August 2, 2011

Via E-Mail:  Daniel_A._Restrepo@nss.eop.gov

Mr. Daniel Restrepo  
Senior Director for Western Hemisphere Affairs  
National Security Staff  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear Mr. Restrepo:

    Re:   U.S.-Canada Shared Vision for Perimeter Security and Economic Competitiveness

We are pleased to make this submission on behalf of the members of AAEI, the American Association of Exporters and Importers.

AAEI has been a national voice for the international trade community in the United States since 1921. AAEI represents the entire spectrum of the international trade community across all industry sectors. Our members include manufacturers, importers, exporters, wholesalers, retailers and service providers to America’s exporting and importing industry. Many of these enterprises are small businesses seeking to access and export to foreign markets. AAEI promotes fair and open trade policy and is dedicated to lowering the administrative barriers and costs associated with cross-border trade. We advocate for companies engaged in international trade on the subjects of supply chain security, export controls, non-tariff barriers, import safety and customs and border protection issues.

AAEI is the premier trade organization representing those US companies immediately engaged in and directly impacted by developments pertaining to international trade. We are recognized as the only US trade association whose members combine a broad representation of major and medium-sized US-based corporations involved in international trade with deep technical expertise on the laws and regulations affecting inbound and outbound cross-border movements of goods. We are thus uniquely interested in the Declaration on a Shared Vision for Perimeter Security and Economic Competitiveness announced by President Obama and the Canadian Prime Minister following their meeting in Washington, DC on February 4, 2011. We support the dual objectives of the declaration to enhance security while fostering economic competitiveness. We are encouraged and hopeful that the personal commitment of the two leaders to this initiative will lead to significant and innovative solutions to facilitate the movement of goods between our two countries to benefit the highly integrated supply chains of our member companies. While we generally endorse the ideas put forwarded in the Business for Better Borders coalition, and recently endorsed by 23 of our fellow US trade associations, we at AAEI feel that the Beyond the Border Working Group would benefit from a more detailed outline of cross-border facilitation initiatives which would lead to direct benefits for the US business community.
General Comments

The United States has imposed a large number of security measures affecting the cross-border supply chain over the past decade, leading to a perceptible increase in the cost of international trade. While we strongly support the idea of forming a common zone of secure trade between the United States and Canada to facilitate the movement of goods between the two countries, our support is predicated on the understanding that: (i) any new security measures which may be imposed at the perimeter on offshore imports are necessary and are designed and developed in consultation with the trade community of both countries to ensure that they are not disruptive to trade with third countries; and (ii) harmonized perimeter security leads simultaneously to meaningful trade facilitation between the United States and Canada and not simply to something which can more accurately be characterized as tinkering at the margins. As we have heard repeatedly from Alan Bersin, Commissioner of Customs and Border Protection, we should be open to new paradigms and aiming high to achieve real progress in improving the facilitation of legitimate trade across our borders.

While Canada is the United States’ closest trading partner, we cannot lose sight of the fact that since American companies participate in global value chains, the economic competitiveness of manufacturers in our country, as well as Canada, depends on low-cost sources of supply from overseas, and that our consumers benefit from the greater choice of products at lower costs that comes through global sourcing. Moreover, as the United States seeks to diversify its markets through free trade agreements, we must be careful to avoid measures being developed and implemented in the name of security inadvertently becoming protectionist barriers to trade.

With regard to trade facilitation at the border, we first wish to emphasize that when the trade community refers to trade facilitation, it is concerned with the cost and speed of movement of goods throughout the entire supply chain, not simply reductions in inspections or expedited movements through border crossings, although the delays and costs generated by these border activities are a significant factor. This means that when weighing the benefits of additional security measures against the potential costs in terms of the negative impact on the trade, the ripple effects throughout the supply chain must be taken into consideration.

A perimeter approach to security should also mean that as a starting principle measures imposed at the perimeter should not be imposed or should be removed at the land border. A second principle would be that perimeter measures imposed by the two countries should be as similar and closely harmonized as possible, to avoid the additional cost to business which results from the need to deal with parallel systems with widely variant operational requirements in each country. One example would be elimination of duplicate inspections as goods move past the perimeter and transit one country on their way to a final destination in the other. A further case in point would be harmonization of divergent requirements for importer security filings. The United States Customs and Border Protection (CBP) has implemented an Importer Security Filing (commonly referred to as 10+2) in the marine mode, which requires that a prescribed set of data elements be transmitted electronically by the
importer prior to the lading of a vessel in a foreign port (or in the case of certain data elements, prior to arrival). The Canada Border Services Agency (CBSA) has a similar initiative under Phase III of the Advance Commercial Information initiative. In the case of Canada, however, importers will be required to transmit what is being referred to as Advance Trade Data (ATD), which is a similar but not identical data set to the US filing. However, unlike CBP, CBSA is proposing to require ATD in all modes, not just the marine mode. The trade community of both countries is willing to contemplate an advance security filing requirement in the marine mode, but is not supportive of this requirement being implemented in other modes and especially not for movements between the two countries; i.e. within the perimeter. Under the current perimeter security initiative, both governments should make the commitment that advance security filings by importers will not be imposed in respect of the movement of goods between the two countries, and that filing requirements for shipments moving from outside the perimeter be harmonized to the greatest possible extent.

Specific Areas for Consideration

We wish to raise a number of areas for consideration by the Beyond the Border Working Group as it develops its Border Action Plan. These are the areas that are of most concern for our members.

1. Advance Data Requirements

AAEI supports the development of systems to allow the efficient electronic transmission of data for import purposes, both to satisfy customs as well as partner government agency (PGA) requirements, and recognizes the value and importance of providing data to customs and other regulatory authorities for risk management purposes. Challenges arise from the trade perspective, however, when: (i) additional data elements are required that are not available or not easily available and/or they are not currently transmitted for admissibility or release purposes; (ii) the timeframes for providing the data are pushed further and further back from the time of arrival of the goods; (iii) 100% of the data is required to be provided in advance 100% of the time without any allowance for business realities, and (iv) the US and Canada require different datasets for what is essentially the same purpose.

In the context of the current initiative, AAEI supports the principle of alignment of advance data requirements required for security purposes between Canada and the United States. However, only those data elements that have already been justified as necessary for security purposes in the context of the US Importer Security Filing should be required and companies should not be required to provide data they do not collect or cannot reasonably obtain, or to provide them within timeframes that would significantly delay or impede the movement of goods.

Under a perimeter security initiative with the United States, Canada should not be imposing more onerous security filing requirements for importers than the US. Moreover, as stated above, we would like to see a clear commitment by both governments not to implement ATD or ISF for trade between Canada and the US in any mode.
2. Trusted Trader Programs & Simplified Entry Processes

AAEI supports further alignment of trusted trader programs in the United States and Canada. We have been a longtime advocate of harmonization of the Customs-Trade Partnership Against Terrorism (C-TPAT) and Partners in Protection (PIP) programs, including providing improved and measurable benefits. On both sides, among the changes that are needed are systems enhancements so that trusted traders can be identified and lower risk scores assigned in order to reduce inspection rates. Harmonization of the two programs will also require the countries to make the necessary investments in a harmonized web portal.

One of the key benefits of a trusted trader program is the ability to provide advance data on a profile rather than a transactional basis. There are examples in both countries. The best practice currently available in either country is the Canadian Customs Self-Assessment (CSA) program. Under the CSA program, CSA importers - companies that have a good track record and go through a qualification process - provide data in advance to CBSA in the form of trade chain partner profiles. Provided the carrier and the driver are pre-approved under the CSA program, CSA importers obtain clearance in the case of qualifying goods imported from the United States or Mexico simply by providing three data elements: carrier, driver and importer. CSA importers also benefit from back-end accounting privileges that allow for accounting on a monthly basis using the company’s books and records, rather than on a transaction by transaction basis.

In the United States, a select few importers have benefited from a somewhat similar prototype program called the National Customs Automated Prototype (NCAP), under which qualified importers provide certain profile data in advance to CBP and are permitted to file entry data post-release. In other words, goods are released based on parties’ trusted trader status and the carrier manifest, which is a reduced data set from the ACE standard carrier manifest and may be transmitted within a shorter time frame (i.e., 30 minutes prior to arrival as opposed to one hour). Importers that participate in NCAP also benefit from access to the FAST lane, provided the carrier is a participant in FAST (C-TPAT) and the driver is FAST.

AAEI would ask the Beyond the Border Working Group to focus particular attention on reducing transactional data requirements for trusted traders as a means of facilitating trade. We would like to stress that this does not mean eliminating advance data requirements but providing data in advance through a profile rather than on a transaction-by-transaction basis. That could mean:

- The United States creating a program along the lines of Canada’s CSA program that includes account-based front-end expedited clearance (with minimal data required for release) and back-end entry summary and accounting processes based on business records not linked to release at a transactional level. This program should be commensurate with the recommendations of the Entry Simplification Working Group established by US CBP in conjunction with several major trade associations, including AAEI, and with the support of the Commercial Operations Advisory Committee, the
private-sector advisory committee to the US Treasury/Dept. of Homeland Security on US CBP activities.

We recognize that these suggestions would require broader consultation with the trade community and consideration given to the impact on participants in current trusted trader programs.

As a final point, non-resident importers from one country should be eligible to participate in the trusted trader programs of the other. While Canadian non-resident importers into the United States are eligible to participate in the C-TPAT program, that is not the case with the more compliance-focused US ISA program, nor are US non-resident importers into Canada currently eligible to participate in the PIP or CSA programs. Given that a significant proportion of US exports to Canada, and Canadian exports to the US, are declared by the exporter acting as a non-resident importer in the country of destination, this can be seen as a significant technical impediment to expedited processing that bears little or no relation to the actual status of the secure trader status of the company handling the cross-border transport and regulatory filings.

3. Other Government Agencies/Departments

Any trade facilitation initiatives between the two countries must take into consideration the requirements of government departments and agencies which partner with CBP in policing the flow of goods across US borders. Increasingly we are seeing the benefits of trusted trader programs implemented by CBP being eroded by the lack of coordination and harmonization with the requirements of PGAs. Examples include new US advance data requirements related to product safety which are not integrated via ITDS in the US entry filing system, and the proliferation of new and proposed advance data requirements that may limit the use of the CSA clearance option by CSA importers importing goods in certain categories. CBP is making valiant efforts to bring PGAs on board with the International Trade Data System Single Window initiative, and Canada’s CBSA is working on a similar initiative, but progress has been slow, in part because of the lack of executive-level mandates that agencies work together. Through this perimeter security initiative, we would like to see:

- Greater priority given to the International Trade Data System in the United States and the OGD Single Window Initiative in Canada and, in particular in bringing these efforts to operational status, provided that and implementation of these initiatives is carried out in a manner that facilitates trade and does not impose additional data and other requirements on the trade community;

- Incorporation of PGA requirements into trusted trader programs and/or establishment of new programs to expedite the clearance of goods subject to PGA requirements (e.g. food products regulated by FDA/USDA and CFIA);

- Mutual acceptance of FDA/USDA and CFIA inspections (e.g. eliminate the re-inspection process for meat imports on both sides of the border), or, at a
minimum, agricultural preclearance processes, whereby inspections, sampling and other procedures would be conducted away from the border at the factory prior to export to the other country. This would not necessarily require officials from the relevant agencies to be posted at facilities in the other country, but could be achieved through existing or expanded MOUs between the relevant agencies in the two countries.

4. Other Areas

**Align Commercial Release Processes at the Perimeter, while Simplifying Them between the United States and Canada.**

There needs to be a thorough review of processes in both countries in consultation with the private sector with a view to agreeing upon and adopting best practices; simplifying and aligning our commercial release processes and avoiding duplication of effort, particularly where goods are transiting one country for importation into the other.

**Border Infrastructure**

The highest priority should be given by all levels of government in both countries to ensure completion of the new crossing at Detroit-Windsor.

**Technology**

It is critical that the United States and Canada adopt a coordinated approach to the deployment of technology at the border. In particular, both countries need to deploy interoperable transponder and RFID technology that is compatible with technology already existing in the United States.

**Border Resumption and Contingency Planning**

While considerable joint work has been done in this area, cross-border efforts with respect to border resumption and contingency planning need to be reactivated to ensure that the contingency plans that have been prepared can be "operationalized” and that there is sufficient outreach to the trade community. A common regulatory framework enabling the emergency services of one country to respond and aid in defined situations in the neighboring country should be established in both countries to preclude import or export restrictions from needlessly impeding critical rescue and disaster recovery operations.

**Improve Temporary Access for Business Travelers**

Enhance predictability and improve access for the cross-border movement of skilled professionals, including technical personnel. The costs, delays and regulatory burden currently associated with US technical personnel being able to travel to Canada to service equipment that is no longer under warranty or a service contract threatens US exports of equipment to the Canadian market. Similar challenges exist for Canadian technical personnel traveling to the US. Delays in servicing equipment
result in production slowdowns or stoppages which in turn affect employment and harm the competitiveness of the US economy.

**Governance/Institutional Structure**

We would like to see the proposed Border Action Plan provide for a bi-national institutional structure that would not only oversee and monitor progress under the action plan, but also address issues on an on-going basis that have an impact on the smooth flow of goods between the two countries. Not all issues rise to the level of being specifically included in a bi-national action plan. However, as we have seen in the past, small irritants can add up to a significant impact on trade. This bi-national institutional structure should also include a forum for joint consultation with the trade community in both countries.

We appreciate the opportunity to provide our comments and would be pleased to meet with you to answer any questions or elaborate on any of the areas addressed herein. We are committed to working with both governments, as well as our partners in the trade community in the United States and Canada, to ensure the success of this initiative.

Sincerely,

Marianne Rowden
President & CEO

cc: Simon Kennedy, Senior Associate Deputy Minister, Office of the Deputy Minister, Industry Canada
    Bryce Blegen, Co-Chair, AAEI International Policy Committee
    Tracey Leonard, Co-Chair, AAEI International Policy Committee