findings that are consistent with ours. See An Assessment of Vulnerabilities to Corruption and Effectiveness of the Office of Internal Affairs, U.S. Customs Service (Feb. 1999).

We recommended that Customs

- evaluate the effectiveness of integrity assurance efforts, including training, background investigations, and reinvestigations;
- comply with policies that require employment reinvestigations to be completed when they are due;
- document that policies and procedures were reviewed to identify internal control weaknesses in cases where an employee is determined to have engaged in drug-related criminal activities;
- strengthen internal controls at Southwest border ports of entry; and
- fully review financial disclosure statements to identify financial issues, such as cases in which employees appear to be living beyond their means.

Customs generally concurred with our recommendations and indicated that it is taking steps to implement them. However, Customs requested that we reconsider our recommendation that it fully review the financial disclosure statements provided by employees as part of the background and reinvestigation process. Customs indicated that implementing this recommendation may violate the provisions of the Computer Matching Act.¹⁵ Our recommendation expects Customs to make a more thorough examination of the financial information it collects to determine whether employees appear to be living beyond their means. We leave it to Customs' discretion to determine the type of examination to be performed. Since implementing the recommendation does not require electronically matching financial disclosure information with other data, the Computer Matching Act would not apply.

Strategic Planning

In the past 18 months, we have reported on Customs' compliance with provisions of the Government Performance and Results Act. We have also reported on how it has determined its need for inspectors and how it has allocated inspectional positions to ports around the country.

Performance Planning

Under the Results Act, executive agencies are to develop strategic plans in which they, among other things, define their missions, establish results-oriented goals, and identify strategies they plan to use to achieve those goals. In addition, agencies are to submit annual performance plans covering the program activities set out in the agencies' budgets (which

¹⁵ The Computer Matching and Privacy Protection Act of 1988, P.L. 100-503, generally requires that agencies engaging in computer matching must do so pursuant to written matching agreements that state such things as the purpose and legal authority of the match, the justification for the matching program, its anticipated results, a description of the records to be matched, as well as other information on the program.

began with plans for fiscal year 1999); and the plans are to describe the results the agencies expect to achieve with the requested resources and indicate the progress the agency expects to make during the year in achieving its strategic goals.

The strategic plan developed by the Customs Service addressed the six requirements of the Results Act. Concerning the elements required, the mission statement was results oriented and covered Customs' principal statutory mission—ensuring that all goods and persons entering and exiting the United States do so in compliance with all U.S. laws and regulations. The plan's goals and objectives covered Customs' major functions—processing cargo and passengers entering and cargo leaving the United States. The plan discussed the strategies by which Customs hopes to achieve its goals. The strategic plan discussed, in very general terms, how it related to annual performance plans. The plan discussed some key factors, external to Customs and beyond its control, that could significantly affect achievement of the strategic goals, such as the level of cooperation of other countries in reducing the supply of narcotics. Customs' strategic plan also contained a listing of program evaluations used to prepare the plan and provided a schedule of evaluations to be conducted in each of the functional areas.

In addition to the required elements, Customs' plan discussed the management challenges it was facing in carrying out its core functions, including information and technology, finance, and human resources management. However, the plan did not adequately recognize Customs' need to improve

- financial management and internal control systems,
- controls over seized assets,
- plans to alleviate Year 2000 problems,¹⁶ and
- plans to improve computer security.¹⁷

We reported that these weaknesses could affect the reliability of Customs' performance data.

¹⁶ Customs has established effective Year 2000 program management controls, including structures and processes for Year 2000 testing, contingency planning, and Year 2000 status reporting. See Year 2000 Computing Crisis: Customs Has Established Effective Year 2000 Program Controls (GAO/AIMD-99-37, Mar. 29, 1999).

¹⁷ See Customs Service: Comments on Strategic Plan and Resource Allocation Process (GAO/T-GGD-98-15, Oct. 16, 1997) and Results Act: Observations on Treasury's Fiscal Year 1999 Annual Performance Plan (GAO/GGD-98-149, June 30, 1998).

Further, our initial review of Customs' fiscal year 2000 performance plan showed that it is substantially unchanged in format from the one presented for 1999. Although the plan is a very useful document for decisionmakers, it still does not recognize Customs' need to improve its internal control systems, control over seized assets, or plans to improve computer security.

Resource Allocation

Regarding Customs' resource allocation process, in April 1998 we reported on selected aspects of the Customs Service's process for determining its need for inspectional personnel—such as inspectors and canine enforcement officers—for its commercial cargo or land and sea passengers at all of its 301 ports.¹⁸

Customs officials were not aware of any formal agencywide efforts prior to 1995 to determine the need for additional cargo or passenger inspectional personnel for its 301 ports. However, in preparation for its fiscal year 1997 budget request and a new drug enforcement operation called Hard Line,¹⁹ Customs conducted a formal needs assessment. The needs assessment considered (1) fully staffing all inspectional booths and (2) balancing enforcement efforts with the need to move complying cargo and passengers quickly through the ports. Customs conducted two subsequent assessments for fiscal years 1998 and 1999. These assessments considered the number and location of drug seizures and the perceived threat of drug smuggling, including the use of rail cars to smuggle drugs. However, all these assessments were

- focused exclusively on the need for additional personnel to implement Hard Line and similar initiatives,
- limited to land ports along the southwest border and certain sea and air ports considered to be at risk from drug smuggling,
- conducted each year using generally different assessment factors, and
- conducted with varying degrees of involvement by Customs' headquarters and field units.

We concluded that these limitations could prevent Customs from accurately estimating the need for inspectional personnel and then

¹⁸ Customs Service: *Process for Estimating and Allocating Inspectional Personnel* (GAO/GGD-98-107, Apr. 30, 1998); Customs Service: *Inspectional Personnel and Workloads* (GAO/GGD-98-170, Aug. 14, 1998); and Customs Service: *Inspectional Personnel and Workloads* (GAO/T-GGD-98-195, Aug. 14, 1998).

¹⁹ Operation Hard Line was Customs' effort to address border violence and drug smuggling through intensified inspections, improved facilities, and advances in technology.

allocating them to ports. We further concluded that, for Customs to implement the Results Act successfully, it had to determine its needs for inspectional personnel for all of its operations and ensure that available personnel are allocated where they are needed most.

We recommended that Customs establish an inspectional personnel needs assessment and allocation process, and it is in the process of responding to that April 1998 recommendation. Customs awarded a contract for the development of a resource allocation model. Customs officials told us that the model was delivered in March 1999 and that they are in the early stages of deciding how to use the model and implement a formal needs assessment system.

Proposed Automated Systems User Fee

Customs plans to spend more than \$1 billion over the next few years to modernize its systems environment for certain core missions, including facilitating international trade, enforcing laws governing the flow of goods across the borders, and assessing and collecting about \$22 billion annually on imported merchandise. To pay for the development and implementation of new automated systems, the President's budget for fiscal year 2000 proposes a Customs automation systems access fee to be charged to nongovernment organizations using the system—generally, importers or their brokers. As currently proposed by the administration, the fee will amount to \$1.80 per 1,000 bytes of information processed by Customs for commercial users and should generate an estimated \$163 million in revenue per year. Collection of this fee is tentatively scheduled to start in fiscal year 2000 and to continue for at least the following 4 or 5 years.

You asked us to discuss the basis for the \$163 million estimate. According to Treasury officials, the estimate is based on the following three assumptions:

- Customs will develop and implement the Automated Commercial Environment (ACE) over a 4-year period (from fiscal year 2001 to fiscal year 2004) at a total cost of over \$1 billion.²⁰
- Treasury will develop and implement its new International Trade Data System (ITDS) over the same period at a cost of about \$256 million.
- The federal government and the trade community will share the cost of these systems. Therefore, the \$325 million annual cost (\$1.3 billion / 4 years, the period to develop and implement the two systems) would be split—\$162.5 million each.

²⁰ In 1997, Customs developed a \$1.05 billion estimate to develop, operate, and maintain ACE over the 15-year period from 1994 to 2008, and it is still Customs' current official life cycle cost estimate.

In addition to the \$163 million generated by the user fee, additional funds would be needed from other sources, including direct appropriations, in each of the four fiscal years beginning in 2001. OMB and Treasury officials told us that additional appropriated funds already in the budget base will be directed to the development and implementation of the systems. These officials also said that current estimates are preliminary and are likely to change when a contract to develop the systems is awarded.

Customs projected that it will process about 90.5 billion bytes of data annually for commercial users of its system. Dividing the \$163 million annual cost proposed to be borne by the trade community by the expected volume yields a charge of \$1.80 per 1,000 bytes of information.

Mr. Chairman, this completes my statement. I would be pleased to answer any questions.

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