

GAO

Report to the Chairman, Committee On
Finance, U.S. Senate

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CUSTOMS SERVICE AND INS

Dual Management Structure for Border Inspections Should Be Ended



General Government Division

B-251101

June 30, 1993

The Honorable Daniel P. Moynihan
Chairman, Committee on Finance
United States Senate

Dear Mr. Chairman:

This report responds to the November 12, 1992, request from former Chairman Lloyd Bentsen that we review coordination between the two key agencies responsible for U.S. border crossing operations—the Customs Service and the Immigration and Naturalization Service (INS). Specifically, we were asked to

- examine the role of Customs and INS at border crossing points, with a particular focus on the southwestern border of the United States and assess the degree to which the responsibilities of these agencies overlap and
- evaluate current coordination efforts and alternatives for improvements, including a possible merger of the inspection functions of the agencies at border ports of entry.

In analyzing these long-standing issues, which have taken on increased significance with the impending congressional deliberations on the North American Free Trade Agreement (NAFTA), we first reviewed the various studies conducted over the past 2 decades by executive and congressional branch organizations, including ours. Then, we did interviews and other work at Customs and INS headquarters and at selected district and port-of-entry locations. Our fieldwork concentrated on the processing of vehicular and passenger cross-border traffic, which is the primary inspection activity involving overlapping responsibility and the need for coordination between Customs and INS. Also, in cooperation with the National Academy of Public Administration (NAPA), we convened a panel of distinguished current and former public officials to discuss options for improving border inspections. We did our work from November 1992 through January 1993 in accordance with generally accepted government auditing standards. Appendix I provides further details about the scope and methodology of our work.

Results in Brief

Customs and INS have a long history of interagency rivalry coupled with ineffective cooperation and coordination pertaining to border crossing operations. These problems still exist today, even though the agencies

share responsibility for primary inspections at land border ports of entry. On the basis of our work at Customs and INS headquarters and at selected field locations, it appears that these unproductive conditions are deeply ingrained in the management cultures of these agencies.

Cooperation agreements that top Customs and INS officials signed during the 1977-79 time period generally have not been adhered to or updated. For example, Customs inspectors have not received training on changes in immigration law, and the agencies have not jointly studied the effectiveness of primary inspectors.

On the basis of historical evidence as well as our current review of Customs' and INS' operations, we believe that the coordination problems at the land border crossings will not be resolved until the current dual management structure is ended. Two basic options exist for policymakers. One is to focus specifically on the land border ports of entry by placing responsibility for primary inspections with one agency. The second is to use the opportunity provided by NAFTA to consider the broader issue of the U.S. government's ability to provide effective immigration and customs services in the future. Our panel of current and former officials experienced with customs and immigration issues reached consensus that a single independent agency that would combine the functions of Customs and INS presented the most viable option for preparing the government to meet the broader challenges posed by changing international business competition and increasing international migration flows.

The new administration is confronted with a policy decision about how to establish responsibilities and accountability for border inspections. This decision will need to be followed by management efforts to ensure that inspection functions are being conducted effectively.

Border Inspections Have a Long History of Coordination Concerns

The Customs Service and INS are the principal U.S. agencies providing inspection and clearance at U.S. border crossings, with Customs being primarily responsible for the entry of goods and merchandise and INS having the basic mission of handling the entry of persons. Since the late 1970s, both agencies have "cross-designated" each other's inspectors to conduct primary inspections at land border ports of entry. That is, the initial or primary inspection booth at each border entry lane is staffed by one inspector, from either Customs or INS, who conducts the primary

inspection for both agencies.¹ Regardless of which of the two agencies' inspectors perform the primary screening, the first issue to be resolved generally is the immigration issue—the admissibility of the individual into the United States.

Since 1930, numerous studies or proposals have focused on ways to improve customs and immigrations operations along the U.S. borders. The Congressional Research Service has compiled a summary of these studies,² at least seven of which occurred during the 1973-88 time frame alone. Generally, these studies report that border control deficiencies result from common problems, including interagency rivalry and a lack of coordination and cooperation.

Border inspections have long been an integral component of U.S. efforts to stem the influx of illicit drugs and illegal aliens into this country. Although it is unlikely that such influxes will be eliminated, border control agencies perform important deterrent and interdiction roles.

At the same time, however, Customs and INS face persistent pressures to meet their enforcement responsibilities while minimizing disruptions to passenger and commercial traffic. Such pressures are prevalent, particularly along land borders. In fiscal year 1991, for example, approximately 420 million people—or 88 percent of all applicants—applied for admission to the United States at land border ports of entry. NAFTA is expected to increase the volume of cross-border traffic and, in turn, the workloads of Customs and INS.³

Coordination Problems Persist Despite Interagency Agreements

Since 1977, cooperation between INS and Customs in staffing and operating the primary lanes at southwestern border ports of entry has been governed by a series of interagency agreements providing for the cross-designation of Customs and INS inspectors. However, these agreements generally have not been adhered to or updated to reflect changing conditions. Interagency

¹The primary inspector must make a “release or refer” decision, that is, whether to release travelers into the United States or to refer them for a more detailed examination by either Customs or INS inspectors, who separately staff “secondary inspection” areas located near the primary entry lanes.

²See *Border Management Reorganization and Drug Interdiction*, prepared for the Senate Committee on Governmental Affairs by the Congressional Research Service, Senate Print 100-111 (Washington, D.C.: 1988).

³NAFTA is expected to stimulate trade by reducing tariff and nontariff barriers but will not lessen the role of inspectors in enforcing rules of origin and other trade laws and regulations or addressing immigration issues.

rivalry persists, resulting in operational inefficiencies and diminished mission performance.

Interagency Agreements Set the Terms for Cooperation

In 1977, to help ensure that Customs and INS inspectors were capable of performing primary inspection duties for both agencies at ports of entry, the commissioners of Customs and INS signed a cross-training agreement. Under this agreement, Customs and INS committed to make cross-designation training a top priority.

In 1978, the first joint regional agreement between the two agencies took effect. This agreement, which focused on the southwestern border, was signed by the Customs and INS regional commissioners and recognized the necessity of close cooperation and coordination at the regional, district, and port level.⁴ Among other things, the agreement required the agencies to develop standards for the maximum amount of traffic backup tolerable before opening additional primary lanes.

In 1979, the Customs and INS commissioners signed another agreement to further enhance primary inspection training and staffing cooperation along the U.S.-Mexican border.⁵ Under the terms of this agreement, the agencies were to periodically reinforce or update the training of cross-designated inspectors, strive to achieve a 50-50 commitment for staffing primary inspection lanes at applicable southern border locations, and monitor the performance of cross-designated inspectors by periodically conducting joint studies to determine the results of referrals from primary to secondary inspections.

Throughout our review, both Customs and INS managers and inspectors emphasized to us that primary inspections are critical in preventing the entry of illegal aliens, drugs, and contraband into the United States. In this regard, primary inspectors need sufficient training and experience to identify and refer entrants to secondary inspection areas for further questioning and/or searches.

Updated Cross-Designation Training Not Provided

After their initial training, Customs and INS inspectors do not receive periodic updates of cross-designation training. In the field locations we visited, Customs and INS officials gave us conflicting reasons for the

⁴The Regional Commissioner, U.S. Animal and Plant Health Service, was also a signatory to the 1978 agreement.

⁵The Administrator, U.S. Animal and Plant Health Inspection Service, also signed the 1979 agreement.

absence of such training. For example, INS officials in El Paso, Texas, told us that they offered to provide Customs inspectors with training on entry documentation and other significant changes resulting from the Immigration Act of 1990. Yet, El Paso Customs officials told us that INS has never offered and that Customs inspectors have not received such training.⁶

No Joint Studies of Performance Effectiveness Conducted

Contrary to the 1979 agreement, Customs and INS officials have not monitored the performance of cross-designated inspectors by jointly studying the results of referrals from primary to secondary inspections. Generally, Customs and INS officials at the locations we visited believed that their respective inspectors do a good job of enforcing laws and regulations related to each agency's principal mission. However, each agency's officials questioned the effectiveness of the other agency's inspectors in performing cross-designated responsibilities.

For example, INS officials in El Paso provided statistics for the June through August 1992 time frame showing that INS primary lane inspectors were responsible for 90 percent—and Customs inspectors only 10 percent—of all secondary referrals in the district during the period that subsequently resulted in the identification and processing of excludable aliens, such as persons with falsified documents.⁷ Also, Customs and INS officials in El Paso separately presented us with their respective versions of drug-seizure statistics for fiscal year 1992, with each agency claiming that its primary inspectors were more successful than those of the other agency in making referrals for secondary inspections that resulted in drug seizures.

We also observed that Customs does not have a performance appraisal system that encompasses the full range of cross-designated duties. Customs guidance specifies that ratings for the agency's inspectors will not consider the results of referrals by Customs inspectors to INS inspectors for secondary inspections.

⁶In commenting on a draft of this report, INS said that the acting commissioners of INS and Customs have agreed to training Customs inspectors in changes resulting from the Immigration Act of 1990.

⁷We did not verify the accuracy of these statistics.

No Coordinated Approach for Addressing Staffing Imbalances and Traffic Backups

The Customs/INS agreement to strive for equal staffing of primary inspection lanes has not been updated since 1979, even though staffing imbalances have grown in the two agencies' southwestern border inspection efforts. In 1987, for example, Customs had a total of 1,039 inspectors on board at southwestern border ports of entry, whereas INS was authorized only 640. By 1992, the southwestern border staffing imbalance became more pronounced, with Customs authorized a total of 1,603 inspectors and INS a total of 949.⁸ Further, Customs received general appropriation authority to hire an additional 300 inspectors for the southwestern border in fiscal year 1993. In contrast, discussions with Office of Management and Budget (OMB) officials and congressional staff indicated little prospect for additional appropriations to increase INS inspector staffing.

The staffing imbalances, coupled with increases in cross-border traffic, have caused some operating inefficiencies. For instance, in April 1992 we testified before the Senate Finance Committee that INS' staffing shortages, in effect, had resulted in a ceiling on the number of primary inspection lanes open at some southwestern border crossings because Customs—while complying with the 50/50 staffing commitment—would open only as many lanes as INS.⁹ Notwithstanding these conditions, no efforts were made by INS and Customs port directors to reach an agreement on the maximum amount of traffic backup to be allowed before opening additional lanes as called for by the 1978 agreement.

More recently, both Customs and INS took actions to ease the flow of traffic at certain border crossings. However, these were unilateral actions that proceeded without consultation or coordination. In October 1992, INS initiated a 1-day test of opening additional entry lanes at San Ysidro, California. Specifically, by using overtime funds, INS assured the availability of a sufficient number of inspectors to enable the operation of 19 primary lanes, which was an increase beyond the 12 to 16 lanes normally open under the 50/50 staffing agreement. INS officials deemed the test a success in that traffic at the border crossing moved smoothly all day. In contrast to INS' assertions that proper coordination was being made, the Customs District Director in San Diego told us that he was not formally notified of the test beforehand. This official further told us that the unilateral action by INS adversely affected narcotics seizures during the

⁸INS' authorized staffing of 949 for fiscal year 1992 includes 683 permanent full-time inspectors and 266 temporary and/or part-time inspectors.

⁹U.S. Customs Service: Concerns About Coordination and Inspection Staffing on the Southwest Border (GAO/T-GGD-92-29, Apr. 8, 1992).

1-day test because the INS inspectors were concerned solely with moving traffic as quickly as possible.

In November 1992, about 3 weeks after INS' San Ysidro test, Customs announced and simultaneously implemented a new staffing augmentation plan, whereby the agency unilaterally began opening and staffing additional lanes at southwestern border ports of entry during peak traffic periods. INS officials told us that Customs acted in response to our ongoing study and to the success of the San Ysidro test and that Customs' action lacked interagency coordination. INS' El Paso District Director told us that he learned about the plan in the local newspaper the day after its implementation. In commenting on a draft of this report, Customs officials said their staffing augmentation plan had been under consideration for quite some time before INS' San Ysidro test.

Interagency Rivalry Is Substantial

On the basis of our observations, it is clear that substantial interagency friction exists at the headquarters level and that attitudes at the top affect field relations between Customs and INS. And drug interdiction seems to be the area in which the most counterproductive rivalry exists. For example, a special operation conducted in September 1992 involved INS' use of canine teams to help interdict illegal aliens and drugs at the Laredo, Texas, port of entry. According to INS officials, Customs headquarters instructed its Laredo office to minimize opportunities for the INS special operation to make drug seizures—which the local Customs inspectors accomplished by running their own dog teams at the time of INS' efforts. Customs officials told us that the use of drug-sniffing dogs is the sole prerogative of Customs, which has been designated the lead agency for drug interdiction at ports of entry.

Issues surrounding the use of the Treasury Enforcement Communications System (TECS), which is the principal automation enforcement tool available to inspectors, offer other examples of how poor headquarters coordination can diminish field operations.¹⁰ In Laredo and El Paso, Customs supervisors—who have no authority to correct or discipline any other agency's personnel—told us that INS inspectors do not always input license plate numbers or even activate the TECS terminals. Not activating TECS terminals or inputting license plate numbers could compromise the enforcement mission. Further, any nonuse of TECS would negate the utility of the system's random referral feature, which automatically selects a

¹⁰Each primary lane inspection booth is equipped with a TECS computer terminal, which the inspectors should use to input the license plate numbers of vehicles to determine if the owners or the vehicles have been involved in any criminal activity being investigated by federal agencies.

certain percentage of all vehicular traffic for the more intensive, secondary screening.

Customs views randomly generated inspections as important for safeguarding against breaches in inspector integrity. The results from these inspections could also be used to develop estimates of smuggling activity at ports and revise local threat assessments. INS officials told us that Customs officials have never raised the issue of nonuse of TECS by INS inspectors. Further, INS officials told us they had not been able to work with Customs in exploring the potential for using the results of randomly generated inspections for developing estimates of violations at the ports.

Dual Management Structure Weakens Operational Accountability

There is broad recognition within the public and private sectors that the dual management structure at ports of entry is not desirable. Among other disadvantages, the dual structure impedes accountability for operations, leads to separate planning and performance monitoring, and is costly.

Accountability for operations suffers under the dual management structure. For example, each port has both a Customs and an INS director who report through their respective organizational channels. At the key ports of El Paso and Laredo, Texas, and San Ysidro, California, Customs and INS inspectors and their first-line supervisors do not begin their day-to-day entry lane work shifts with joint briefings for sharing intelligence and other operational concerns. Both Customs and INS officials told us that enforcement efforts suffer under the dual management structure because no one is in charge of overall port operations.

The dual management structure, combined with poor coordination between the agencies, results in each agency formulating its own long-range plans for land border inspections. These planning efforts perpetuate the potential for interagency conflict. For example, INS is contemplating a strategy for assuming responsibility for all primary inspections at land ports of entry. The strategy also calls for expanding INS' canine program.

The dual management approach also leads to separate performance measurement efforts. An INS headquarters official said there is a continuing issue concerning the adequacy of performance data—both between the agencies and within INS. Both agencies are trying to develop a more coordinated set of statistics to cover border operations. But at the

time of our review, Customs was focused on performance data regarding drug seizures, while INS was concerned principally with referrals for possible immigration law violations. Customs officials confirmed that they focus on the performances of their inspectors in detecting illegal narcotics. The officials said they do not monitor the effectiveness of their inspectors in referring possible immigration violations to INS. They also said they could not recall INS officials making an issue of the performance of Customs inspectors in referring possible immigration law violations.

Dual operations also lead to unnecessary costs. Prior studies of border operations have estimated that savings would accrue from consolidated operations. Customs, INS, and General Services Administration officials responsible for the construction of facilities at ports of entry all agree that unnecessary costs are incurred under current operating conditions.

Preparing for the Challenges of the Future

The operational problems along the southwestern border are real, have persisted for many years, and are deeply rooted in the culture of the two agencies. It was with these problems in mind that, in cooperation with NAPA, we convened a panel of current and former public officials familiar and experienced with customs and immigration activities. The purpose of the panel was to explore whether the problems were worth fixing and, if so, what solution would be best. The panelists viewed operations problems at the land border ports as symptomatic of broader concerns about how well the United States is prepared to provide immigration and customs services in a modern world characterized by increased business competitiveness and growing migration.

The panel members did not believe the current dual management structure between INS and Customs was adequate to handle the customs and immigrations service demands that will likely confront the government in the next 10 to 30 years. Their view of the modern world was one of increasing international trade and business competition in which the movement of goods, services, and people would be inextricably linked. Panelists noted the accompanying trend of increased international migration, with the United States experiencing the highest immigration growth in its history. They viewed NAFTA as presenting an opportunity to think about the future and how well prepared the government was to deal with the issues surrounding the movement of people and goods within an expanded trading bloc. And they saw that management benefits could be gained by vesting responsibility with one agency. These benefits would include (1) an improved capability to think strategically about related

immigration and customs issues and (2) clearer accountability for border operations by having one spokesperson within the government for issues surrounding the movement of people, goods, and services into the United States.

The panelists' views regarding the inability of the current organizational structure to meet the demands of the future are also raised in other recent studies. A 1990 report of the Commission for the Study of International Migration and Cooperative Economic Development¹¹ stated that the U.S. government is poorly organized to formulate coordinated policies to address 2 decades of unprecedented global migration—much of it unauthorized—from developing to developed countries. The report also stated that reorganization of the current structure within the executive branch is urgently needed to better manage migration issues. The report recognized the government's need to address the current division of responsibilities for the inspection of persons entering the United States.

In 1988, an interagency task force sought to identify the demographic, economic, and social trends that would affect the federal government's ability to deliver services during the 1990s.¹² One area the task force focused on was border management. The task force anticipated that INS and Customs would confront continuing demands to meet their enforcement missions while minimizing passenger processing delays in the face of rising international business and leisure travel and budget constraints. The task force recognized the benefits of greater integration of the inspection efforts of INS and Customs and foresaw that increasing reliance on automated information systems would diminish the justification for maintaining separate inspection staffs.

A more integrated approach to better managing the flow of people and goods into the United States offers the potential for greater service to the American public. The challenge facing policymakers in the executive and legislative branches is to develop the necessary consensus around a strategy for achieving the necessary integration.

¹¹Unauthorized Migration: An Economic Development Response, July 1990. This bipartisan commission was created by Congress in the Immigration Reform and Control Act of 1986.

¹²Meeting Public Demands: Federal Services in the Year 2000, prepared at the request of OMB's Director and Deputy Director for the President's Council on Management Improvement (Washington, D.C.: 1988).

Analysis of Organizational Options

Over the past 20 years, numerous study groups have recommended actions to correct common findings of fragmented border control programs and interagency rivalries, conflicts, and jurisdictional disputes (see table 1).

Table 1: Overview of Past Studies Recommending Unified Management Structure for Ports of Entry

Year	Study proponent and synopsis	Recommended placement of lead inspection unit		
		Justice	Treasury	Not specified
1973	Executive Office - President Nixon's Reorganization Plan #2 proposed to consolidate port-of-entry inspections by transferring personnel, jurisdiction, and authority from INS to Customs.		X	
1973	General Accounting Office - GAO recommended single-agency management of port-of-entry inspections and supported the enactment of President Nixon's Reorganization Plan #2.		X	
1974	Office of Management and Budget - OMB advocated a single-agency management strategy for the U.S.-Mexico border, with Customs having management responsibility for primary inspections, port security, and administration.		X	
1977	Office of Drug Abuse Policy - The office recommended creating a multipurpose border management agency by consolidating INS and Customs into a new agency. This proposal was later incorporated into President Carter's 1977 Reorganization Project.			X
1983	President's Private Sector Survey on Cost Control - The Grace Commission recommended placing all responsibility for primary inspection functions currently performed at ports of entry into a single agency.			X
1988	Congress - Senate Bill 2205 and House Bill 4230 proposed establishing an Office of Border Management Affairs which would have consolidated Customs and the Coast Guard within the Treasury Department. Senate Bill 2230 would have consolidated Customs, the Coast Guard, and INS, also within the Treasury Department.		X	
1988	General Accounting Office - GAO reiterated its position on border control management consistent with the findings of the Grace Commission; that is, all responsibility for primary inspection functions currently performed at ports of entry should be placed into one agency.			X

Source: GAO and Congressional Research Service data.

However, the Congressional Research Service found that no broad scale reorganization has ever been approved by Congress because of opposition from agencies and departments that would lose jurisdiction, from congressional committees that would be similarly affected, and from agency personnel and private sector organizations whose interests would be adversely affected.

Throughout our review, we met with current and former Customs and INS officials, congressional committee staff, OMB staff, union representatives, and affected interest groups to discuss the operational problems at the land border ports and to get their views on how to improve operations. On the basis of these views and our other audit work, we identified the following three options for improving operations:

- Improve coordination within the existing framework of joint staffing of the primary lanes at ports of entry.
- Establish one agency as the lead for primary inspections.
- Create a border management agency by merging the INS border patrol and inspection functions with the Customs Service.

We, along with the NAPA panel (see table I.1), considered each of these options. The panel rejected the first option because of long-standing evidence that coordination between the agencies has not been effective. The panelists noted that past commissioners had found efforts to improve coordination required a disproportionate amount of time and effort and detracted from the ability to deal with other challenges.

The second option—vesting responsibility for primary lane inspections with one agency—has been recommended by a number of prior study groups, including us. It also is supported by Customs, INS, and some special interest groups. Under this option, the problems in coordinating the staffing of the primary lanes would be eliminated because one agency would be accountable for the enforcement operations and traffic flows at the ports. Requests for resources would also be considered through one department, one OMB budget examination branch, and one set of congressional appropriations subcommittees—an improvement over the current situation in which Customs and INS budget requests are considered separately.

However, this option has its weaknesses. Although giving one agency sole responsibility for primary inspections has been recommended in the past, policymakers have not acted on the recommendation. The panelists felt that because both Customs and INS wanted to have the primary lane responsibility, strong opposition would come from the agency that would be consigned to doing secondary inspections. The panelists expressed doubts that policymakers would devote the time and energy required to sell and implement an option that essentially resolved a long-standing jurisdictional dispute. Further, the panelists were opposed to an option that attempted to fix the problems at the ports of entry without

consideration of the potential impact on overall mission operations. For example, they were concerned about the potential adverse impact a loss of primary inspection responsibility might have on the overall INS effort to enforce immigration laws. At best, the panelists viewed this option as an interim measure rather than as a long-term solution.

Should this option be pursued, policymakers will be faced with deciding between agencies whose inspection activities are inextricably linked. Customs has an advantage in terms of inspector resources, because of favorable congressional support. Also, the inspection function is a central component of Customs' workforce, and Customs has experience in enforcing numerous laws for other federal agencies. Customs also has jurisdiction for narcotics interdiction at ports of entry. In contrast, INS inspectors are a much less prominent part of INS' overall workforce, and INS has limited staffing at the border crossings. However, by virtue of their training and INS' jurisdiction, INS inspectors can be expected to devote greater emphasis to enforcing immigration laws. Further, because INS' border patrol is responsible for enforcement activities between ports, giving INS the lead at the ports would make one agency accountable for implementing a coordinated land border management policy.

The panelists rejected the third option—creating a border management agency—because it did not give adequate consideration to the relationships among the various functions that support INS' missions. The panelists were concerned about the prospect of breaking up INS, both complicating efforts to develop a coherent policy for addressing world migration pressures and potentially demoralizing that agency. They also noted that this proposal had been made before without leading to any action.

Having rejected the three options, the panelists reached consensus for an independent immigration and customs agency. The creation of such an agency was seen as affording an opportunity to develop a more strategic and integrated vision within the government for addressing the problems of facilitating the entry and assimilation of people, services, and goods into the country in compliance with applicable immigration and customs laws. The panelists saw an integrated organization as being a prerequisite for doing the mission planning necessary to get the most benefit from evolving information systems technology, which they saw as leading inevitably to consolidated inspection functions.

The panelists recognized that such an agency would not be a panacea for all of the management problems that both INS and Customs have experienced. However, they thought such an agency would provide the organizational framework to make progress. They suggested an independent agency because they thought independence would clearly establish accountability and lead to a more vigorous focus on defining the agency mission and developing the administrative systems required to accomplish mission objectives. Such an independent agency would also reduce the political problems associated with choosing one department over another as the parent for the proposed agency.

Ultimately, the decision to establish an immigration and customs agency as either a component of the departments of the Treasury or Justice or as an independent agency would depend on whether consensus can be reached among policymakers within the executive branch and Congress. The panelists believed the consideration of NAFTA was an opportune time for the new administration to think about how best to organize immigration and customs matters for the future. In the view of the panelists, a study of these issues, led by OMB with Treasury and Justice participation, is needed to develop a specific proposal for congressional consideration. The panelists, drawing upon their broad management and reorganization experiences, felt such a study should consider issues well beyond those of the management of inspection functions along the southwestern border and encompass broader issues raised in prior studies of INS and Customs conducted by us, various commissions, and others.

Both agencies are responsible for numerous activities beyond the land border inspections, which were the focus of our study. For example, INS also is responsible for

- granting benefits, including providing assistance to applicants seeking permanent residence status or naturalization;
- preventing employment of or benefits to persons not entitled to such; and
- apprehending or removing those aliens who enter or remain illegally in the United States and/or whose stay is not in the public interest.

The Customs Service also has numerous other responsibilities, including the examination of imported cargo and related paperwork to ensure compliance with federal laws governing international trade and to ensure that appropriate duties, taxes, and fees are collected. Customs also enforces certain provisions of the export control laws of the United States. Further, beyond the efforts of Customs inspectors to interdict narcotics

and other contraband at ports of entry, Customs also employs special agents to investigate allegations of smuggling and commercial fraud.

The panelists recognized the crucial need for a congressional role in ensuring that the government is adequately prepared to meet the challenges posed by the changing business and migration environment. They saw the need for a congressional assessment of how well positioned the executive branch was to think about how to best meet the long-term challenges of an increasingly global economy and migration pressures.

If Congress were to approve an immigration and customs agency, the panelists thought Congress should take two steps that would contribute to the chances that the agency would be successful. First, they believed that it was important for the agency to be subject to just one set of appropriations subcommittees. Second, they believed that Congress should give the president some flexibility to make adjustments to the initial structure resulting from the reorganization. Citing the formation of the National Aeronautics and Space Administration, the panelists said that appropriate flexibility could be achieved by empowering the president to make organizational changes through use of executive orders.

Conclusions

Current coordination of border inspection functions is not effective. INS and Customs pursue different approaches to enforcing applicable laws and facilitating the flow of people and vehicles, leaving unanswered questions about the overall effectiveness of enforcement and facilitation efforts.

It is clear that the dual management structure for border inspections is not viable and should end. Two basic options exist for policymakers. One is to focus specifically on the land border ports of entry by placing responsibility for primary inspections with one agency. The second is to use the opportunity provided by the consideration of NAFTA to consider the broader issue of the U.S. government's ability to provide effective immigration and customs services in the future. The NAPA panel that we convened of current and former officials experienced with customs and immigration issues reached consensus that a single independent agency that would merge the functions of Customs and INS presented the most viable option. Such an agency would prepare the government to meet the challenges posed by changing international business competition and increasing international migration flows.

The new administration needs to make a policy decision, in consultation with Congress, about where to place accountability for border inspections. This decision must be followed by management efforts to ensure that those responsibilities are being administered effectively.

Recommendation

We recommend that the Director of OMB, working with the Secretary of the Treasury and the Attorney General, develop and present to Congress a proposal for ending the dual management of border inspections.

Agency Comments

In formal comments to a draft of this report, the departments of Justice and the Treasury and OMB acknowledged that problems have existed for some time in coordinating the inspection efforts of INS and Customs. Justice and Treasury indicated a preference for attempting to resolve these problems through efforts at improved coordination before contemplating any major reorganization. OMB pledged to work with the two departments to further examine our conclusions and to assess potential remedies.

The start of a new administration offers an opportunity to resolve long-standing problems between INS and Customs. And improving coordination between the two agencies is an attractive way to proceed because it represents the least intrusive approach and essentially avoids the more difficult choices surrounding bringing the current dual management structure to an end. Clearly, updating the agreements between the two agencies, including clarifying the government's program objectives for land border inspections and reaching consensus on how to measure performance toward those objectives, could be important steps for improving border management. But it should also be remembered that attempts to improve interagency coordination have repeatedly proved unsuccessful in the past. It seems unlikely that another attempt would improve accountability for border inspections.

We also solicited and received comments from Customs, INS, and their respective employees' unions—the American Federation of Government Employees (AFGE) and the National Treasury Employees Union (NTEU). These four parties agreed that further deliberations are necessary to develop a viable proposal for resolving coordination problems between INS and Customs, although they offer different perspectives on the appropriate scope of such a study. Customs, NTEU, and AFGE explicitly supported the option of vesting lead responsibility for border inspections with one agency. Customs and NTEU favored Customs as the lead agency, while AFGE

makes the case for INS. INS, citing a willingness within the new administration to undertake cooperative approaches, suggested that improved management and supervision efforts could address coordination problems.

Customs, NTEU, and AFGE explicitly opposed the option of consolidating Customs and INS into a single independent agency, while INS said it did not yet accept the premise that coordination problems at land ports of entry are systemic and warrant such a major reorganization. INS and AFGE expressed concern that this proposal far exceeded our congressional request to look at inspections along the southwestern border. Further, INS and AFGE were concerned that our limited field visits provided an insufficient basis for presenting the broad options discussed in the report.

Our findings regarding persistent coordination problems do not rest on our field visits alone. They are also supported by interviews with headquarters officials from the two agencies and our review of agency documents. Further, our discussion of options arises from our review of numerous prior studies and our discussions with congressional committee staff, OMB officials, some affected special interest groups, and the NAPA panel of former and current public officials with knowledge of or experience with immigration and customs issues.

The persistence of coordination problems between the two agencies is not in dispute, and we recognize that there are various ways to approach solving these problems. With that in mind, our discussion of options is intended to provide executive branch and congressional policymakers with a framework to resolve the conflict between the two agencies. Also, we understand that resolving the conflict cannot be done without considering issues beyond those discussed in this report. For example, we acknowledge that the NAPA panel's option of creating an independent customs and immigration agency transcends the scope of our study and would require additional consideration. We agree with INS and AFGE that any reorganization proposal should consider other aspects of INS and Customs operations such as seaports and airports. In fact, concern for better integrating the various components of INS and Customs operations was an important factor in the panelists' decision to support a consolidated agency.

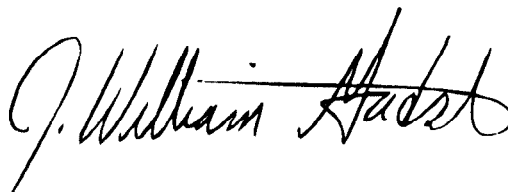
The problem of INS and Customs coordination along the southwestern border is well documented. All past studies indicate that a lasting solution to inspection coordination problems at land border crossings will not be

reached until the current dual management structure is ended. The potential actions range from a rerun of previous attempts to improve coordination, which have failed in the past, to the more difficult approaches, which get at the heart of the problem—namely the dual management structure. We continue to believe that any serious attempt to improve border inspections must ultimately come to grips with ending the dual management structure.

We will send copies to the Secretary of the Treasury, the Attorney General, the Director of OMB, and other interested congressional committees. Copies will also be made available to others on request.

The major contributors to this report are listed in appendix IX. If you have any questions, please call me on (202) 512-8387.

Sincerely yours,



J. William Gadsby
Director, Government Business
Operations Issues

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Abbreviations

AFGE	American Federation of Government Employees
INS	Immigration and Naturalization Service
NAFTA	North American Free Trade Agreement
NAPA	National Academy of Public Administration
NTEU	National Treasury Employees Union
OMB	Office of Management and Budget
TECS	Treasury Enforcement and Communications System

Scope and Methodology

In reviewing Customs and INS coordination issues, we first identified and surveyed previous relevant studies, particularly those requested in the bibliography following appendix IX. We focused our field work on three locations—Laredo and El Paso, Texas, and San Diego, California—each of which has significant cross-border traffic. According to INS statistics, for example, Texas and California accounted for 52 percent (235.8 million) of total entries of persons into the United States in fiscal year 1990, with El Paso and San Diego admitting 42 million and 66 million, respectively.¹ Further, the Customs district in Laredo reportedly handles more U.S.-Mexico trade than the ports of New Mexico, Arizona, and southern California combined.² However, our direct observations about coordination problems in the field are limited to the locations visited and may not reflect circumstances in other locations.

In addition to interviewing senior executives at Customs and INS headquarters in Washington, D.C., we interviewed the agencies' district directors responsible for Laredo, El Paso, and San Diego. Also, we visited Laredo and El Paso to

- obtain an overview of applicable policies and procedures and to briefly observe primary and secondary screening by Customs and INS inspectors;
- conduct separate focus group discussions with each agency's inspectors; and
- interview local public officials and business leaders.

Further, at Customs and INS headquarters and the field locations visited, we obtained and reviewed copies of agency mission statements and inspector performance expectations, relevant Customs and INS cooperation agreements, and any available records or minutes of interagency coordination meetings held during fiscal years 1991 and 1992. Also, at the field locations, we inquired about current training records to determine if inspectors were receiving periodic updates of cross-designation training. In El Paso and Laredo, we also reviewed selected shift reports, which showed staffing patterns and inspection results for primary lane operations.

We also discussed the operational problems at the border ports with congressional committee staff, OMB officials, union representatives, and some affected special interest groups.

¹INS, 1990 Statistical Yearbook of the Immigration and Naturalization Service (Washington, D.C.: 1991), p. 180.

²Laredo is located strategically on the principal truck route for North American trade.

Poor coordination between INS and Customs at the border is an issue that has persisted despite the solutions proposed by numerous study groups. To develop the most viable proposal for solving this long-standing problem, we worked with the National Academy of Public Administration (NAPA) to convene a panel of former and current public officials (see tab. I.1) with knowledge of or experience with immigration and customs issues. The panel met on December 29, 1992. The results of the panel's deliberations are included in this report.

Table I.1: Membership of Panel for Discussing Options to Improve Management of Border Inspections
(Dec. 29, 1992)

Name	Position at time of panel	Prior position
Don Wortman (Panel chairman)	Consultant and NAPA Fellow	Vice President and Director of Federal Programs for the Academy
Alan Dean	Consultant and NAPA Fellow	Assistant Secretary for Administration, U.S. Department of Transportation
Frank Keating	General Counsel, U.S. Department of Housing and Urban Development	Assistant Secretary for Enforcement, U.S. Department of Treasury; Associate Attorney General, U.S. Department of Justice
Doris Meissner	Senior Associate, Immigration Policy Project, Carnegie Endowment for International Peace	Acting Commissioner, and Executive Associate Commissioner, INS; Deputy Associate Attorney General, U.S. Department of Justice
Gerald Riso	Special Advisor to the Secretary for Financial Management, U.S. Department of Housing and Urban Development	Deputy Commissioner, INS; Associate Director for Management, OMB
Robert Schaffer	Partner, DeAngelis and Schaffer	Assistant Commissioner, U.S. Customs Service

Source: Panel membership selected by GAO and NAPA.

Comments From the Office of Management and Budget



THE DIRECTOR

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

March 17, 1993

Mr. Johnny C. Finch
Assistant Comptroller General
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Finch:

In accordance with Section 236 of the Legislative Reorganization Act of 1970, this provides the Office of Management and Budget's preliminary comments on the draft GAO report on "Customs Service and INS: Dual Management Structure For Border Inspections Should Be Ended." This draft report describes some of the longstanding problems between the two agencies which hamper effective overall land border port management.

The Office of Management and Budget (OMB) is cognizant of some of these problems. Generally, we believe the agreements between Customs and INS for cross-designation and parallel staffing at crossing lanes are appropriate. However, because of the problems which are documented in the GAO draft report, we will want to assess further their effectiveness.

As suggested by the GAO draft report, OMB will work with the Departments of Justice and Treasury to examine further GAO's conclusions and to assess potential remedies.

Thank you for the opportunity to review this draft report.

Sincerely,



Leon E. Panetta
Director

Comments From the Department of the Treasury



DEPARTMENT OF THE TREASURY
WASHINGTON

MAR 22 1993

Mr. Johnny C. Finch
Assistant Comptroller General
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Finch:

Thank you for sending for our review a copy of your draft report, Customs Service and INS: Dual Management Structure For Border Inspections Should Be Ended. This report results from a request made by Secretary Lloyd Bentsen while serving as Chairman of the Senate Finance Committee that GAO review coordination between the Customs Service and the Immigration and Naturalization Service (INS), specifically on the southwest border.

The Secretary remains interested in this issue now that he is serving as Secretary of the Treasury. He hopes that in his new position he will be able to take more direct measures to improve coordination between the Customs Service and INS. We expect to work closely with the new Attorney General to improve the effectiveness of both Customs and INS in protecting our borders, and to ensure that both agencies use their resources wisely and without unnecessary duplication.

We are hopeful that this can be accomplished through the efforts of the new Administration to achieve better coordination, and through some realignment of responsibilities at the border. At this point we are not yet convinced that it is necessary either to merge INS Border Patrol and inspection functions into the Customs Service, or to consolidate Customs and INS into a new independent agency. These options, of course, are available should efforts at better coordination not meet expectations.

Again, we wish to thank you and your staff for your efforts and thoughtfulness in preparing this report.

Sincerely,

A handwritten signature in black ink, appearing to read "John P. Simpson".

John P. Simpson
Deputy Assistant Secretary
Regulatory, Tariff and Trade Enforcement

Comments From the Department of Justice



U.S. Department of Justice

Office of the Associate Attorney General

Washington, D.C. 20530

April 20, 1993

Mr. Johnny C. Finch
Assistant Comptroller General
General Government Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Finch:

The Department of Justice (DOJ) has reviewed the General Accounting Office (GAO) draft report, entitled "Customs Service and INS: Dual Management Structure for Border Inspections Should Be Ended," and appreciates the opportunity to respond.

The Department acknowledges that dual management at land Ports-of-Entry may present obstacles to effective operations. The DOJ pledges its full cooperation and support in the evaluation and improvement of these conditions. However, we believe that a reorganization, especially of the magnitude contemplated by GAO, will not remedy the situation, and will create a new set of management problems for the Executive Branch. The Immigration and Naturalization Service and U.S. Customs Service have recently initiated efforts to administratively address issues raised in the report. Those efforts should be allowed to prove themselves.

Senior management at DOJ is strongly committed to the effective enforcement of the Nation's laws and the efficient inspection of persons entering the United States; we will cooperate fully with the GAO, Office of Management and Budget, and the affected Departments to ensure that these occur.

Sincerely,

A handwritten signature in dark ink, appearing to read "Webster L. Hubbell".

Webster L. Hubbell
Acting Associate Attorney General

Comments From the U.S. Customs Service



THE COMMISSIONER OF CUSTOMS

WASHINGTON, D.C.

February 16, 1993

BOR-1-IC:P LJM

Mr. Johnny C. Finch
Assistant Comptroller General
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Finch:

I am pleased to respond to your January 29, 1993, letter to Secretary Bentsen regarding the draft General Accounting Office (GAO) report on border management. I have reviewed the report U.S. Customs Service and U.S. Immigration and Naturalization Service (INS): Dual Management Structure for Border Inspections Should be Ended, and I would like to offer the following comments and observations.

The Customs Service believes that the single GAO recommendation of ending dual administration, if acted upon, will result in a sound approach to future border management. Both the Customs Service and INS have dedicated professional staffs. Either agency, if given the opportunity, has the potential to eliminate the systemic rivalry, reduce duplicative costs, and implement a cohesive border plan. The question becomes "Which agency has the track record, diversity, and resources to best serve the administration's and the nation's needs?"

Any change in border management should first be considered in light of its impact on the administration's most important goal, an improved economy. When considering the economy and its relationship to our Federal services at the borders, the aspects of international movement of trade and international travel are foremost. This is particularly true as the North American Free Trade Agreement looms over the horizon.

The Customs Service, one of the oldest Federal agencies, has a history of maintaining the orderly flow of goods and persons into and out of our country. During our country's first 100 years, Customs managed all of America's trade affairs as well as all immigration matters. It protects the domestic economy and is second only to the Internal Revenue Service in generating revenue for the United States.

REPORT DRUG SMUGGLING TO UNITED STATES CUSTOMS SERVICE (5809) (A) (R)

- 2 -

Over the years, Customs has demonstrated that it can manage very diversified responsibilities, including trade matters, narcotics interdiction, and export control of strategic goods, raw materials and currency. In addition to these direct responsibilities, Customs is the surrogate agency representing numerous Federal agencies such as: the Animal and Plant Health Inspection Service, the Fish and Wildlife Service, the Food and Drug Administration, and others.

In order to complete a cohesive landborder Federal program, Customs would recommend that certain functions of INS be transferred to Customs to eliminate the problems identified by GAO. We recommend the first option mentioned in the GAO report (placing responsibility of primary inspections with one agency) with elaborations that would further enhance the probability of success for both agencies.

This proposal would transfer land border primary inspections, port management, and the Border Patrol to the U.S. Customs Service. Customs ownership and maintenance of significant automated systems coupled with these changes would result in a comprehensive border agency. Concurrently, these changes would assist INS, allowing it to concentrate on its most important matters of enforcing employer sanctions, employer education, finding and removing illegal aliens, and administering to refugee and naturalization matters.

The second option mentioned in the report regarding the merger of both agencies into an independent agency is not viable. The overwhelming task of dismantling two agencies with combined personnel in excess of 35,000 and starting anew with an independent agency is prohibitive. Without departmental guidance and cabinet representation, an independent agency is not, in our estimation, the path that will lead to improved border management, let alone improved government. Lastly, the cost for converting these agencies would be staggering in light of the cost reduction goals of this administration.

- 3 -

At this critical time in our country's economic recovery when there is a need for effective government service, Senate Finance Chairman (now Secretary) Bentsen's request for this study was well timed. I am looking forward to working with our Treasury Department, the Department of Justice, and the Office of Management and Budget in developing solutions. In the interest of the agencies concerned, their working relationships, and the general morale of the personnel, I believe it is imperative that decisions regarding these matters be made with minimum delay.

Sincerely,



Michael H. Lane
Acting Commissioner

Comments From the Immigration and Naturalization Service

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



U.S. Department of Justice
Immigration and Naturalization Service

Office of the Commissioner

425 Eye Street N.W.
Washington, D.C. 20536

MAR 29 1993

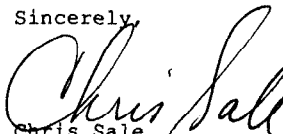
Mr. Johnny C. Finch
Assistant Comptroller General
General Government Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Finch:

The Immigration and Naturalization Service (INS) has reviewed the General Accounting Office draft report entitled "Customs Service and INS: Dual Management Structure for Border Inspections Should Be Ended," and submits the enclosed commentary and technical corrections to the report. The agency response will be made by the Attorney General.

We appreciate the opportunity to review the report and will cooperate in any study which undertakes to resolve the issues it raises. If you have any questions regarding the enclosure, please call Walt Wondolowski, INS Audit Liaison, on 616-7771.

Sincerely,


Chris Sale
Acting Commissioner

Enclosure

**Appendix VI
Comments From the Immigration and
Naturalization Service**

**Commentary and Technical Corrections to "Customs Service
and INS: Dual Management Structure for Border Inspections
Should Be Ended"**

GENERAL

Comment: It is not always clear in the report whether the conclusions reached and recommendations made are those of the GAO auditors or the panel of experts. If the latter, it is not clear whether the auditors subscribe to them.

Comment: The format of the report is sometimes difficult to follow, particularly the several levels of usage for the term "options" as used in the second half of the report. There also exists some confusion as to when the transmittal to the Chairman ends and the body of the report begins.

Comment: We believe the nexus between duality and inefficiency needs to be more developed in the report, using a clearer definition of duality, and validated, hard data as the basis for the conclusions. We generally agree with the team's linking duality and inefficiency, but more detail could identify trouble spots more effectively.

Comment: We are concerned with the team's apparent projection of past Administrations' failures to achieve effective coordination onto current, often new Administrations. Indications we have received suggest a willingness on the part of both agencies, and their respective Departments, to meet and work out differences.

Comment: We do not yet accept that the problems cited in the report are systemic; they may be performance-related and controllable through improved management and supervision. Additionally, we do not yet accept the premise that broken systems at land Ports-of-Entry warrant fixing through reorganization, particularly reorganization of the magnitude suggested by the panel consulted in the study.

SPECIFIC

Page 1: ". . . interviews and other work at Customs and INS headquarters and selected regional, district, and port-of-entry locations"

**Appendix VI
Comments From the Immigration and
Naturalization Service**

See comment 1.

Comment: We are concerned that the language in the report does not adequately emphasize the selectivity exercised by the audit team in reviewing field sites. For example, there are over 130 land border Ports-of-Entry in the country; the auditors visited only two and contacted a third. None of the 120 air and seaports were visited. We acknowledge that operations at the land ports was the focus of the initial Congressional request; however, since the proposals for remedy have so broadly exceeded the focus, so too should the field work be expanded.

We are also unaware of any visits by the Team to INS Regional Offices.

Now on p. 3.
See comment 2.

Page 5, et al.: "Coordination Problems Persist Despite Interagency Agreements"

Comment: While emphasizing instances of non-cooperation, the audit team, in our view, has paid insufficient attention to instances of successful coordination. Among the cooperative efforts are Interagency Border Inspection System (IBIS), software development, document reader tests, airport primary inspection, Advance Passenger Information System (APIS), and Terrorist, Drug, and Fraud Task Forces (TDF).

Now on p. 4.
See comment 3.

Page 6: "Updated Cross-Designation Training Not Provided"

Comment: Since the issuance of the draft report, the Acting Commissioners of the INS and Customs have agreed to training Customs Inspectors in changes resulting from the Immigration & Nationality Act of 1990.

While the auditors' statement raises an important issue, we believe it is also important to report on the length of basic training received by inspectors of both agencies: 15 weeks for INS and 11 weeks for Customs.

Now on p. 5.
See comment 4.

Page 7: "Customs and INS...versions of drug seizure statistics..."

Comment: The language in this section appears to suggest that the two agencies fabricate statistics for their own aggrandizement when, in fact, the respective missions of each agency often require different, yet still valid, statistical counts. For example, seizures resulting from cargo inspections understandably contribute to Customs numbers, but have no impact on INS operations.

**Appendix VI
Comments From the Immigration and
Naturalization Service**

Now on p. 5.

Page 8: "... performance appraisal system that encompasses the full range of cross-designated duties."

Comment: The auditors observe that Customs has no cross-designating performance appraisal systems, but do not mention that INS does have them. To us, this is important evidence of INS commitment to comprehensive border control.

Now on p. 7.

Page 10: "...the use of drug-sniffing dogs is the sole prerogative of Customs [as] lead agency for drug interdiction at Ports-of-Entry."

Comment: The auditors relate this assertion without comment, which suggests it is true. In point of fact, the canines utilized by INS are trained to detect hidden people, their primary use and purpose, consistent with INS's mission. However, they are also capable of detecting drugs, and often do so during the performance of their primary function.

See comment 5.

Now on p. 7.

Page 10, ff.: "The Treasury Enforcement Communications System (TECS) [is an] example of how poor headquarters coordination can diminish field operations."

Comment: The IBIS, not TECS, is the primary automated enforcement tool available to inspectors. (TECS is a component of IBIS.) IBIS itself is an example of how the two agencies have worked together successfully in the past.

See comment 6.

The discussion of the use of random referrals is somewhat misleading in that the program had just been implemented when the GAO study was initiated. INS is eager, not unwilling, as the report implies, to participate in this program.

Now on p. 8.

Page 11, ff: "Customs and INS inspectors and their first-line supervisors do not begin their day-to-day entry lane work shifts with joint briefings for sharing intelligence and other operational concerns."

Comment: While it is true that joint musters do not occur in El Paso, Laredo, and San Ysidro, it should be noted that new construction at San Ysidro locates first-line shift supervisors for both agencies in a fishbowl-type operational environment, a room which, by mutual agreement and design, will oversee all of the primary vehicle lanes.

See comment 7.

Other Ports-of-Entry have various types of joint or semi-joint mustering plans, a fact not cited in the report.

**Appendix VI
Comments From the Immigration and
Naturalization Service**

We deleted this sentence.

Pages 12-13: "An INS headquarters official said that INS data varies by district and port, making the compilation of Service-wide data difficult."

Comment: This remark was taken out of context. There is uniformity at the national level in the statistics INS collects. However, various POEs, in each agency, keep sets of statistics, independent of national requirements, which satisfy local needs. For example, while Headquarters has no compelling need for a count of the number of camper trucks crossing the border nation-wide, a POE near a national park may find such data useful.

Now on p. 9.

Page 13: "Dual operations also lead to unnecessary costs."

Comment: In their several discussions on cost-effectiveness at the Ports-of-Entry, the auditors do not mention a significant element: the use of down-time of inspectors not on the line. INS inspectors adjudicate applications during this period, ensuring maximum investment, assisting another INS function (Adjudications) not found on the border, and giving the inspector an opportunity for career development.

Now on pp. 9-10.

Pages 13ff: "PREPARING FOR THE CHALLENGES OF THE FUTURE"

Comment: While we recognize the soundness of the panel's considerations and generally agree with several of its findings and conclusions, we are concerned by the extent to which their focus has exceeded the Congressional request. While acknowledging that such a path of logic appears reasonable and appropriate, its emergence in an audit whose field work was so narrowly limited is questionable. The problems identified in the narrow area explored by the audit team are not consonant with those upon which the panel's recommendations were based. We believe a much more comprehensive exploration of nation-wide issues should have been conducted before the panel's recommendation was introduced.

The following are GAO's comments on the Immigration and Naturalization Service's letter dated March 23, 1993.

GAO Comments

1. Our work was limited to the southwestern border of the United States, which was the scope of our request. We acknowledge that any reorganization proposal should be based on a broader consideration of other aspects of INS and Customs operations. For this reason, we recommended that OMB, along with the departments of Justice and Treasury, develop a proposal to end dual management of border inspections. Appendix I contains a full description of our objectives, scope, and methodology.
2. We merely report the instances of noncooperation that INS and Customs officials provided us. The first time INS chose to present the cited programs as examples of cooperation was in their formal response to the draft report. Our message is that despite the need to cooperate, there is a pattern of competition that makes effective coordination difficult.
3. We acknowledged in the report the agreement between INS and Customs (see p. 4).
4. INS misses the point that the debate over the effectiveness of Customs and INS inspectors in performing their cross-designated duties continues in the absence of performance data upon which both agencies can rely.
5. The statement, "Customs officials told us that the use of drug-sniffing dogs is the sole prerogative of Customs, which has been designated the lead agency for drug interdiction at ports of entry," is true. Although INS officials commented that their dogs are trained to detect people first and are "capable" of detecting drugs, the last INS Commissioner acknowledged that the dogs were trained to do both. The fact remains that we portray a point of conflict between the two agencies.

6. We have changed the text to reflect that we are presenting selected issues that were provided us as examples of inadequate coordination, as opposed to speaking about the overall Treasury Enforcement Communications or Interagency Border Inspection systems (see p. 7).

7. We have changed the text to limit our comments to three major southwestern ports (see p. 8).

Comments From the American Federation of Government Employees

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO



John N. Sturdivant
National President

Bobby L. Harnage
National Secretary-Treasurer

Joan C. Welsh
Director, Women's Department

6/18-93-1
(GAO)

March 29, 1993

Mr. Johnny C. Finch
Assistant Comptroller General
U.S. General Accounting Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Finch:

AFGE is pleased with the efforts of the General Accounting Office in studying what we believe to be an important issue of law enforcement. This study should open the door to a better understanding of the problems our members in the Immigration and Naturalization Service including the U.S. Border Patrol face on a daily basis. We have reviewed the GAO draft report concerning possible reorganization of the Customs Service and the Immigration and Naturalization Service. Two issues were addressed by the GAO. They are:

1. Examine the role of the Customs Service and INS, with a particular focus on the southwest border, and assess the degree to which the responsibilities of the agencies overlap; and
2. Evaluate current coordination efforts and alternatives for improvements, including a possible merger of the inspection functions at border ports of entry.

While we appreciate the effort put forth by the GAO in the study, AFGE believes the study was not broad enough to reach the conclusions and options set out in the report. We believe the report to be flawed in that it is based on a sampling at only 3 southwestern ports of entry. Further, much more data should be collected than the limited amount gathered at El Centro, CA; El Paso, TX; and Laredo, TX, even though these are among the busiest land border ports. There are other major ports of entry, including a number on the northern border. The report is unclear on how the options and recommendations would impact on the northern and interior ports where conditions are dissimilar.

80 F Street, N.W. Washington, DC 20001 (202) 737-8700

Appendix VII
Comments From the American Federation
of Government Employees

Mr. Johnny C. Finch
March 29, 1993
Page 2

The report also fails to examine either agency's operations away from border ports of entry, and the effect of the transfer on the inspection and other programs left in Customs and INS. Efficiency would be compromised if one agency controlled the entry of people at land border ports while another maintained control of air and sea ports and the area between land border ports.

We recognize that the Customs Service has a manpower advantage because of past favorable Congressional support in contrast to the INS. However, this should not be a consideration where the purpose of the study is to design recommendations to improve the efficiency of the inspection functions of both agencies.

AFGE strongly believes that a new study should be initiated before any recommendation be made. This study should be broader in scope to include the separation of law enforcement responsibilities from the collection of "duty" functions (import taxes and the like). We strongly recommend that all law enforcement, including Immigration inspection and Customs inspection, be consolidated into the Department of Justice while the Treasury Department retains jurisdiction over revenue collection. We would further suggest that the drug interdiction function of the Customs Service be transferred to the Drug Enforcement Administration of the DOJ. The law enforcement functions of the Bureau of Alcohol, Tobacco, and Firearms could be located within the Justice Department while any revenue functions could be retained with the Treasury Department.

All primary inspection functions at land ports of entry now performed by the Customs Service should be transferred to the INS. Other law enforcement functions of the Customs Service should be transferred to the INS, Border Patrol, or the Drug Enforcement Agency of the Department of Justice. In this way, there is no need to expand government by establishing yet another law enforcement entity. We believe it is more fiscally responsible to consolidate all law enforcement functions in DOJ and consolidate fee and revenue collection in the Treasury Department. Without demeaning the effectiveness of Treasury's various sub-agencies, recent experience in Waco and elsewhere demonstrates conclusively that the law enforcement business is far and away most ably handled by the DOJ under the nation's chief law enforcement officer, the Attorney General.

By using this approach, a major streamlining of INS and Customs functions can take place. Then all issues of law enforcement, whether immigration or other types of smuggling, can be handled under a single law enforcement agency and eliminate the counterproductive rivalry that now exists.

Appendix VII
Comments From the American Federation
of Government Employees

Mr. Johnny C. Finch
March 29, 1993
Page 3

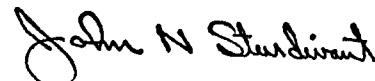
The record shows that very little duty is collected from people at ports of entry. Most duty is collected on cargo, a completely different process. Under our recommendations, the work of enforcing the law of peoples' origin and other trade laws would still be primarily Immigration oriented. The inspection process at all ports of entry for the masses of people seeking entry to the United States is first and foremost a matter of concern under Immigration law. The limited revenue or Customs duty of the inspection process can easily be and should be handled by the Immigration inspectors.

The North American Free Trade Agreement (NAFTA) will be a reality in the foreseeable future. When that happens, the need of Customs inspections will be greatly reduced at land ports of entry. For this reason alone, recommendations such as those made above make the most sense.

All monies saved by the streamlining, either the new or existing functions, should be used to hire additional inspector personnel at ports of entry.

If you need any further information, please feel free to contact John Mulholland at (202) 639-6408.

Sincerely,



John N. Sturdivant
National President

Comments From the National Treasury Employees Union

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



March 29, 1993

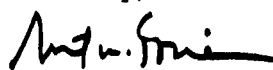
Mr. Johnny C. Finch
Assistant Comptroller General
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Finch:

Enclosed please find the National Treasury Employees Union's comments to the draft report, U.S. Customs Service and U.S. Immigration and Naturalization Service (INS): Dual Management Structure for Border Inspections Should be Ended.

We appreciate the opportunity to submit these comments and look forward to working with you on this matter.

Sincerely,


Robert M. Tobias
National President

901 E Street, N.W. • Suite 600 • Washington, D.C. 20004 • (202) 783-4444



INTRODUCTION:

As the exclusive representative for Customs employees nationwide, I am providing comments on the General Accounting Office's Draft Report, "Customs Service and INS - Dual Management Structure for Border Inspections Should Be Ended." The Report focuses on the rivalry and ineffective cooperation between the two agencies. The GAO together with a panel of current and former officials with a background in INS and Customs issues considered three options concerning problems at the borders:

Option I: Improve coordination within the existing framework of joint staffing of the primary lanes at ports of entry.

Option II: Establish one agency as the lead for primary inspections.

Option III: Create a border management agency by merging the INS Border Patrol and inspection functions with the Customs Service.

The Panel rejected each of these options and instead suggested that an independent agency be developed to incorporate all functions performed by Customs and INS.

The National Treasury Employees Union disagrees with GAO's recommended decision and instead urges the GAO to recommend that Congress adopt Option II. NTEU does not take issue with the conclusions drawn by GAO on the lack of cooperation and coordination between the two agencies. It is clear that there has been a problem for years and a long term solution is necessary and inevitable, especially in light of the impending passage of the North American Free Trade Agreement.

I. MERGING INS AND CUSTOMS INTO ONE AGENCY WOULD BE INEFFECTIVE AND NOT COST EFFECTIVE.

Given that change is necessary, we must then address what is the most viable way of implementing change. The proposal put forth by GAO is both unnecessarily far reaching and ineffective in its implementation. Both Customs and INS have numerous other responsibilities outside of border inspections.

The Customs Service, in addition to guarding the nation's borders, also enforces trade laws and policies that protect against the introduction of foreign goods that threaten U.S. health, safety, and economic well being. Customs is the government's second largest revenue collection agency; it reported collections

See comment 1.

**Appendix VIII
Comments From the National Treasury
Employees Union**

of over \$16 billion in fiscal year 1991. Customs also employs Special agents to investigate allegations of smuggling and commercial fraud. The INS, in addition to protecting the borders from illegal aliens, is also responsible for granting benefits to applicants seeking admission to the U.S. and preventing employment and residence of illegal aliens.

The Draft Report cites no reason why these various functions of the two agencies ought to be consolidated. Nor are any reasons readily apparent. The focus of the fieldwork performed by GAO, as well as the studies performed over the past two decades by executive and congressional branch organizations, have primarily focused on the problems at land border ports of entry. Nor is it at all clear how all the functions of INS and Customs could be consolidated. It is unclear how duty assessment on an imported product would be interrelated with employment status of an illegal alien. The problem has been correctly identified at the land borders and it need not be expanded beyond that parameter. To do so would invite a plethora of coordination problems and disruptions.

Significant expenditures would be required to dissolve and merge the inspection and patrol functions of Customs and INS into a new agency. The purported benefits of a merged inspection agency do not justify the expense associated with its establishment. Some of the expenses are obvious: new forms and stationery would be required, new uniforms would have to be purchased for 10,000 inspectors, and all vehicles and facilities would have to be redecorated to reflect the identity of the new agency. The travelling public must be able to accurately identify the officers and agency with which they are dealing. These expenses are unavoidable.

Other expenses are not so obvious. Significant tax dollars would have to be devoted to fund staff tasked with processing and revising personnel and other administrative records. Merging of the two employee groups may result in forced relocations and associated lodging and moving expenses. In the event that personnel are reduced, expensive and time consuming reduction in force procedures will have to be utilized. INS inspectors would require extensive training in the numerous laws and regulations currently enforced by Customs inspectors.

These types of expenditures in pursuit of a dubious goal, a merged border agency, cannot be justified. Such expense is not consistent with our government's current cost consciousness and deficit reduction efforts.

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II. AN INDEPENDENT AGENCY WOULD STRIP BOTH CUSTOMS AND INS OF NECESSARY DEPARTMENTAL GUIDANCE AND CABINET REPRESENTATION.

The Draft Report recommends that this new consolidated agency be an independent agency. If it is determined to merge the entire Customs and INS into one agency, we believe an independent agency would have many pitfalls. First, independence would weaken important links between the Agency and the President and between the Agency and other Agencies in Treasury and Justice. In addition, there is a threat an independent agency could work at cross purposes with Treasury and Justice. An independent agency in theory is responsible to the President. However, we all know that the President of the United States is too busy to oversee each independent agency. Instead this duty is delegated to a staff person or OMB. Either of these parties would not have the policy confidence of an umbrella department. Both Customs and INS would lose departmental guidance and true Cabinet Representation.

III. THE NATION'S BEST INTEREST IS SERVED BY HAVING THE CUSTOMS SERVICE THE LEAD AGENCY FOR PRIMARY INSPECTIONS.

NTEU believes that GAO should recommend vesting responsibility for primary lane inspections with one agency. This option has had widespread support among Customs, INS, GAO, Members of Congress and other interest groups. As GAO itself stated:

The problems in coordinating the staffing of the primary lanes would be eliminated because one agency would be accountable for the enforcement operations and traffic flows at the ports. The competition and interagency rivalry would be eliminated. In addition, requests for appropriations could be handled through one Congressional Committee.

Obviously, the problem of lopsided staffing would no longer exist. The problems of facilitation and enforcement would become the number one focused priority at the border entries rather than dickering between the two Agencies.

GAO recognized the advantages of pursuing this option but rejected it because in the past "policy makers have not acted." We believe that this is not an adequate reason to reject an option. Although there have clearly been jurisdictional disputes in the past, if it is in the nation's best interest to merge the primary inspection function into one agency, we believe that GAO and Congress must rise to the occasion and insist upon the course of action which best serves our nation.

There has always been a strong Congressional interest in the consolidation of primary inspections, but in a manner consistent with both the facilitation of persons arriving and an improvement in the enforcement of the drug, security and other laws of the United States. Airline and airport authorities have been pressing the Congress and every Administration for over 50 years to make a

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decision on consolidation. It may also be assumed that they will be fully supportive of this consolidation option. Border city officials and highways and bridge authorities should also be fully supportive of a consolidation decision because it will give them one point of contact for facility decisions.

A. Customs is the primary agency for narcotic interdiction.

Last year, Customs Inspectors and Canine Enforcement Officers at our ports of entry, registered important gains in the war on drugs. The office of Inspection and Control, the branch of the Customs Service that includes Inspectors and Canine Enforcement Officers, were responsible for the seizure of 1,976 lbs. of heroin and 130,254 lbs. of cocaine. INS lacks the focus, training and resources to adequately protect our borders against the influx of illegal drugs.

Customs Inspectors, in the balance between enforcement and trade, employ a selectivity module while processing passengers. Inspectors must focus on "high risk" passengers, while allowing other travelers to proceed expeditiously. All Customs Inspectors have been trained in observational profile techniques and stress analysis. Much of their training is enhanced through day to day experience of watching passengers. INS Inspectors lack this training. If Customs Inspectors serve only in a secondary capacity they will be denied access to the ebb and flow and mix of border crossings which is essential to effective enforcement.

Obviously, the War on Drugs is far from over. The social effects on drug abuse in our cities is readily apparent. At this stage of the war on drugs, it would be disastrous to involve the already over-taxed Immigration and Naturalization Service in the drug war by assigning it primary inspection responsibilities at land border ports.

B. Customs has the necessary staffing and resources to be the lead border agency.

The Customs Service has consistently been provided more staff and resources than INS. The nation is best served by a full cadre of Inspectors at the border. The Customs Service has the staff and the resources to be the primary border agency. The Customs Service employs 6,000 Inspectors; whereas INS employs 4,000 Inspectors. For FY'93 Congress appropriated \$1,315,917,000 for salaries and expenses for the U.S. Customs Service and \$ 965,000,000 for salaries and expenses of the INS. The GAO draft report recognized that Customs clearly has many more resources at its disposal and this is unlikely to change at any time in the near future.

By 1992, the Southwest border staffing imbalance became more pronounced, with Customs authorized a total of 1,603 inspectors and INS a total of 925 (683 full time inspectors and 242 temporary and/or part time

inspectors.) Further, Customs received general appropriations authority to hire an additional 300 inspectors for the southwest border in fiscal year 1993. In contrast, discussion with Office of Management and Budget (OMB) officials and congressional staff indicated little prospect for additional appropriations to increase INS inspector resources.

While it is unfortunate that INS has been unable to remedy its staffing shortage, the reality of the situation remains. If INS is unable to meet the challenge of staffing its own agencies, it seems virtually impossible to expect it to receive adequate funding to be the lead agency for all primary inspections.

C. Customs has a diverse, complex, mission while INS is a single mission Agency.

There are many vital interests at stake in the design of an effective primary inspection system. It is frequently noted that Customs, as the nation's primary border management agency, has had delegated to it by 40 other government agencies the responsibility for carrying out the laws and regulations of those agencies at the border. Customs has a broad, diverse and complex mission as contrasted to the single mission of INS. It should be remembered that inspection of travelers for immigration purposes is a straightforward procedure. If Customs is merged into INS, INS would need to learn the laws of forty different agencies. Whereas, if INS is merged into Customs, Customs would only need to be better acquainted with INS laws and regulations.

D. INS is not equipped to handle the volatile land border environment on its own.

Unlike an airport environment, a land border is not secured. Each vehicle approaching the border has never been inspected and is often met with unexpected danger. INS is not equipped to handle this volatile and unpredictable environment on its own.

At the land border both INS and Customs are concerned with passengers crossing the border. INS is concerned with the admissibility of passengers, and Customs is concerned with the goods passengers may be carrying on themselves. In addition, however, Customs is also concerned with vehicle crossings. Most goods and drugs are smuggled through a vehicle. INS has no interest in a vehicle crossing. Therefore, it makes sense to give the primary function to Customs who has the interest in both the vehicle and the passenger at the land border.

IV. NTEU SUPPORTS GAO RECOMMENDATION FOR FURTHER STUDY.

We agree with GAO that the best course of action is for a specific proposal to be developed to be presented to Congress. For the reasons cited above we believe the focus of the study should

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be how to incorporate the INS into Customs for primary inspections. However, we believe that all interested parties should serve on any working policy group. The employees and their representatives are in the best position to provide meaningful input into long range decisions which they will participate in a daily basis.

CONCLUSION:

NTEU believes that change is necessary to effectively deal with the multiple problems at the border. However, there is no evidence that a full scale merger of Customs and INS is necessary or would be effective. We do not believe that prior turf battles are sufficient grounds for not pursuing the most reasonable course of action for our nation. NTEU endorses the concept of a lead agency for primary inspections. We believe that the Customs Service is the best equipped to handle such a challenge. In addition, we believe a further study is necessary with all interested parties including the employee representatives of the affected agencies. We look forward to working with the GAO on this challenging endeavor.

The following are GAO's comments on the letter from the National Treasury Employees Union dated March 29, 1993.

GAO Comments

1. NTEU mischaracterizes our recommendation. We recommend that OMB, Justice, and Treasury collaborate in developing a proposal to end dual management of border operations. We present several options for consideration by policymakers. The creation of a consolidated immigration and customs agency is one of those options. This option resulted from the discussion among former and current officials experienced with customs and immigration issues convened by the National Academy of Public Administration at our request.

2. We did not reject the option of vesting responsibility for primary lane inspections with one agency. We do discuss some factors that policymakers must consider as they decide how best to end the coordination problems between INS and Customs.

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