

TESTIMONY BY SAM F. VALE
ON BEHALF OF THE BORDER TRADE ALLIANCE
IMPROVING SECURITY, TRADE, AND TRAVEL AT SOUTHWEST BORDER PORTS OF
ENTRY
SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
JUNE 16, 2021

The Border Trade Alliance thanks the Committee for the opportunity to provide this written testimony for the record and to provide oral testimony at the hearing entitled, “Improving Security, Trade, and Travel at Southwest Border Ports of Entry” taking place on June 16, 2021.

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

The Border Trade Alliance

For 35 years, the BTA has provided a forum for analysis and advocacy on issues pertaining to the U.S.-Canada and U.S.-Mexico border regions. A network of public and private sector representatives from all three North American nations, our organization has been involved in a number of important border issues, ranging from the implementation of the original North American Free Trade Agreement to the successor United States-Mexico-Canada Agreement, to the original organization of the Department of Homeland Security to the perennial issues of staffing, infrastructure and trade processes.

Lift border travel restrictions

We submit this testimony amid some of the most trying circumstances for the U.S. land borders.

The communities along our nation’s borders with Canada and Mexico have been disproportionately impacted by the pandemic that, since March 2020, has brought non-commercial cross-border travel to a halt. While currently defined by the United States, Canada, and Mexico as “non-essential,” such travel is anything but for the businesses that depend on customers from the neighboring country and for local governments whose sales tax bases rely on robust cross-border commerce and, for some states, crossing tolls. For many border businesses and border region governments, the pandemic has resulted in an economic calamity.

The BTA believes the Biden administration, in consultation with state and local governments and our counterparts in Canada and Mexico, should lift travel restrictions and allow legal cross-border travel to resume. We cannot support an extension of the current restrictions, which are set to expire June 21, 2021.

Furthermore, we echo the bipartisan letter dated May 28, 2021¹ (that was signed by Sen. Kyrsten Sinema, the Chairman of this subcommittee) that called for a detailed plan that includes benchmarks for land ports of entry to return to full operations. Border stakeholders have been deeply frustrated that travel restrictions have been implemented in an ad-hoc manner with little indication as to which data are being relied on to make such decisions, nor has there been any communication to the public and border stakeholders as to the criteria that would permit a resumption of travel.

Medical ingenuity has brought to market three highly effective vaccines in the U.S. and we know more each day about how to control the spread of Covid-19 and treat positive cases. We are encouraged that in some border communities that positivity numbers have plummeted, in some cases below 5 percent. There is no indication that a resumption of non-commercial cross-border traffic would have any material effect on ongoing efforts to end the scourge of the pandemic. It would, however, allow the many livelihoods that depend on cross-border commerce to begin down the path to economic recovery.

In anticipation of a resumption of travel, the BTA has shared with the administration and with members of Congress our opposition to any plan that would call for travelers to demonstrate proof of a negative Covid test, especially for trips limited to the border area for a short duration. Not only would such a requirement be too unwieldy and likely lead to congestion at the ports of entry due to the additional documentation requirement, but there is nothing more remarkable about a shopper crossing from Tijuana, Baja California into San Ysidro, California to purchase groceries than there is about a shopping trip across town in any American community; neither is likely to contribute to the spread of Covid if normal public health protocols are followed. CBP Officers at the ports of entry could require travelers to wear face coverings in the port facilities, and officers should continue to set a good example by doing the same, just as they have done over the course of the past year.

Rice University's Baker Institute for Public Policy analyzed the economic impact of the travel restrictions between March and November of 2020.² The study focused on the economic implications of the travel restrictions on the nine counties across the Texas-Mexico border. Mexican tourists and shoppers are a key component of these economies, and without them, the losses are likely to be unprecedented, causing an estimated reduction of nearly \$4.9 billion in GDP of these border communities. The retail sector could experience economic losses exceeding \$2.0 billion during the eight-months that were part of the study.

CBP personnel at the ports of entry during the pandemic have not escaped the virus' impact. Too many officers have lost their lives. The BTA strongly supports efforts to ensure they have the necessary protective equipment – face coverings, face shields, sanitizer – and that they are prioritized in vaccination efforts. We acknowledge that we are requesting officers to increase their interaction with the traveling public beyond current levels, but we believe they can perform their jobs safely with the proper resources.

¹ <https://www.cornyn.senate.gov/sites/default/files/Letter%20to%20Secretary%20Mayorkas%20-%20LPOE%20restrictions.pdf>

² <https://www.bakerinstitute.org/media/files/files/258cf982/bi-brief-120420-usmx-touristsborder.pdf>

Now is the time to resume regular cross-border non-commercial travel. We can do so safely and without compromising the sustained efforts to return to some semblance of normalcy.

Addressing migrant flows, asylum-seekers

The spike in asylum-seekers and unaccompanied minors from Central America brings with it its own set of challenges for border communities.

The Department of Homeland Security reports that year-to-date fiscal year 2021 has seen nearly 930,000 migrant encounters at the United States-Mexico border, a dramatic increase that exceeds all of fiscal year 2020. The surge of migrants is a humanitarian tragedy and a security failing.

Our organization is especially concerned about the surge's impact on regular border operations that, as discussed above, have already been disrupted over the past year by the pandemic. As we've experienced in previous increases in undocumented border crossings, DHS may be forced to divert its limited resources from the important dual mission of security and facilitation to the task of migrant processing, resulting in congestion at the ports of entry and costly shipping delays.

The BTA thanks the sponsors of the Bipartisan Border Solutions Act of 2021 (which include Sen. Sinema). We believe strongly that the bill will better equip DHS and the Department of Justice to efficiently and properly manage the flow of migrants in a manner that treats migrants fairly, reduces the strain on local community resources, and maintains normal port of entry operations. We are especially encouraged that your legislation will allow DHS increased hiring authority to ensure that frontline DHS personnel can continue to carry out their critically important agency mission.

As a recognition of the increasing regularity of migrant surges, the BTA has encouraged Customs and Border Protection, as part of its overall recruitment efforts, to seek individuals who can also fulfill roles within the agency that might be more administrative in nature and do not necessarily require a highly trained CBP officer. Such individuals will lessen the likelihood that officers will be redeployed to act in support roles to Border Patrol during migrant surges. We believe strongly that highly trained specialists should not be redeployed away from ports of entry, as doing so will exacerbate delays at the ports and increases the likelihood that an immigration crisis could quickly become a trade, travel and economic crisis. To that end, we are encouraged that the \$4.7 billion requested in the President's budget for the Office of Field Operations calls for \$9.1 million for Border Patrol Processing Coordinators, a good first step.

Public-private partnerships to improve border infrastructure

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

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

There is, however, a public-private partnership program that is facilitating border infrastructure improvements and expansions. The Donation Acceptance Program allows local governments and private sector entities to donate capital improvements to the federal government.

CBP and the U.S. General Services Administration (GSA) are jointly authorized by 6 U.S.C. § 301a (Section 301a), and more generally, the Homeland Security Act of 2002, 6 U.S.C. § § 112 et seq., as amended, to accept real property, personal property, monetary and non-personal services donations from private sector and government entities. Accepted donations may be used for port of entry construction, alterations, operations and maintenance-related purposes.

The BTA in 2020 applauded passage of a \$1.4 trillion omnibus spending package that included an extension of the Donation Acceptance Program. We sincerely hope that Congress again considers a long-term authorization for the Donation Acceptance Program prior to the program's authorization sunseting at the end of this fiscal year.

Since the program's launch, DAP has resulted in 40 partnerships totaling approximately \$219 million in planned and realized investments in U.S. ports of entry and important CBP initiatives. Twenty-one of the projects have been fully executed, while 19 of the projects are in the planning, design, or execution stage. However, the proposed financing for many of these donations include grant awards from various federal agencies including the Department of Transportation, Economic Development Administration, or state governments. These grants have an expiration and, if a grant expires, the money must be returned to the federal or state entity of origination. In some instances, after a DAP submittal, GSA and CBP take so long to evaluate a project's design, financing mechanisms, and planning stages, that the grant expires and the project collapses. In some cases, we have seen DAP proposals take far too long from proposal to acceptance from GSA and CBP. In the most egregious instances, the timeline from DAP submission to acceptance can take five to eight years.

There is room for improvement to DAP. For example, a donation cannot occur when the sponsoring entity still carries debt on the project. Amendments to the DAP are necessary to allow a rental agreement between the GSA and CBP that would allow the debt on capital improvements to be retired under a concession mechanism or some other method of revenue generation.³ We also recommend an increase in the maximum total value of projects that are eligible for the program. Later this year when Congress decides whether to reauthorize the DAP for CBP, Congress should consider changing the authorization to direct GSA and CBP to include specific project milestones when evaluating projects to expedite project acceptance on federally owned land ports of entry. Congressional authorizers and appropriators should also consider

³ It is worth noting that the state of Texas recently adopted legislation that amends the state Transportation Code to authorize a county bordering the Rio Grande to use negotiable bonds or the proceeds of the sale of the bonds to construct, improve, enlarge, or equip in whole or in part a toll bridge or a related building, structure, or other facility. The bill authorizes the county to use those bonds or the sale of the bonds to acquire such a building. <https://pharr-tx.gov/pharr-takes-lead-in-creation-and-successful-passage-of-hb-2843-sb-1334-in-texas-legislature-to-enhance-bridge-funding/>

setting aside monies in the GSA Public Building Services' Federal Buildings Fund (FBF) specifically for the DAP program. Dedicated FBF monies to DAP could help GSA and CBP move these projects forward more expeditiously.

A companion public-private partnership referred to as Reimbursable Service Agreements has proven successful in addressing staffing shortfalls at the land border ports of entry. For example, a CPP Agriculture Specialists intern program gives college students a fast track to be eventually hired by CBP as full-time employees, above the CBP budgeted staffing levels. These positions are essential in expediting the processing of commercial produce traffic.

The program has also been used to meet the demands of increased private vehicle and pedestrian flows, whether by underwriting the costs for full-time equivalent positions or for overtime.⁴⁵

Making the Federal Buildings Fund whole

From Fiscal Year 2010 to Fiscal Year 2021, GSA's annual Capital Investment Program has lost nearly \$9 billion for new design and construction projects and essential repair and alteration projects to maintain the existing Federal portfolio. Since 2010, GSA has requested 315 capital construction projects, yet Congress has only appropriated funds for 177 of those requests. This has resulted in crumbling federal infrastructure. Every GSA region has multiple buildings that are a stain on the portfolio and an embarrassment to the agency. Some of these owned assets within the portfolio are worse than others. Gateway Land Port of Entry for example located in Brownsville, Texas has not had a major modernization since the Eisenhower Administration. The El Paso Bridge of the Americas is also in dire need of a major facelift to meet the ever evolving operational and mission critical needs of CBP.

The raiding of the Federal Buildings Fund has forced GSA to delay major repairs of dozens of federal buildings and land ports of entry across the United States. Over the last five fiscal years spanning three Administrations, GSA has received nearly \$5.5 billion less than requested. The impacts of this shortfall will continue to exacerbate unless Congress takes steps to make the FBF whole.

Technology to increase security, facilitate trade and travel

Improvements to trade and travel throughput will not come from brick-and-mortar improvements or staffing level increases alone. New technology is critically important to the effort to make our ports more efficient and more secure.

⁴ <https://www.expressnews.com/news/local/article/Border-communities-help-fund-overtime-pay-for-CBP-12783169.php>

⁵ <https://www.borderreport.com/hot-topics/trade/el-paso-readies-for-possible-roll-back-of-non-essential-border-travel-restrictions/>

Broadband

The BTA believes that land border ports of entry are in need of greater access to internet broadband. Upgrading broadband availability will lead to greater trade throughput by increasing the mobility of CBP officers around the port campus, preventing them from being tied to inspection booths. Improved broadband will also allow CBP to move to a command center model that allows for remote inspection targeting and increase the likelihood that future agency resource decisions are based on reliable, fresh data.

Non-intrusive inspection technology

Inspection equipment and facial recognition technology on the market represents a dramatic improvement over the scanning equipment and traditional Q&A that is available at most ports of entry. The BTA supports the deployment of this leading-edge inspection technology that provides officers a clear picture of the people and contents of containers that, with the proper broadband technology, could be relayed to a remote command center where personnel can recommend further inspection. The technology available is so advanced as to allow the inspection of 100 percent of northbound and southbound trucks entering the United States with no loss in trade throughput.

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