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# CARGO CONTAINERS: THE NEXT TERRORIST TARGET?

## HEARING

BEFORE THE

## COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

MARCH 20, 2003

Printed for the use of the Committee on Governmental Affairs

U.S. GOVERNMENT PRINTING OFFICE

86–994 PDF WASHINGTON : 2003

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
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# CONTENTS


| | Page |
|---|---|
| Opening statement: | |
| Senator Collins | 1 |
| Senator Coleman | 3 |
| Senator Lautenberg | 8 |
| Senator Pryor | 12 |
| Senator Akaka | 16 |
| Senator Fitzgerald | 17 |
| Prepared statements: | |
| Senator Lieberman | 45 |
| Senator Carper | 46 |


## WITNESSES

### THURSDAY, MARCH 20, 2003


| | |
|---|---|
| Hon. Asa Hutchinson, Under Secretary for Border and Transportation Security, Department of Homeland Security | 4 |
| Hon. Peter W. Hall, U.S. Attorney, District of Vermont | 21 |
| Stephen E. Flynn, Ph.D., Senior Fellow for National Security Studies, Council on Foreign Relations | 24 |
| Captain Jeffrey W. Monroe, M.M., Director, Department of Ports and Transportation, City of Portland, Maine | 28 |
| Michael O'Honlon, Senior Fellow, The Brookings Institution | 32 |


### ALPHABETICAL LIST OF WITNESSES


| | |
|---|---|
| Flynn, Stephen E., Ph.D.: | |
| Testimony | 24 |
| Prepared statement | 70 |
| Hall, Hon. Peter W.: | |
| Testimony | 21 |
| Prepared statement | 59 |
| Hutchinson, Hon. Asa: | |
| Testimony | 4 |
| Prepared statement | 53 |
| Monroe, Captain Jeffrey W., M.M.: | |
| Testimony | 28 |
| Prepared statement | 76 |
| O'Hanlon, Michael: | |
| Testimony | 32 |
| Prepared statement | 81 |


### APPENDIX


| | |
|---|---|
| Photographs (submitted for the record by Chairman Collins) | 48 |
| Chart entitled "Participation in CSI Among Top 20 Foreign Ports" (submitted for the record by Chairman Collins) | 52 |
| Responses to post-hearing questions for the record from: | |
| Hon. Hutchinson | 84 |
| Dr. Stephen E. Flynn | 97 |
| Capt. Jeffrey W. Monroe, M.M. | 103 |
| Michael O'Hanlon | 106 |

# CARGO CONTAINERS: THE NEXT TERRORIST TARGET?

**THURSDAY, MARCH 20, 2003**

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
*Washington, DC.*

The Committee met, pursuant to notice, at 9:30 a.m., in room SD–342, Dirksen Senate Office Building, Hon. Susan M. Collins, Chairman of the Committee, presiding.

Present: Senators Collins, Coleman, Fitzgerald, Akaka, Lautenberg, and Pryor.

## OPENING STATEMENT OF CHAIRMAN COLLINS

Chairman COLLINS. Good morning. The Committee will come to order.

As we convene this morning, our Nation is at war, and the threat level has once again been raised to orange, signifying a high risk of terrorist attacks on our Nation's citizens. Today, the Committee on Governmental Affairs will focus on what many experts consider one of our greatest vulnerabilities: Our ports and the global cargo container system, in particular.

There are some 12 million cargo containers in the worldwide inventory. These containers move back and forth among major seaports more than 200 million times a year. Every day, more than 21,000 containers arrive at American seaports from foreign countries filled with consumer goods—from televisions to clothes to toys. In fact, about 90 percent of U.S.-bound cargo moves by container. We must ensure that these containers carry nothing more dangerous than sneakers or sporting goods, not "dirty bombs" or even Al Qaeda terrorists. This hearing will assess the progress being made so far toward that goal.

Currently, the Bureau of Customs and Border Protection in the Department of Homeland Security inspects only a small percentage of cargo containers. Some are scanned with x-ray equipment; others are physically opened to verify their contents. Either way, the process is time-consuming and burdensome, and historically, Customs has been able to physically screen only about 2 percent of these containers. That may have seemed sufficient prior to September 11, 2001, but we now realize that the stakes are much higher.

For example, one news report last week suggested that some intelligence officials have a growing fear that Osama bin Laden is obsessed with the idea of building a nuclear weapon and smuggling it into our country via a contain ship.

Whether the threat is nuclear, chemical, or biological, and whether it comes from a terrorist network such as Al Qaeda or a terrorist state such as Iraq, cargo containers offer a frighteningly simple and anonymous way to smuggle weapons of mass destruction into the United States. They arrived by sea, by road, and by rail. Compared to the aviation industry, however, containerized cargo shipments are less regulated, less standardized, and far less secure.

For years, criminals have used cargo containers to smuggle narcotics, firearms, and people into our country. Last year, for example, four men pled guilty for their involvement in a scheme that smuggled seven cargo containers packed with stowaways to West Coast ports on five separate occasions. Human trafficking is believed to be an $8-billion-a-year business. Containers have also been used to smuggle a wide array of contraband, including illegal firearms and drugs, into our country.

Smuggling rings know how to exploit the vulnerabilities of the global container system. Based on a training manual seized in England, we know that Al Qaeda has targeted smugglers for recruitment. The training manual also instructed Al Qaeda members to look for new terrorist recruits among those seeking political asylum and employees at borders, airports, and seaports.

Our challenge is to prevent terrorists from exploiting the global system for moving goods as a means for attacking our Nation. The good news is that our government has been working to anticipate and respond to this threat. Since September 11, the Bureau of Customs and Border Protection has nearly doubled the percentage of containers examined from fewer than 2 percent in 2001 to nearly 4 percent in the first quarter of this year.

Since most containers carry legitimate commerce, Customs officials are working to ensure that high-risk containers are targeted for inspection. Given that 96 percent of the incoming containers are not being inspected, however, and that it is not practical to inspect every container, the systems for targeting and screening cargo must be highly effective. I have questions about the system used to accomplish this task and the quality of the data on which it relies.

In addition to increasing the number of inspections, the Department of Homeland Security has implemented important new programs to enhance container security. These programs, known as the 24-hour rule, the Container Security Initiative, and the Custom-Trade Partnership Against Terrorism, as well as Operation Safe Commerce, are well intentioned and designed to make us more secure. But do they?

Today, we will evaluate how well these programs are performing. For example, we will hear testimony about Operation Safe Commerce, which began with a test shipment of a container of light bulbs from a factory in Slovakia to New Hampshire. This container was outfitted with tracking and intrusion detection equipment to test whether the widespread use of such technology was valid. Some officials were surprised that, despite crossing five international borders, the antenna, nest of wires, and power supply attached to the container raised no eyebrows. And you can see from

the photographs[1] we have the wires and other information sticking out from this container, which you would think might have caused an inspection of its contents. We will hear more about the results of that test in testimony today.

The threat of an attack using cargo containers is serious and immediate. I look forward to learning from our witnesses about the progress that has been made so far and their ideas for implementing even better, long-term solutions for securing the global container system and reducing our vulnerability to this means of attack.

I want to welcome the Senator from Minnesota, a very dedicated Member of this Committee joining us this morning. I know that he was presiding over the Senate late last night, and I appreciate his being with us.

I would like to call upon him if he does have any opening comments that he would like to make.

**OPENING STATEMENT OF SENATOR COLEMAN**

Senator COLEMAN. Thank you, Chairman Collins, and just very briefly because I do want to hear the testimony and statement of the Secretary.

One, I want to thank the distinguished Chairman for having this hearing now. As she has noted, the stakes have never been higher. The threats are very real and immediate, and as we all understand, the chain is only as strong as its weakest link. And all the things that we are doing across the board in terms of security, be it at airports and other places, there is a real issue on the minds of average citizens. I think people understand how we—I think they have a sense of understanding the enormity of the challenge, but people expect us to deal with it. And I would note, Chairman Collins, that this is not just an East Coast or West Coast issue. In Minnesota, we have the Port of Duluth on the Great Lakes, and this is a concern right in the heart of America. And so we are all deeply concerned at this time, and we are looking forward to this conversation and working together.

Thank you, Chairman Collins, for having this hearing.

Chairman COLLINS. Thank you very much.

Our first witness this morning is Under Secretary Asa Hutchinson from the Department of Homeland Security. As the head of the Border and Transportation Security, Secretary Hutchinson is the government's highest-ranking official with direct responsibility for protecting our Nation's border and ports. Secretary Hutchinson's responsibilities include the Bureau of Customs and Border Protection as well as the Transportation Security Administration.

We are delighted to welcome you here this morning. We appreciate your being with us, and I would ask that you proceed with your testimony.

[1] Photographs referred to appear in the Appendix on page 48.

**TESTIMONY OF HON. ASA HUTCHINSON,[1] UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY, DEPARTMENT OF HOMELAND SECURITY**

Mr. HUTCHINSON. Thank you, Madam Chairwoman, Senator Coleman. It is good to be with the Committee today, and I want to thank you for this opportunity to testify on a very important subject. As hostilities have commenced in the Middle East, our prayers and thoughts are certainly with our men and women in service, but this hearing is important to reflect on the security of our homeland during this time and at other times in our Nation's history. And I am pleased to be here on behalf of the Department of Homeland Security representing the Directorate of Border and Transportation Security.

Let me first discuss the magnitude of the threat that the Chairwoman discussed this morning: That terrorists may use cargo containers as a means to transport weapons or people into the United States. And the fact is that nearly 6 million cargo containers arrive at U.S. seaports each year. That fact alone represents a challenge for homeland security and an opportunity to be exploited by those who wish us harm.

Recent cases illustrate that cargo containers have been used to smuggle people, to smuggle cargo, and to smuggle narcotics, both here and to other countries. To illustrate this point in the area of narcotics, during the calendar year 2002, there were 32 cocaine and marijuana seizures in which containers, used in ocean transports, were utilized to transport narcotics. There were 19 shipments in which the cargo itself was used for concealment, and there were 13 seizures in which the discoveries were that the container was used as a concealment technique, such as false walls or flooring. And these seizures occurred from Fort Lauderdale to Miami to Newark, New Jersey, to Charleston, South Carolina, to Baltimore. In Fort Lauderdale, 654 pounds of cocaine were hidden in a shipment of edible gelatin, commingled with legitimate cargo. In Fort Lauderdale, it was cocaine in a shipment of commercial starch. In Miami, it was in a front wall of a refrigerated container. In Newark, New Jersey, it was 3,000 pounds of marijuana concealed inside a shipment of cola nuts. In Charleston, it was a shipment of furniture involved. In Baltimore, it was another shipment of furniture.

But it was just not narcotics. If you look at arms smuggling, you broaden it to a worldwide environment. In January 2002, Israeli forces seized the Tonga-registered vessel CORINNE A in international waters in the Red Sea, and discovered aboard the vessel were 83 canisters filled with weapons ranging from Strella SA–7 man-portable surface-to-air missiles to anti-tank mines. These canisters were hidden in crates and obscured by other cargo.

In addition to the arms and narcotics smuggling, you have, as the Chairman pointed out, the human smuggling via containers. In January 2000, 18 illegal Chinese aliens were discovered in a container arriving at the Port of Seattle from Hong Kong aboard a vessel. Three of the smuggled aliens were found dead inside the 40-foot soft-topped container. That illustrates the danger in how they are utilized.

[1] The prepared statement of Mr. Hutchinson appears in the Appendix on page 53.

On March 22 of last year, Canadian authorities captured three Romanians after having been found in a container of liquor on board the ZIM EUROPA, which had arrived in Halifax from Spain. The ultimate destination of the cargo was the United States, destined for the New York-New Jersey container terminal.

In March of last year, in Savannah, Georgia, the Georgia Port Authority Police contacted Savannah authorities in reference to a suspicious container at the Port of Savannah. In this instance, a container was observed to have been compromised and that it had no seal as well as other physical abnormalities. A closer inspection of it indicated that the seal was missing, and it was determined that an individual most likely entered the container in Italy and left when the container arrived in Spain. And ultimately the destination, again, was Savannah, Georgia.

In October 2001, an Egyptian was detained in an Italian seaport and there was wide media publicity about this particular apprehension. This came about because the police report reflected an Egyptian individual named Farid Rizk, found in a container that left Port Said, Egypt, and arrived in Italy. The container found—he had Canadian passports, maps, cell phones, laptop computer, airline tickets, and Thai Airlines security passes. All of these goods led to the perception that the individual was more than a simple stowaway.

From these incidents, it is evident that there are vulnerabilities in our sea cargo container systems that have the potential for exploitation by terrorists. In fact, most experts believe that a terrorist attack using a container is likely. And so the logical question is: Well, what is our strategy to deal with this vulnerability?

The first part of our strategy is the Container Security Initiative. I want to applaud Commissioner Robert Bonner for his aggressive approach to this initiative, the development of it, and the implementation of it. Under CSI, we are identifying high-risk cargo containers and partnering with other governments to pre-screen those containers at foreign ports before they are shipped to our ports. The four key elements of the Container Security Initiative are: First, to identify the high-risk containers; second, to pre-screen those high-risk containers at the foreign port before they are shipped to the United States; third, we use technology to pre-screen those high-risk containers; and, fourth, we desire to use smarter, tamper-evident containers, which can be inspected more easily to determine whether they have been tampered with.

The goal for the first phase of CSI was to implement the program at as many of the top 20 container ports in terms of volume of cargo shipped to the United States as possible. Within 1 year of the announcement of CSI, 18 of the top 20 ports agreed to participate.[1]

The second part of the strategy is the implementation of the 24-hour rule. Because CSI requires us to identify and pre-screen high-risk containers before they leave foreign ports, the advanced transmission of complete and accurate cargo manifest information on all arriving vessels is essential to achieving success. U.S. Customs issued a final notice on advanced manifest regulations on October

[1] Chart entitled "Participation in CSI Among Top 20 Foreign Ports" (submitted by Chairman Collins) appears in the Appendix on page 52.

31 of last year, requiring the presentation of accurate, complete manifest information 24 hours in advance of loading the container on the foreign port. This rule is a huge leap forward in our container-targeting capabilities, largely eliminating the old manifest data standards that included vague descriptions of cargo, such as "FAK," which meant freight of all kinds, and at the same time providing the data before the container is loaded.

In some instances in the past, the government did not have a detailed description of a container's contents until 10 days after arrival in the United States. This has dramatically changed. Now we can identify high-risk containers prior to the ship leaving the foreign port.

But if the high-risk containers are identified after they have set sail for the United States, Customs and Border Protection makes a determination on their level and source of risk. And depending upon that assessment, protocols have been established for working with a variety of agencies, such as the Coast Guard, to take appropriate steps to intercept the cargo. For example, when a determination is made that the cargo should not reach U.S. shores, Customs and Border Protection works with the Coast Guard to ensure that the cargo is screened and examined, including the possibility of conducting examination prior to entering a port.

Another link in our strategy is the Customs-Trade Partnership Against Terrorism. It is called C–TPAT, and the C–TPAT program developed and started in January of last year is an initiative designed to further reduce the risk. It does so by improving security along the entire supply chain and not just at the foreign seaports. By partnering with the trade community—U.S. importers, customs brokers, carriers, shippers and others—we can better protect the entire supply chain against potential exploitation by terrorists or terrorist weapons.

So far, over 2,000 companies have signed an agreement with Customs and Border Protection to conduct a comprehensive self-assessment of their supply chain security and to improve that security from foreign loading docks to U.S. borders and seaports. Using C–TPAT, security guidelines developed jointly with Customs and Border Protection and the trade community have been implemented.

We have other additions to our protective measures. One of those is a broader initiative called Operation Safe Commerce that the Transportation Security Administration has the lead in. It is a public-private partnership dedicated to finding ways to protect commercial shipments from threats of terrorist attack, illegal immigration, and other contraband, while minimizing the economic impact upon the vital transportation system.

This program develops and tests technology and systems to improve container security, consistent with the principles and security practices of ongoing programs. The OSC, Operation Safe Commerce, has an executive steering committee that includes the Department of Transportation, TSA, the Coast Guard, the State Department, the Commerce Department, the Justice Department, and the Homeland Security Council. And so it is a broad, multi-agency effort to improve the safety of our commerce.

Let me conclude by thanking Chairman Collins and the Members of the Committee for this opportunity to testify. I will be looking forward to my continued discussion and work with this Committee.

Chairman COLLINS. Thank you very much, Secretary Hutchinson.

When we look at a container ship, we often now worry that one of the containers may include the makings of a dirty bomb. But the case that you cited suggests that, as we are tightening security at our borders, one of those containers may actually be a means for a terrorist to get into the United States. And I would like to show the picture of the container that you referred to that the Egyptian-born Canadian, Mr. Rizk, was found in.

As you can see, he had with him airport security badges, phone cards, maps of airports, computers, and a satellite phone.

Now, those don't strike me as the typical possessions of a stowaway, an illegal immigrant who may be coming to this country illegally in search for a better life. And his container was headed from Egypt to Montreal, I believe.

What has happened with this case, if you can disclose to us and bring us up to date? Is there concern that Mr. Rizk may have connections to Al Qaeda or another terrorist group?

These containers have been used for years by smuggling rings to bring illegal immigrants into the United States. Is there evidence or do you have concern that terrorist groups or others who may wish to do us harm may tap into the knowledge of these smuggling rings to bring terrorists into our country via containers?

Mr. HUTCHINSON. Thank you, Senator, and the case that you cited is a perfect illustration as to the sophistication of some of the smuggling operations through container ships and container cargo. Clearly, in this instance, with the cell phones, with the false documents that were available, there was a lot of preparation that went into this.

This was a case that was investigated by those overseas, and although there was extraordinary concern because of the potential connection to terrorist organizations, it is my information that ultimately—the Italian police did warrants, did searches, continued the investigation and determined that there was no known connection between Rizk and Al Qaeda or any other terrorist organizations, and they have closed their inquiry.

But despite that ultimate finding, it shows that there is sophistication in this network and that, as you pointed out, when there are organizations that will conduct this type of smuggling, terrorists are looking for opportunities to contract out, to find available means to move terrorists as individuals or their weapons through commerce into the United States or to other destinations. And so it raises our level of concern because this is something that can be exploited by those that wish to do our country harm.

Chairman COLLINS. By the time a container carrying a weapon of mass destruction arrived at a U.S. port, an inspection at that point is too late. And that is why I commend you and the Department for initiating the CSI program of placing Customs personnel in overseas ports to pre-screen containers before they come here. We really need to get to the point of origin, because if we wait until

they are already in the American port, the damage may already be done.

According to the last information provided to the Committee, we currently have CSI teams from Customs stationed in 6 of the 20 largest foreign ports. I believe they are in the Netherlands, France, Belgium, Singapore, and two in Germany, and I have a map showing the locations. And those ports represent about 21 percent by volume of containers shipped to the United States.

One of the concerns I have is that many of the mega-ports that are part of the system now are in lower-risk areas of the world. Do you anticipate an expansion of the CSI program to ports where there is a higher risk of terrorist exports, for example, in the Middle East and Africa?

Mr. HUTCHINSON. Yes, we do. This is CSI Phase 1 in which 18 of the 20 mega-ports have been signed up. But as you pointed out, only six of the ports have really been fully deployed and the program has been completely implemented. We want to move to the other ports that have been signed up. That is being aggressive pursued. And then, second, we want to expand it beyond the 20 mega-ports to other ports in areas of concern so that we can get the remaining percent of the cargo.

I would emphasize, though, that notwithstanding the CSI only being in the mega-ports right now, the 24-hour rule is applicable everywhere. And so we will have advance information on all cargo coming to the United States so that it can be analyzed. But we do hope to expand the program as we are capable of doing so to these other areas of concern.

Chairman COLLINS. Thank you. My time has expired. Senator Lautenberg.

**OPENING STATEMENT OF SENATOR LAUTENBERG**

Senator LAUTENBERG. Thank you very much, Madam Chairman. Madam Chairman, you had suggested initially that you weren't going to take opening statements. Has anything changed?

Chairman COLLINS. If you would like to take a few minutes to make an opening statement.

Senator LAUTENBERG. I would try to participate in the discipline that the stern Chairman has issued here and just to say that I ask unanimous consent that my full statement be placed in the record.

Chairman COLLINS. Without objection.

Senator LAUTENBERG. First of all, Mr. Hutchinson, you don't look any the worse for wear since you have taken this job. You must get awful tired crawling around these containers looking for things. But it is amazing that people can set up housekeeping in a container. Our Port of Newark and the New York harbor, New York-New Jersey harbor is a recipient, I think, one of the largest recipients of containers in the country. And how we stay on top of that has often kind of puzzled me because before I came to the Senate, I was a Commissioner of the Port Authority in New York-New Jersey. And we have always been concerned with security.

Let me ask you this: When our inspectors or when the inspection process is underway, what are we looking for? Are we primarily targeting weapons, threats to our security? I know these people

have a lot of responsibilities that have been considerably enlarged since the days that terrorism assaulted our shores.

Do you look for dutiable items? Do you look for smuggling? Do you look for drugs? What is the mission of the inspection or the inspectors?

Mr. HUTCHINSON. Thank you, Senator Lautenberg. And, first, I want to remark that I had a wonderful time visiting the Port of Newark. I was there and saw the enormous volume of containers and the work that had to be done. And I was very impressed with the targeting approach that had been implemented at that port. I think it is on the leading edge of what we need to do nationwide.

But what we are looking for in our targeting approach are anomalies. We have a scientifically based, rules-based system in which certain criteria are asked, looking at the cargo manifest, where it is coming from, the nature of the cargo, the shipper, the transporters that are involved, the manufacturer, and their record of integrity for shipments. All of these things plus a whole host of other matters are used to target particular shipments.

This whole program is designed to go after weapons of mass destruction, terrorist activities. Obviously, when you go after that, you find a whole host of things in suspicious cargo, including narcotics. But the CSI program is designed to go after the security matters that impact our Nation, and that is the focus of that. And the basis of the targeting would be that rules-based system that will identify those anomalies and give suspicion that creates a high risk of the cargo, and then it would be searched electronically, x-rayed, as well as manually if necessary.

Senator LAUTENBERG. We must have a continuing research program for improving containers security. I know that, for instance, we are doing a lot of work on explosive-resistant cargo containers for aircraft. And when one looks at this housekeeping that Mr. Rizk set up there, you wonder how he could endure under any circumstances. But I think that technology can be a lot of help there, simple things such as motion detection and what have you, or air purifying or de-purifying, whatever the term is. But you have an enormous task.

The screening detection devices, are they being used at ports that ship to us, non-U.S. ports, obviously? Is that kind of equipment being used in those places?

Mr. HUTCHINSON. Yes, indeed. In fact, the good thing about the ports that sign up for the Container Security Initiative is that they are required to do the inspections as necessary for the at-risk cargo at the foreign port. And so as our Customs and Border Protection inspectors are overseas at the Port of Rotterdam, working with the Dutch inspectors, they will identify suspicious cargo. Then it will go through x-ray, gamma ray machines, depending on what the level of concern is, and manually inspected if necessary. And the cost of that is borne by the foreign port, the inspection and of the equipment.

If information comes to us after it leaves the foreign port, then that triggers further examination, exploration of the suspicious cargo, and confronting it off our shores. And so, again, we have the layered approach that puts the protection further out and gives us more time to work with the at-risk cargo to determine its nature.

Senator LAUTENBERG. I assume that there are ports where the risks are much higher for smugglers, terrorists, etc. Are we able to cover those ports as efficiently as we would like? In many of those countries, their laws are not scrupulously observed. What do we do to protect ourselves against those higher-risk shipping points?

Mr. HUTCHINSON. Well, there are ports out there that do not have the sophistication of detection equipment. They do not have the investment that is made. They do not have the background checks for the port workers. These are ports that are a much higher risk.

What we have to do is to make sure that we give them incentives if they want to bring goods into the United States and export goods here; then they are going to have to upgrade their systems. And if we do not get the cargo information in advance, they will increase the level of risk, the level of inspections, and the delays as they bring goods on. And so as time goes on, we hope that there will be greater international standards at these ports, and the international community will put pressure on these ports that are not up to the international standards that we expect.

Senator LAUTENBERG. Thank you very much, Madam Chairman. I appreciate it.

[The prepared statement of Senator Lautenberg follows:]

PREPARED STATEMENT OF SENATOR FRANK R. LAUTENBERG

More than six million cargo containers enter U.S. ports each year. A large container ship can carry more than 3,000 of these cargo containers, hundreds of which may be off-loaded at individual ports. Once off-loaded from ships, the containers are transferred to rail cars, tractor-trailers, or barges for inland transportation.

Container ships are a growing segment of maritime commerce and the focus of much attention because they are particularly susceptible to terrorist infiltration. For years, drug traffickers and unscrupulous companies seeking to evade tariffs have exploited lax cargo container security at our ports to smuggle their goods into the United States. Terrorist organizations could easily partner with these smugglers to move explosives, dangerous chemicals, biological agents, nuclear or radiological devices, or the benign precursors for any of these materials into the country undetected.

The newly-created Bureau of Customs and Border Protection (BCBP) analyzes cargo manifest information for each container to determine which ones need closer inspection. At present, only two percent of all cargo containers are subject to "target inspection."

Shortly after the horrific events of September 11, 2001, Stephen Flynn painted a vivid and chilling picture in testimony before this Committee about how a weapon of mass destruction (WMD) could be smuggled into Port Newark and the extent of the devastation and havoc it could wreak if detonated there.

The New York/New Jersey Port is one of the top five domestic ports in terms of commercial and military significance. It is the 10th largest port in the world in terms of cargo tonnage and 14th with regard to the numbers of containers shipped. The Port's role is essential to our nation's commerce—in 2001, it handled $82 billion worth of cargo, or 58 percent of the market share of all the ports along the U.S. Atlantic Coast. It is the largest in the U.S. in both petroleum and automobile shipments and it supports 229,000 jobs.

The Port Authority is a marvel of intermodal transportation infrastructure, facilitating the efficient movement of passengers and freight in a manner not duplicated anywhere in the world. But the high concentration of goods and people in such a limited area also poses unique security risks. As Mr. Flynn pointed out, within one mile of the container terminal at Port Newark are the Northeast Rail Corridor, the New Jersey Turnpike, and Newark International Airport. If all of these major components of our nation's transportation system were simultaneously crippled by a WMD smuggled into the Port and detonated, the effects on our country's travel and commerce would be disastrous.

The January 2001 report of the U.S. Commission on National Security in the 21st (the so-called "Hart-Rudman Commission") described the worst-case scenario of a terrorist attack using a cargo container:

> If an explosive device were loaded in a container and set off in a port, it would almost automatically raise concern about the integrity of the 21,000 containers that arrive in U.S. ports each day and the many thousands more that arrive by truck and rail across U.S. land borders. A three-to-four week closure of U.S. ports would bring the global container industry to its knees. Megaports such as Rotterdam and Singapore would have to close their gates to prevent boxes from piling up on their limited pier space. Trucks, trains, and barges would be stranded outside the terminals with no way to unload their boxes. Boxes bound for the Untied States would have to be unloaded from their outbound ships. Service contracts would need to be renegotiated. As this system became gridlocked, so would much of global commerce.

It is evident, therefore, that the security of cargo containers is crucial not only to the employees and nearby residents of the Port of New York/New Jersey, or any other port facility in the U.S., for that matter. Since it is not possible to inspect every one of the six million containers which are handled at our ports every year, we need to be sure that our security efforts are effectively coordinated and thorough.

As a former Port Authority Commissioner, I understand the scope of the challenge which exists when it comes to inspecting cargo containers. Considering what is at stake and the resources available, I believe it is imperative that Federal agencies take leadership roles in coordinating security activities—including container security—at our ports.

Thank you, Madam Chairman.

Chairman COLLINS. Thank you. Senator Coleman.

Senator COLEMAN. Thank you, Chairman Collins.

I must admit, Mr. Secretary, I am rather daunted, a little overwhelmed by the enormity of the responsibility you have and the difficulty in fully addressing it. And I applaud—you know, I understand we have the use of technology. These are not kind of random searches. You are kind of looking ahead. But I must say that my State, like the Chairman's State, is a border State. There are vast expanses of my State where, by car or by boat, you could get across and nobody would know, and that is a reality. And so I am troubled, and I know that the Chairman faces that same reality.

Saying that, two observations, two questions, and a little eclectic. One is on the labor side, and that is, it appears to me that your tasks and the functions of what folks were doing pre-September 11 are probably very different today, that your focus: Before it was national, now we are looking at international, placing people in other areas. Do you have the flexibility in terms of labor rules and everything else to move people quickly, to have them take advantage of new technologies, to shift work assignments? Are there any issues there of which we should be aware?

Mr. HUTCHINSON. Congress gave a substantial amount of flexibility in the Homeland Security Act, and so in moving people for national security reasons, we have that capability. In the implementation of technology, we have that flexibility.

What we do, which is the correct obligation for us, when it comes to new technology or new assignments, we have a responsibility to engage in substantial training, and those issues, if there is union representation, we discuss those with them and we make sure that those agreements are fulfilled.

But we are pleased with the flexibility that we have. We are reviewing all of our personnel rules between now and the end of November when a report is due to Congress, and so we will be able

to answer that more specifically as to what reforms we are making, adjustments we are making, and any additional needs that might be there.

Senator COLEMAN. Because I think this is an important issue, and we need to know very quickly. These are challenging times, and having flexibility in the interest of national security is, I think, of the utmost importance.

The other area of concern is U.S. companies located abroad. I presume we—and I am looking to the private side, perhaps advice you could give them. They probably get a lot of packages of things from foreign contractors shipping to them in containers. Are we working with the private sector in terms of their own kind of standard of care or standard of sensitivity? Are we training our folks? It may get past your folks, but are there things that folks on the private side can do if they were better educated?

Mr. HUTCHINSON. Absolutely. And they are a critical part of the partnership. We can target and we can inspect, but unless there is integrity in the supply chain and that the manufacturers, the shippers, take responsibility for their own containers and the integrity of the shipments with proper seals, then all that we do really would have a minimal impact. It has to be complemented by the integrity of the supply chain.

So what we are doing in that arena? Two thousand businesses have signed up in partnership with Customs and Border Protection in the arena of improving the supply chain, providing the protections, implementing best practices, and doing self-assessments of their own security.

In addition, through the Transportation Security Administration, they have Operation Safe Commerce, which is a partnership with private business. Congress gave $105 million in grants for port security, with $28 million in grants for private industry to do assessments, to implement good practices in reference to those supply chains. So it is a recognition that we just can't get it done without their partnership, and they have really stepped up to the plate as well.

Senator COLEMAN. I would hope they would be working with folks like the chambers of commerce and the National Association of Manufacturers and the trade groups and others to really involve them in this, because your point was—in my very brief preliminary comments, we are only as strong as the weakest link of the chain. And they are clearly part of the chain, and I would hope that we fully engage them.

Thank you, Chairman.

Chairman COLLINS. Thank you very much. Senator Pryor.

**OPENING STATEMENT OF SENATOR PRYOR**

Senator PRYOR. Thank you, Madam Chairman. Always good to see you, Asa, and I am glad you are before this Committee today.

Let me start by just saying that I know that this is a new program. There is always some trial and error in any new program. How is it working?

Mr. HUTCHINSON. It is working well, and I say that with reservation because, as Senator Coleman pointed out, it takes a vast amount of cooperation in the private sector to make this work. But

I am fully convinced that it is the right strategy, and I think that is the first test. The right strategy is to build with our private partnership, the private sector, and to expand these inspections overseas to get more information in advance.

There is much more that needs to be done. As Senator Collins said, we have got to bring on some of the other ports that are of a greater concern. But it is the right strategy, I am convinced of that. There are instances in which we have detected suspicious cargo; we have stopped it coming into the United States. And I think it is a strategy that will have proven results in the future as well.

Senator PRYOR. It sounds like you have identified some areas that we need to work on, some areas where we need to improve. Could you tell the Committee about a few of those please?

Mr. HUTCHINSON. Thank you, Senator Pryor. The areas that we have to work on are the supply chain and the integrity of the containers themselves. We have a working relationship with Johns Hopkins Applied Research Center that is doing examination of containers and how private industry can better protect in a cost-effective manner the integrity of the shipments. We have to work on the port workers in the sense of improving our background checks there. TSA is working on a transportation worker identification card program where there would be one background check done. They don't have to have a whole host of cards and security clearances, but one that would work in whatever transportation sector they would be in. This is in the initial phases, and we have to move that forward.

The other challenge, if I might just elaborate on one more?

Senator PRYOR. Sure, go ahead.

Mr. HUTCHINSON. This 24-hour rule for cargo applies to the exports coming into our country, the air and sea shipments. But we have not moved it to all modes of transportation, and so in Arkansas, for example, the trucking industry is a huge issue. They are very concerned about this, as well as the rail industry, so we have to have advanced manifest notice as well. But 24 hours doesn't work when it is on-time delivery, and so we are having to work with them. We are hearing comments of industry as to what kind of advance manifest information is workable in those other modes of transportation.

Senator PRYOR. Good. Well, as you identify those areas—and it sounds like you have a few already on your plate. But let us know as a Committee how we can help make our ports more secure. I know sometimes it boils down to money. Sometimes you may need more authority in one way or another. Or sometimes you just may need more time to allow things to work themselves out.

I think I can speak for our Chairman here that we all want to make our ports as secure as possible, and we want to give you the tools you need to do that.

Mr. HUTCHINSON. Thank you, Senator Pryor. I look forward to working with you.

Chairman COLLINS. Thank you, Senator Pryor.

Just a couple more questions, Secretary Hutchinson. When Customs inspects containers, it often uses detection equipment rather than physically inspecting the container.

First of all, I assume that it is not really practical to physically inspect 6 million containers coming into our country. Is that an accurate assumption?

Mr. HUTCHINSON. That is an accurate assumption.

Chairman COLLINS. A November 2002 General Accounting Office report found that the radiation detection pagers used by Customs had limited range and that they were unable to detect weapons-grade radioactive material.

Could you tell us what improvements you are making in getting the detection equipment up to par and able to detect threats such as that? And could you respond specifically to the GAO report?

Mr. HUTCHINSON. What is important to remember is that the personal radiation detectors are not a cure-all to detect all harms coming into our country. It is just simply one tool that is used, and it has to be complemented by many other tools.

We are working with the laboratories as additional information and improvements become available. We are listening to them in terms of our technology and having better training of our inspectors that use this equipment.

Also, Senator, we are deploying—we are not just relying upon the personal radiation detectors, but we are deploying portable radiation detectors in the larger ports of entry and at our seaports. Thirty have been deployed now. I think there is another $60 million in that type of technology that is in future budgets. So we are moving the larger pieces, the more sophisticated radiation detectors out as soon as we can.

Chairman COLLINS. *ABC News* did a test of the system in which they successfully shipped 15 pounds of depleted uranium inside a lead-shielded tube the size of a can of soda, and it was packed in a commercial shipping container among Turkish horse carts and vases.

It is my understanding that shipment was targeted for inspection by Customs, but after an x-ray examination was allowed to continue, and that, again, raises concern about the sensitivity of the detection equipment.

Could you respond to that case as well?

Mr. HUTCHINSON. Well, first, I think it is a sign of success that it was targeted for inspection. It means that there is at-risk cargo that we correctly identified as cargo that should be inspected.

Second, if it had been dangerous radioactive material, it would have been detected by the equipment that did the screening. But, in fact, obviously *ABC News* is not going to put radioactive material into a shipment, and so they put harmless material in it that had been deactivated. And so it was not sufficient to be picked up by the equipment. I think that point is conceded.

If that material had been harmful, it would have been detected by our radiation equipment, and then it would have been subject to further examination.

Chairman COLLINS. I want to follow up on a point that Senator Lautenberg made about using technology to help us track containers, because even if we do appropriate screening at the port of departure, we need a way to monitor the containers en route to make sure they are not tampered with.

Could you give us some assessment of whether or not—where are we on the technology as far as using tamper-proof, self-tracking containers so that we could seal them at the port of departure and monitor them en route to American ports to ensure that they have not been tampered with or diverted?

Mr. HUTCHINSON. Well, really, the technology is there. You can make a container tamper-proof, or at least where it is clear if it has been tampered with, there is evidence of that. And there is technology for the GPS transponders. So that you can track each container as it goes through the shipment process. They use this to a large extent in the trucking industry.

I think the issues would be whether the technology is affordable and cost-effective by industry and whether you can put such a huge mandate on them that would be very difficult for them to meet. And so that is what we are working in partnership with industry to explore as to what is the right tamper-proof or secure container seal and then, second, whether there should be any additional type of tracking system for those containers.

Chairman COLLINS. Thank you, Mr. Secretary. Senator Coleman.

Senator COLEMAN. Chairman Collins, just two questions, and actually following up on the last comment about the additional technology and other things.

The airline industry has come to us and talked about the increased costs of security and has raised the question as to who shoulders that responsibility. What are we facing in terms of dealing with the private sector on us saying there are improved forms of technology and equipment, but obviously there are cost impacts? Are they coming to us, coming to the government and saying you have got to pay for that or share that burden?

Mr. HUTCHINSON. Yes. They are coming to us, and they are coming to you. But that issue is there, and it is a shared cost. The responsibility for homeland security is a national one that is shared by every level of government and the private sector. So we have to negotiate and work through those balances. It is not our objective to put such stringent mandates on the airline industry that they can't operate. That doesn't accomplish what we want, and I know that is your objective.

But one of the illustrations would be in the airports. We have the baggage screening devices and the equipment present, but they are in a very inefficient and cumbersome place that was really not designed to have those huge equipment processes there. And they need to move those, and there are going to be millions and millions of dollars in expense to accomplish that. The airports are concerned about them having to take that burden on. The airlines, of course whenever you are looking at the concern about MANPAOS, land-to-air missiles that could attack our commercial aircraft, and there are sensors that could be put on aircraft, but it is so hugely expensive, nobody could afford to buy a ticket.

And so we have to balance this and what is needed for the appropriate level of security.

Senator COLEMAN. In a similar light, again, talking about the money, we are certainly going to our trading partners and talking about things that they have to do. They are an important part of this process. In those discussions, are folks coming back to us,

again, in terms of additional support? Talk to me a little bit about that.

Mr. HUTCHINSON. Our international partners?

Senator COLEMAN. International partners.

Mr. HUTCHINSON. Tremendous response. If you look at it, the European ports signed up very quickly on it. They did it partly for the United States and our ability, but also they saw it as a means to improve the security of their own ports and also to stay competitive, to make sure that the cargo coming from that particular port didn't get held up. So it is to everybody's advantage to cooperate in this program. The international partners have been very supportive.

The only concerns that have been expressed, the European Union expressed some concern that we were negotiating with the individual ports rather than the European Union as a whole. We are sorting through that. And then there have been some privacy concerns expressed, but these issues are being addressed in a very cooperative fashion.

Senator COLEMAN. One last question, Chairman Collins.

We are talking a lot about focusing on stuff coming from outside in. I presume that we have to be looking at what we are shipping out to our partners, are they coming back to us? Are they talking about our standards? And what are we doing in terms of addressing their concerns about the stuff that we are shipping? Is this a two-way street?

Mr. HUTCHINSON. It is. Probably our concern maybe is a little bit greater than their concern. But there have been a number of instances in which they ask for reciprocal treatment. Japan is a good example. When their ports signed up, they wanted to have not just our Customs inspectors located in their ports, but they wanted to have inspectors in our ports looking at our outbound shipments. We agreed to that readily, and so we do treat this as a reciprocal relationship. And they have an interest in that.

Canada is a perfect example. We have our inspectors located in Montreal and Vancouver. They have their inspectors located in Newark and in Miami. And so it is a very productive relationship, and I think that will increase.

Senator COLEMAN. Great. Thank you, Mr. Secretary. Thank you, Chairman Collins.

Chairman COLLINS. Thank you. Senator Akaka.

**OPENING STATEMENT OF SENATOR AKAKA**

Senator AKAKA. Thank you very much, Madam Chairman. I want to add my welcome to Secretary Hutchinson.

Mr. HUTCHINSON. Thank you.

Senator AKAKA. Good to see you again, and good to see you on the Hill.

I also want to say personally thanks for the work you did before you entered this office.

Mr. HUTCHINSON. That is very kind of you.

Senator AKAKA. Madam Chairman, I would like to make a statement if there is time. It will be your call. I will have some questions.

Chairman COLLINS. Certainly.

Senator AKAKA. I regret that I was not present for your opening statement. However, I would like to take this opportunity to say, Madam Chairman, that I commend you for holding this hearing.

The citizens of Hawaii and our State's economy are heavily dependent on imported goods. This vulnerability was demonstrated during the days following September 11 when the delivery of essential medicine and mail was halted because all airlines and their cargo were grounded. That was a serious problem, 98 percent of the goods imported into Hawaii are transported by sea.

As you can see, shipping container security is critical to Hawaii. Honolulu Harbor receives more than 1 million tons of food and farm products and over 2 million tons of manufactured goods per year. In 2002, Honolulu received 1,300 overseas ships and about 300,000 containers. In 2002, over 8 million tons of cargo arrived at Honolulu Harbor alone. The State's heavy reliance on shipping products makes it uniquely vulnerable to disruptions in the normal flow of commerce. This reliance underscores Hawaii's need for better surveillance and detection equipment.

Earlier this week, the Coast Guard raised the threat level at Honolulu Harbor in response to the war in Iraq. A number of proposals will be discussed this morning to improve shipping container security. However, I feel that more needs to be done.

According to the American Association of Port Authorities, U.S. ports received only 10 percent of the funding needed to improve port security and enhance shipping container security. Also, more Federal dollars are needed for research and development of bomb detection equipment to assist the Coast Guard and local law enforcement to detect dangerous material and to prevent a potential crisis before it occurs.

Madam Chairman, I want to thank you again for holding this hearing. I will be with you and doing all we can as we consider these proposals toward improving shipping container security and personally address Hawaii's unique challenges as well. Thank you, Madam Chairman.

Chairman COLLINS. Thank you very much, Senator. Senator Fitzgerald.

**OPENING STATEMENT OF SENATOR FITZGERALD**

Senator FITZGERALD. Thank you very much, Madam Chairman, and thank you Secretary Hutchinson for being here. I would like to thank the Chairman for holding this hearing on the important issue of cargo container security. I also would like to welcome Secretary Hutchinson and the other witnesses who will be here today.

The scope of this issue cannot be understated. Approximately 90 percent of the world's cargo moves by container. Each year, over 48 million full cargo containers move between seaports throughout the world and more than 16 million containers arrive in the United States by ship, truck, or rail.

Last year, I raised the issue of air cargo security on a number of occasions during Senate consideration of this issue. While the Federal Government has taken some steps, I believe that much more can be done to secure cargo in all modes of transportation.

The U.S. Customs Service reports that trade volume moving through the 102 seaports of the United States has nearly doubled

since 1995. In 2001, U.S. Customs processed more than 214,000 vessels and 5.7 million sea containers.

In addition to considering the sheer number of containers, it is also important to consider the flow of trade as it impacts our economy. More than $1.2 trillion in imported goods passed through our country's ports of entry in 2001. Almost half of the incoming U.S. trade by value arrives by ship.

The issue of cargo container security is of special importance to my home State of Illinois. Chicago is one of the Nation's major transportation hubs where Federal highways, major railroads, and trans-ocean shipments intersect. The Port of Chicago is a vital link for shipments from the Atlantic Ocean which traverse through the St. Lawrence Seaway and continue on by truck throughout the region or by barge down the Illinois and Mississippi Rivers to the Gulf of Mexico.

If a terrorist were to smuggle a weapon of mass destruction into any one of our Nation's ports in a cargo container, the effects would be devastating to area residents, our infrastructure, and our economy. In fact, on March 10, the *Chicago Tribune* reported on a war game conducted by government and industry officials which involved the explosion of a so-called "dirty bomb" in downtown Chicago. In the war game scenario, the bomb was hidden in a shipping container which entered through an East Coast port.

After the terrorist attacks of September 11, it quickly became apparent that the Federal Government needed to do more to ensure the safety of cargo containers entering our country. I commend the administration for launching the Container Security Initiative, known as CSI, in January 2002. Under the CSI program, Customs officials are stationed in foreign ports and work with local inspectors to pre-screen containers before they arrive at U.S. ports.

In addition, the National Strategy for Homeland Security, released by the White House in July 2002, also highlighted container security as a major initiative for improving border and transportation security.

I understand that CSI agreements have been concluded with a number of foreign governments which have so-called mega-ports that process the vast majority of cargo containers. I look forward to hearing from the witnesses about the current status and effectiveness of the CSI program and how these CSI agreements will help increase the security of cargo shipments bound for the Port of Chicago and other ports throughout the United States.

I also look forward to hearing how the three primary Federal agencies that are responsible for protecting our seaports and shorelines from weapons of mass destruction—the Coast Guard, Customs Service (now part of the Bureau of Customs and Border Protection), and the Transportation Security Administration—are coordinating within the new Department of Homeland Security.

Thank you, Chairman Collins.

Chairman COLLINS. Thank you very much.

Senator Akaka, it is my understanding you do have a few questions for Secretary Hutchinson.

Senator AKAKA. Yes, thank you very much, Madam Chairman.

Mr. Secretary, as I noted in my statement, the citizens of Hawaii are heavily dependent on shipped goods. The State of Hawaii re-

quested $3.24 million in TSA grant funding for port security and has currently received $775,000. This amount represents less than one-quarter of the funding Hawaii indicates it needs to meet security mandates identified in a Coast Guard vulnerability assessment.

How can we ensure that a State such as Hawaii receives the funding needed to meet its unique port security needs?

Mr. HUTCHINSON. Thank you, Senator, and Hawaii probably more than anyone is dependent upon the reliability of the ports and the security of the ports. And in reference to the potential grant funds, there will be another round of port security grant funds that are available through the Transportation Security Administration. There was $105 million available for vulnerability assessments and infrastructure improvements. And so I am sure that your leadership in Hawaii will be applying and probably have already applied for those funds. And I am sure that they will receive a high priority, as they should.

Senator AKAKA. As I mentioned, Hawaii is unique. Port security is critical, and exclusively Hawaii almost exclusively relies on shipping for life-essential goods. However, unlike many U.S. mainland ports, Hawaii cannot rely on alternative transportation such as rail or trucking.

What is your plan to respond to a terrorist attack where there are limited means of alternate transportation in such a place as Hawaii?

Mr. HUTCHINSON. We have to recognize the uniqueness of Hawaii, and the plan should not be the same plan that works for New York or Washington State. And that is the reason that your State has developed their own homeland security plan in order to make sure there is adequate cooperation among the agencies and a proper response is coordinated.

It is based upon that plan that is individualized for Hawaii that we are able to put forth the funding, whether it is ports but even more significantly to the equipment and the first responder money. And so we are working through our agencies there, from the Coast Guard to Customs and Border Protection, to Immigration and other agencies, working with your State officials to make sure the plans are technically right and provide the support that is needed. But, clearly, it is a different circumstance in Hawaii. We recognize that, and we applaud the efforts of your State officials to develop a plan that is suitable for your State and the needs there.

Senator AKAKA. I really appreciate your response. Thank you very much.

Chairman COLLINS. Thank you very much.

Senator Fitzgerald, we have held Secretary Hutchinson here for quite a while, but do you have some questions you would like to ask?

Senator FITZGERALD. Real quickly. Thank you very much.

Mr. Hutchinson, the Customs Service launched the CSI program last year. What impact, if any, has the reorganization of the Customs Service within the Department of Homeland Security had on the progress of implementing the CSI program?

Mr. HUTCHINSON. It has had a neutral effect in terms of any adjustments. The reorganization that we have accomplished focuses

all the border agencies, from Border Patrol to all the inspection services combined into Customs and Border Protection. And so there is a clear chain of command and clear mission for that particular bureau of Customs and Border Protection. And so there is no negative impact. The message is we want to make sure this has the highest priority and the implementation is completed.

I actually think that there is a positive impact because the mission is clearly defined. For example, the enforcement side of the investigative agencies is separated out. And so Commissioner Bonner can focus extraordinary energies on this in the implementation of it, and I think it is going to march forward with really increased energy.

Senator FITZGERALD. Well, thank you very much, and in light of the time you have spent before this Committee already, I would yield back to the Chairman. Thank you very much for being here today.

Mr. HUTCHINSON. Thank you, Senator.

Chairman COLLINS. Thank you very much. I would now like to welcome our second panel of witnesses.

Peter Hall is the U.S. Attorney for Vermont. Mr. Hall co-chaired a law enforcement coordinating committee of State, local, Federal, and Canadian law enforcement officials that conducted the first real-world test of smart container tracking and intrusion detection technologies.

Dr. Stephen Flynn is a senior fellow for national security studies at the Council on Foreign Relations. He is a retired U.S. Coast Guard commander and an expert in homeland security and border control. He also has served as director of the Independent Task Force on Homeland Security Imperatives, co-chaired by former Senators Gary Hart and Warren Rudman, which produced the report "America: Still Unprepared—Still in Danger."

Captain Jeffrey Monroe is the director of Ports and Transportation for the City of Portland, Maine. He supervises the operations at Portland's marine facilities, the Portland International Jet Port, and coordinates the city's surface transportation programs. Previously he served as deputy port director for the Massachusetts Port Authority, executive director of Governor Weld's Commission on Commonwealth Port Development, as a professor at the Massachusetts Maritime Academy, and as a master in the U.S. Merchant Marine.

Dr. Michael O'Hanlon is a senior fellow in foreign policy studies at the Brookings Institution. From 1989 to 1994, he worked in the National Security Division of the Congressional Budget Office. He recently co-authored a book entitled "Protecting the American Homeland: A Preliminary Analysis."

I want to welcome all of you today. I look forward to hearing your statements. I would ask that you limit your testimony to 10 minutes each so that we have ample time for questions and answers. And your full written statements will be entered into the record. Mr. Hall, we will begin with you and welcome.

**TESTIMONY OF HON. PETER W. HALL,[1] U.S. ATTORNEY, DISTRICT OF VERMONT**

Mr. HALL. Thank you, Chairman Collins, distinguished Members of the Committee. It is a privilege and an honor to be asked to testify before this Committee concerning cargo container security and an interagency, intermodal, and international initiative for cargo container security called Operation Safe Commerce-Northeast.

As brief background—and I won't go through my entire statement because I know it is on file with this Committee—since the early 1980's and the advent of the Law Enforcement Coordinating Committees, sponsored by DOJ and the U.S. Attorney's Offices, there has been an expansive, cross-border effort in the Northeastern United States and Eastern Canada, and really this includes the States of Maine, New Hampshire, and Vermont, and northern New York and western New York as integral partners in this on our side of the border; Ontario and Quebec and New Brunswick on the northern side of the border.

We came together regularly to share working intelligence information at all levels of law enforcement—local, State, provincial, and Federal—and to discuss and address issues of common concern.

It was against this backdrop and out of this culture of cooperation, which really has been going on for two decades, at least, that Operation Safe Commerce, the first one to take that moniker, was born in August 2001, a month before the events of September 11, 2001. The group was aware historically from our work together that drug shipments came into the Port of Montreal. For many of us, that is our port, and, Senator Fitzgerald, I would just add as an aside that in many respects it is your port as well for Illinois because much of the cargo container traffic that comes into your area comes into North America through the Port of Montreal and the Port of Halifax, as you already know.

Operation Safe Commerce-Northeast first manifested itself as a loose-knit working group that evolved from a cross-border intelligence-sharing group comprised of law enforcement representatives principally from northern New England, northern New York, Quebec, and eastern Ontario. The original aim was to guard the cargo container supply chains against the insertion of materials not listed on the container manifest—that is, smuggling—and the extraction of materials from the container manifest as it was in transit.

The purpose of OSC-Northeast was to begin identifying where injection and removal points for a cargo container occurred in a simple cargo container supply chain and to begin testing some possible technologies to detect intrusions and to track the container for anomalies. Coming together to start the process of addressing the potential devastating impact on world commerce, which had been described to us at our first meeting by then-Commander Flynn, who is now here, of course, on this panel to testify before you, were representatives from the Northeastern United States of the following agencies, and many of them have been moved into the Department of Homeland Security, but, principally, the U.S. Customs

[1] The prepared statement of Mr. Hall appears in the Appendix on page 59.

Service, the U.S. Coast Guard, U.S. Immigration and Naturalization, U.S. Attorney's Office, and U.S. Marshals Service.

Important to this and really key to our public-private partnership and the philosophy underlying the operation that we undertook were the State economic communities, and at this point, particularly those of New Hampshire, and through their State economic development office, members of the private sector. And we would certainly like to note the participation here of Osram-Sylvania, who really, out of a sense of patriotism and nothing more, volunteered their supply chain to be analyzed in what, of course, is a relatively simple milk run, an easy supply chain, since it starts with them, originates with them, and ends up with them.

The U.S. Attorneys for the Districts of New Hampshire—that is, my colleague, Thomas Colantuono—and Vermont, together we appointed a joint Law Enforcement Coordinating Committee Subcommittee, and I think uniquely here we had it tri-chaired by each of us, and by the then-Governor of New Hampshire. I will note that the current Governor of New Hampshire has agreed to follow up and sit as a tri-chair of our LECC working group and our committee.

Operation Safe Commerce, as conceived a year ago, had a single mission, and this was one evolved by the working group, and I would just like to read it for you:

"Operation Safe Commerce represents a comprehensive coalition of Federal agencies, State governments, and private sector businesses committed to the concept of enhancing border and international transportation security without impeding free trade and international commerce. Operation Safe Commerce gathers and provides information and assists in collaborative efforts to develop new models for international freight monitoring and transportation that maintains open borders and facilitates commerce while improving security."

As a working group, we reminded ourselves on a regular basis that we had come together in substance "on a spit and a handshake." We were there because we wanted to work together, and we knew the importance of this project. Agency egos were "checked at the door," and that grew out of the culture that we already had in place, thankfully, up in our neck of the woods, Madam Chairman.

The group came together by telephone conference and face-to-face meeting, first, to assist the Volpe Transportation Center, which provided the work and analysis and really ran—they were the working partner that ran the project for us—in refining the parameters of the proposed demonstration project; and, second, we came together to push the project along and oversee it as it was undertaken; and, finally, we with Volpe reviewed and analyzed their reports, and we assisted in the preparation of the final report, which I understand has been released by Volpe for restricted distribution and is available to this Committee, Madam Chairman.

Throughout the process, our aim was to look at a prototype and to support and guide a process that would begin gathering data which could then be used to promulgate regulations and to set new standards for secure international transportation of cargo containers. Phase One was accomplished in two parts, both of them in-

volving cargo containers, as I said earlier, used to ship automobile light bulbs from the Osram-Sylvania plant in Nove Zamke, Slovakia, and they went via the Port of Hamburg, Germany, to the Port of Montreal in Canada, across the U.S.-Canadian border at Highgate Springs, Vermont, and ended up at their final destination point at the Osram-Sylvania plant in Hillsboro, New Hampshire.

The first phase of the report or the first phase of the work was the Volpe team studying an actual supply chain, seeking to understand and report the way in which the cargo container that they studied was handled and the various potential problems for intrusion that could occur along the route. Second, Volpe put instrumentation and monitoring devices on another container to determine whether it could be tracked and monitored effectively with commercially available technology. The technology used is described in much more detail in their report, but, briefly, it involved global positioning satellite technology, tracking and multi-node downloads, with transmission of data from those nodes to a central point at Volpe headquarters; so important to understand is that it was not real-time data. We were not tracking the cargo containers that moved from point to point. We were getting information after the cargo container had moved, letting us know where it had been.

There were also installed a series of sensors which detected light changes inside the container and detected possible intrusions through magnetic sensors similar to those used in a home security system. There was also an electronic seal—this was independent of the sensing operation—which was on the exterior door of the container, and that could contain information about whether it had been opened a number of times, although it did not transmit that data.

The intrusion data monitored by the interior sensors and the GPS tracking data were downloaded at nodes, as I said, and transmitted back. These nodes were at the departure point, at the port entryways in Hamburg, Germany, at the Port of Montreal, and at the port of entry at Highgate Springs, Vermont, and, finally, at the receiving point in Hillsboro, New Hampshire.

By and large, the equipment worked well and provided information at each of the nodes that was subsequently transmitted to Volpe. So we knew at least with the technology that was being tested on this one run that it did work. There were some problems with gathering data transmitted from the entryways at the Port of Hamburg. There were two choices for entryways, and that is always going to be the case in many of the ports because they are easily accessed.

The test runs informed our working group that there is a basis for continuing to explore both container tracking and container intrusion. Our group, however, always saw itself as a vehicle for providing this data that we gathered, or that was gathered under our direction, to regulatory bodies within the United States and, through them, to entities throughout the world, which could be used for setting standards to ensure greater safety from intrusion in the handling and transportation of cargo containers. Indeed, in proposed Phase Two, Operation Safe Commerce-Northeast is partnering with Lawrence Livermore National Laboratory to test additional intrusion detection devices within the container and

monitoring and detection equipment to be used in moving cargo containers at the ports.

In this proposal, the ports of Halifax and Montreal, for reasons that I articulated earlier, are proposed sites. We recognize in our region that we have one large area that is in many ways interconnected economically and certainly through our cooperative law enforcement arrangements. And the Ports of Montreal and Halifax are integral to the transportation of international cargo into our area economies, and as I pointed out earlier, all the way into the heartland.

Let me just note our conclusions here. The project Operation Safe Commerce initiatives are complementary to and intended to build upon the Container Security Initiative and C–TPAT programs that are now in place. Almost invariably, however, extending the analysis and effectuation of security for cargo containers from point of origin to point of destination will go beyond dealing with the participants who are enrolled in C–TPAT and CSI. Container handling standards and technology solutions must ultimately affect manufacturers, shippers, freight haulers, terminal operations, shipping lines, warehouse operators, and the like, as well as government regulatory agencies.

We have expanded our approach to include definitely the U.S. Attorney's Offices from Maine as well as northern New York, western New York, and Massachusetts. So we work as a loose-knit group. We stay in touch with each other on this important initiative in the container committee, and, Madam Chairman, that concludes my prepared remarks, and I look forward to answering questions when they are posed.

Chairman COLLINS. Thank you, Mr. Hall. Mr. Flynn.

**TESTIMONY OF STEPHEN E. FLYNN, Ph.D.,[1] SENIOR FELLOW FOR NATIONAL SECURITY STUDIES, COUNCIL ON FOREIGN RELATIONS**

Mr. FLYNN. Thank you. Good morning, Madam Chairman. Thank you so much for having me here today. I started my Coast Guard career on a cutter out of Portland, Maine.

Chairman COLLINS. Good training.

Mr. FLYNN. That is where I got my sea legs. And, Senator Coleman, I am delighted to appear before you as well, and also to share this witness panel with Peter Hall, who really is, I think, just the model of the kind of leadership that is ultimately going to get us where we want to go, taking this at a local level and really mobilizing this coalition and pulling people together who don't normally talk to each other. That is the extraordinary story of Operation Safe Commerce, and its success is largely due to the extraordinary efforts of Peter Hall.

I would like to submit my written testimony for the record and use the opportunity here orally to do three things: First, to reinforce the stakes that are involved with this cargo container security problem; second, give a framework of where we should be; and finally, to offer a brief assessment of where we are.

[1] The prepared statement of Mr. Flynn appears in the Appendix on page 70.

The bottom line is anybody in the world right now who has $1,600 to $3,000 and 30 tons of material can order a box, have it delivered to their home or to their workplace. They can load it to the gills, close the doors, put a 50-cent lead seal on it, and it is off to the races. There is no requirement that there be any adult supervision at that loading point. There is no requirement that the container even be sealed. It is done as a normal commercial practice in order to ensure a handoff from one conveyor to another. But it is not formally required. There is no requirement that in any of the handling of the container by a truck or a train or a ship or anywhere in the terminal that anybody exercise any form of protocol of due diligence. Some companies do for commercial reasons, but there is no requirements that they do so.

We built the intermodal transportation system for efficiently, reliability, and low-cost, and it has achieved these magnificently. It has been a major fare behind U.S. competitiveness. The ability to outsource the way companies do today, to maintain the razor-thin inventories, to go from design to production, to get products to the consumer in incredibly compressed production cycles has been built around a revolution in transportation that basically attributable in small part to this box.

But the essence of the problem is, of course, that there was no security built into that revolution. And the opportunity, as you have laid out, Madam Chairman, of what we have seen from the crime sectors, something I have been following for the last decade, suggests that moving to a more nefarious purpose, a terrorist attack with weapons of mass destruction, is a high risk.

The consequence of that is not just simply that we have a potential weapon of mass destruction going off in the United States with the loss of life and the destruction that could wreak. Another, probably even more daunting consequence is the reality that we are still struggling to come to grips within regards to terrorism, and that is, when we have these acts, as we saw with the airline attacks on September 11, as we saw with the anthrax mailings, as we saw also last fall with the Washington area sniper attacks, the assumption by the general public when these incidents take place is of generalized vulnerability, unless the government can prove otherwise. It creates an enormous challenge for re-establishing public confidence when you have these incidents in these critical sectors.

So the core issue that we are wrestling with in terms of where we need to be is what would the President of the United States say, after we had a catastrophic event, to reassure the American public that the 20 million containers that washed across American shores or crossed American borders, last year, in a truck or a train or on a ship, in fact, don't pose a similar risk. And it would have to be sufficiently credible that the public would say: That is OK, I am willing to let that trade keep running; I am not feeling that my neighborhood is at risk.

If we had to shut down this system for just 3 weeks, the entire global container system would grind to its knees. What would happen is overseas ports would have to close the gates to all incoming trucks and trains because, otherwise, it would turn the port virtually into concrete. So all those chassis would be stuck outside the

gate. All the ships that are loaded with U.S.-bound goods would have to be brought back to the piers and have things offloaded and reloaded. All the contracts built around time would have to be renegotiated. In 3 weeks, the entire system basically comes undone and 90 percent of the world's freight stops moving. And that is the assembly lines of most of our major manufacturers, and that is the warehouses of most of our modern retailers. Those are the stakes that are involved here.

Right now, it is hard for me to imagine if we have an incident involving the containers that we will not face the challenge of turning off the system and that we will have a huge challenge from a public confidence standpoint to restore public faith in a truck sector, rail sector, and a maritime sector that is so critical to our economy.

Where do we need to be? We need to be, it seems to me, in a position where we can do two things: We have to have confidence that when something is loaded into this intermodal transportation system it is legitimate and authorized; and we have to have confidence that when it is on the move it has not been intercepted or compromised. Because if you can't do those two things, there is no such thing as risk management. You cannot say because you are periodically dabbling in checking 2–5 percent of the containers, whether overseas or here, that 96 percent or more of the remaining boxes can just slide by when you have no basis to say that there was controls at the outset that you can have confidence in, or that when it was handed off from a truck, to a train, to a ship, and stood around at the various depots, that somebody couldn't have caused mischief, especially within a high-terrorist threat environment.

So where we must be is where we can accomplish those things by initiating some standards where if you want access to the global intermodal transportation system, there are some certain practices that you need to do, and those need to be audited periodically. It doesn't necessarily have to be a public auditing, but somebody needs to be able to check to make us comfortable with that.

The second part is we need to be able to track things as they move through the system, and we need to be able to have a sense of the integrity. But just the tracking is key for doing three things. If we have intelligence, which we hope we might have, given this 20 million, needle-in-a-haystack problem, we would have to be able to act on that without disrupting the whole system. If we had a case where we had a CIA operative attached to the Al Qaeda network and they witnessed the loading of a weapon of mass destruction in a box, heading in a lorry down to Karachi, and that is the only piece of intelligence we had, and we can't find the box, it is an incoming, we would have to shut down the whole system. That is unacceptable. You have to have a means to act on that intelligence when you have it.

But the facts are we are not often going to get that intelligence. Most of it is going to be done from what is called in the regulatory world pattern recognition. What we know about capable terrorists and capable criminals is they try to blend in, just like the terrorists did on September 11. They try to blend in as normal market actors,

but they almost never get it right because they are not normal market actors.

And so if there is sufficient transparency through documentation and a clarity of control, you can pick out things that allows the targeting to be good targeting and, therefore, check things that pose a risk and have confidence that low risk is, in fact, low risk.

But a final critical point of this exercise is the need for forensics. It goes back to public confidence. Let's look at aviation safety. We put black boxes in planes for the purpose of being able to diagnose the problem if they fall out of the sky. If every time a plane fell out of the sky the President of the United States and the aviation industry shrugged and said, well, it doesn't happen too often, only barnstormers would be flying in planes today.

The reality is doing forensics to figure out how something happened in this industry would be an investigator's nightmare, as I am sure Mr. Hall probably would attest. That means in the interim, all the conspiracy theories, concerns, and so forth would start to surface. So by building through the data trail, by building through the tracking and so forth the means to do the forensics, "how did it happen," if you could identify it was a truck exploiting front companies that sent it from Karachi, you wouldn't have to close the border between Canada and the United States and cut the flow of GM parts. You would be able to localize what the disruption was.

But where are we right now? We are in a situation where we have got three good building blocks in the programs we talked about this morning, but they all have limits. The Container Security Initiative is highly promising because it allows for the targeting at the loading point. But there are 16 U.S. Customs officers currently assigned overseas, as we pointed out, in six ports. This has not revolutionized, given the number of boxes, our ability to inspect. It has provided the means for coordination in the port, but the challenge still is: What is the targeting? How good is it? And is it built primarily around manifest information, which historically is the most unreliable data in the whole commercial trade system? We need to drill down on this targeting issue.

I would say one thing that I would encourage the Committee to consider is asking the GAO or directing Customs to do a test. Randomly pull out 100 containers and see how many problems there are, and then using your targeting criteria, how many are you finding? If you are finding through the random process things you never would have targeted are still problems, then that would suggest that you need to continue to refine, as I know they are trying to do, their targeting data. But this whole credibility is built around the capacity to do good targeting, and we have to make sure that is the case.

The C-TPAT has the very laudable goal of engaging the private sector, but there is no auditing of the system. Everybody who signed up, the 2,000-plus companies, knows that U.S. Customs does not have the manpower to come check the books. There is no requirement that they periodically adapt or review their self-help, self-enforcement mechanisms. You have got to give this thing some teeth if it is going to be credible, and Customs needs to have the

resources put in place, the controls—it is trust but verify, as we did in the arms negotiation field.

Finally, OSC, I think, has a great deal of promise because it helps us to be able to really go back to the full supply chain, brings in a lot of the stakeholders to be able to really get us to drill down to the vulnerability, but also test what is commercially viable in terms of processes and in terms of technology. But the end game must be not lots of tests. The end game must be to work towards having international standards that introduce security into the global container trade that underpins global commerce. This is a high-stakes issue to which we are dedicating very few resources.

When we comparatively look at that, the Secretary of Defense testified before the House Appropriations Committee in February that he is spending $5 billion more each year on protecting U.S. bases, 20 percent of which he doesn't need because he doesn't have the force structure for them. So he said he is wasting $1 billion protecting U.S. bases, and the total budget we are talking about here for port security this year is $104 million. It seems like we have got our priorities a little out of whack.

Thank you, Madam Chair.

Chairman COLLINS. Thank you very much, Mr. Flynn. Captain Monroe.

**TESTIMONY OF CAPTAIN JEFFREY W. MONROE, M.M.,[1] DIRECTOR, DEPARTMENT OF PORTS AND TRANSPORTATION, CITY OF PORTLAND, MAINE**

Captain MONROE. Good morning, Madam Chairman and distinguished Members of the Committee. I want to thank you for the opportunity to come before you today and, in particular, to thank you, Senator Collins, for all of the attention that you have paid to port security and to transportation security back home.

In the 18 months since September 11, we have come a long way in securing our Nation's transportation system, particularly in aviation. The Transportation Security Agency has successfully managed the hardening of our aviation facilities on an accelerated schedule. They have supervised the installation of scores of screening devices and the training of thousands of new employees, and we commend their efforts. But now as the TSA turns its attention to seaports, it faces an even more difficult task. Our ports remain critically vulnerable. While we have made great strides in the area of port security, particularly in managing our international cruise ship passenger trade, we must still find solutions to the most serious problems on the waterfront besides container security which include: The lack of coordination between agencies regulating seaport commerce; a lack of standardization of procedures between and within agencies; a continuing lack of intelligence information available to port managers; agreements on manner, amounts, and sources of funding; and, finally, a long-term solution for providing qualified and well-trained personnel for port security programs.

I would like to preface my comments by saying that I am in complete agreement with those who have advocated pushing back the Nation's borders when it comes to container security. We all under-

[1] The prepared statement of Captain Monroe appears in the Appendix on page 76.

stand that by the time something is found at the pier, it is already too late. We support the Container Security Initiative and the Customs Trade Partnership Against Terrorism. But these programs must be expanded quickly and immediately.

Monitoring the supply chain and making brokers, freight forwarders, and carriers assume a new level of responsibility is critical. U.S. Customs must be the primary Federal agency that monitors the activities of carriers, brokers, and stevedoring companies that work in multiple ports.

We fully support programs to harden our continental borders and propose the establishment of marine border crossings. Canada is our closest neighbor and, working together, our two nations must establish a set of procedures for cross-border commerce that allows that cargo to move quickly between our countries while establishing a joint continental boundary to protect our respective nations. I am encouraged by the exchange of Federal officers in some of our major ports where U.S.-bound cargo arriving in Canadian ports can be pre-screened and Canadian cargo arriving in U.S. ports is similarly handled.

We also support tightening the loophole on the difference between an entry port and the point where the shipment reached U.S. territory. Cargo containers can no longer be allowed to continue their journey by highway or rail without declaration of their contents or being screened. Some of this cargo moves through the heart of our major population centers in bond before it is ever cleared or looked at by Customs.

Cargo that is leaving the United States also needs to be checked as part of an international effort. We support the new 24-hour rule, but we note that it will be extremely difficult for agricultural, seafood, and other suppliers of perishable products to strictly comply due to the fact that often these products go from harvest to the dock through a just-in-time delivery system. The handling of agricultural and similar products must be managed in a different but equally secure means.

While we applaud the efforts of Congress and Federal agencies as they promulgate new rules for security and safe operations, we find ourselves in the unique position of acting as mediators between various rulemaking bodies. This situation cannot continue. On my desk, I have a plethora of paper designed to help me secure the port. These rules cover everything from the height of fences to the height of lettering on badges. They are issued by agencies without regard or knowledge of what other agencies are regulating. I fully understand that we are in a transitional phase as we design and implement our new Department of Homeland Security, but one of our first priorities must be the coordination between these agencies.

In addition, the application of rules and standards must be the same in every port. Washington must educate their regional and field personnel how new regulations are to be applied and how to account for port differences. Field personnel must understand that there is a balance between the flow of commerce and the security of our borders. If that balance cannot be achieved, then those who seek to harm this Nation have found their success. There must be regulatory consistency between our seaports.

I believe that our Federal, State, and local government agencies need to work together under the direction of the Federal Government and that industry representatives must be included as equal partners in determining what will work best locally.

There also needs to be a significant effort within the new Department of Homeland Security to assess measures and response. Port commerce is not just about ships and piers. It includes trucks, rail, aviation, and a host of other transportation infrastructure that must be included in determining what will work best. To that end, I propose that the Transportation Security Administration establish a Coordination of Seaport Threat Reduction Task Force which would include officials from the various rulemaking bodies such as Customs and the Coast Guard, but would also include a number of port operations personnel representing a broad spectrum of U.S. ports and members from the aviation, rail, and trucking industries. The task force would advise the Secretary of Homeland Security through the TSA regarding threats and actions focusing specifically on analysis of alternatives and solutions, review of plans, timelines for implementation, and standardization of methodologies.

This mediation and coordination of Federal agencies must be done in Washington and not at the local level. Protocols and procedures must be uniform through the system. Local decisionmaking cannot be incompatible from one geographic location to another, and quality controls must be put in place and closely monitored.

The task force should also assist with the periodic examination of the mission effectiveness of the agencies that impact ports under Homeland Security. They would also ensure that all types of ports—including seaports, airports, railports, and highway border crossings—are dealt with in the exact same manner.

Many of our smaller municipally-owned ports cannot begin to comply with the new rules, regulations, and requirements that are being proposed or implemented by various agencies. Towns and cities throughout this country are in dire financial condition, and many ports are still paying the bills from September 11 that will not be reimbursed. Port security is a national issue. Local taxpayers are unable to shoulder this additional burden and should not be expected to. The ports in Maine alone are struggling to keep their business and can ill afford to lose the many jobs associated with maritime activities.

Ultimately, we are concerned that new concepts that may come out of our desire to solidify our borders may put smaller ports at a disadvantage. Some agencies have suggested that the number of container ports should be consolidated and that small feeder ports should be eliminated so that screening resources can be concentrated in the mega-ports. The distribution of feeder ports has been an asset to regional and local economies. We should encourage the "Short Sea" Initiative of the Maritime Administration and optimize use of water transportation along our U.S. coastline, keeping containers out of population centers and off our highways and rails until absolutely necessary. Only 70 percent of container traffic is concentrated in just a few ports in this country. That, in itself, makes mega-ports potential targets. I believe that smaller feeder ports have a better opportunity to identify a shipment that is potentially threatening. The Marine Transportation System should

deliver cargo to geographic areas by water, reducing highway congestion as well as enhancing safety and security. Every port that currently handles containers should be equipped with the proper screening equipment and trained personnel to meet new security requirements.

We must also develop a new generation of qualified professionals who can maintain those efforts far into the future. All of our Federal agencies are working hard to meet their newly expanded security missions. Personnel resources are getting scarce. I believe that we should support the inclusion of new educational programs at our maritime academies to prepare young men and women to take up the responsibilities in our ports and Federal agencies and that we should support the development of a U.S. Merchant Marine Reserve to utilize the expertise of those who are willing to help not only in the defense of our Nation, but also the protection of our seaports. Merchant mariners are an untapped area of great expertise that we have not availed ourselves of to date.

With all of the new and increased focus on container traffic, I do not believe that our enemies will be able to deliver a weapon of mass destruction through a single shipment over water. I do believe, however, that through multiple conduits, such as seaports, airports, and border crossings, terrorists will be able to ship component parts that are disguised as regular cargo and can be assembled later to create a weapon that would be a significant threat to our Nation. Strict control of the chain of movement and good intelligence are the only defense we have against such an effort. We must look at our transportation industry and make an effort to ensure that those who are in critical positions are legitimate. The aviation industry was able to develop a system of screening airport personnel through a coordinated Federal database. That system must be extended, without exception, to all maritime and transportation workers. We cannot afford any more delays in instituting a Federal credential for transportation workers. We must also look at shippers, carriers, brokers, and freight forwarders to ensure they have every safeguard in place and that they have the support of our Federal agencies in coordinating efforts in screening shipments, and all of these people need to be trained.

In 2001, I supported Senator Snowe's legislation to create a unifying Federal agency to oversee all sectors of transportation, which eventually became the TSA. I envisioned its primary mission as just such coordination and an agency that can respond rapidly to our Nation's transportation needs in times of crisis. It is time for the TSA to begin its active participation in our seaports.

We have come a long way in 18 months, but the task is far from over, and our efforts must be coordinated and the responsibility shared for protecting our seaports as well as the entire transportation system. Every step we take puts up one more barrier to those who would seek to do us harm. Every step we take must also be measured so that the reaction to that threat is not so draconian that the mere possibility of a potential attack achieves more in impact than any single assault ever could. It is indeed the responsibility of every one of us at every level of our transportation system to ensure that we are working together as a team to protect our way of life while we seek to protect our Nation.

Thank you.

Chairman COLLINS. Thank you very much, Captain. Mr. O'Hanlon.

**TESTIMONY OF MICHAEL O'HANLON,[1] SENIOR FELLOW, THE BROOKINGS INSTITUTION**

Mr. O'HANLON. Thank you, Senator Collins, Senator Coleman. It is an honor to appear today. I would like to speak in just a couple of broad terms about overall budget resources and try to be fairly brief and just give a couple of thoughts.

The broad message that I have is that the kind of work being done by my colleagues here on this panel and their previous associates is not yet adequately funded, in my judgment, and I think to put it in different terms, institutions like the Coast Guard and Customs now as part of the new Customs and Border Protection Directorate just aren't big enough. They aren't big enough for the new set of tasks. A lot of the new technologies and new procedures are promising, will allow us to do more with the same number of people, but we actually need to make these institutions bigger. And I want to concentrate on Customs, but let me first say a brief word about the Coast Guard. It is just the same spirit of calculation, a very rough, sort of back-of-the-envelope calculation about how large might these agencies have to become.

The Coast Guard, as you know, is now doing 25 or 30 percent of all of its mission work in the area of homeland security. Prior to September 11, that number was very small. So it has essentially added 25 percent additional missions to an existing portfolio that I think all of us want to protect for the previous missions of boater rescue, environmental protection, and so forth.

How is the Coast Guard managing? It was already underfunded, already operating aging equipment. How is it managing to do all this new work without a much bigger workforce? Well, at least it is getting more resources to buy the equipment it needs. As you know, the Deep Water Project and other kinds of modernization efforts are now being properly funded. The Coast Guard budget has gone up quite a bit since September 11. However, the size of the Coast Guard has not gone up very much. It has gone up just a little over 10 percent. And if you compare that 10 percent to the 25 percent additional missions that are being asked of the Coast Guard, I think we have a mismatch. So just in very rough terms, I am sure there are ways to do some of these homeland security missions more efficiently, and we will figure some of them out. And maybe we don't need the Coast Guard to increase in size by 25 percent, but it has got to go up in size by more than the roughly 4,000 people that have been added to its end strength or the 3- to 5-percent increase in the number of assets that it operates, the number of boats, the number of airplanes. These numbers have gone up very slightly, and it is not enough.

And so in my testimony, I try very roughly to estimate what size Coast Guard might be adequate for the new needs we are asking it to carry out today, including port security, coastal waterway security against terrorist attack, and I estimate roughly another

[1] The prepared statement of Mr. O'Hanlon appears in the Appendix on page 81.

5,000 to 7,000 more people and maybe another $1 billion a year in rough terms are needed, including more boats and more airplanes.

But that is the Coast Guard piece. I want to spend a little more time now on the Customs piece, with a similar sort of broad, rough calculation. And I don't know nearly as much about these agencies as my distinguished colleagues, so I am giving you a very rough way to sort of ballpark this number. I am sure my numbers are wrong. I am sure there are more efficient ways to do these things. But what I am struck by is that if you just do a crude estimate and you compare the needs to what we are actually funding today, there is a huge gap. And the incremental increase in some of these agencies' size does not seem commensurate with the new demands we are placing upon them in the area of cargo inspection that Customs used to do, Customs and Border Protection Bureau now performs.

As you know, we used to have about a $2.5-billion-a-year budget for that function, for all Customs functions, I should say, and about 20,000 people were performing these tasks. And that was good enough to inspect 2 or 3 percent of all the cargo coming into the country. Steve Flynn and others have been instrumental in pushing some new ways to do these things more efficiently, figure out which ships we have to best inspect using new technology. You were asking earlier about nuclear detectors. All those things will help, but as Commander Flynn also pointed out, it is just not going to be good enough because intelligence is not going to be good enough that you can get by inspecting only 2, 3, 4, or 5 percent of all the cargo coming into the United States.

The people I have talked to—and this is very impressionistic, but they tend to think you have to get up into the ballpark of double-digit percentages. You have got to be inspecting 10, 15, probably 20 percent of cargo coming into the United States, and if you combine that with all the source-to-shipping tracking that is being proposed, all the new technologies, maybe you have a good enough inspection system to start to have some robustness.

So let's say we should go up to about 15 percent as the amount of cargo that we inspect. If that is your goal, and today we are inspecting, let's say, roughly 3 to 4 percent, that tells me that Customs is about one-fourth the size it should be, or I should say the traditional role performed by Customs now being performed by the broader bureau inside DHS.

Again, I am sure that number is wrong. I am sure there will be clever, innovative, new ways to inspect cargo with fewer people per container using technology, using other new procedures. But to me it looks like you have got to increase by several-fold the size of your workforce and the number of people involved in this. I said before Customs had 20,000 people in the old days. Some of those people were doing internal pursuit of smugglers, so it wasn't all about border security. But if 10,000 to 15,000 of those people were primarily focused on inspecting cargo as it came into the United States, I think that number needs to be up in the range of 30,000, the number of people who are doing cargo inspection. The number we had before September 11 needs to increase by something like 10,000 or 15,000 people. These are not huge numbers, especially by comparison to DOD or certain other kinds of government agencies, but they

are still very big compared to what is happening so far because the Bureau of Customs and Border Protection is increasing in size by just 10 percent. And it looks to me like it has to double or maybe triple.

So I think, instead of increasing the number of people doing cargo inspection by a few thousand, we have got to increase that number by 10,000, 15,000, or 20,000. Again, I am sure my specific numbers—and I am couching them in broad terms because I don't have very precise ways of making the estimates. I am sure that my approach isn't quite right. But it is still illuminating that if you just do a back-of-the-envelope calculation, you compare the fact that we should be increasing, I think, the inspection rate by three or four times what it is today, we are only adding 10 percent to Customs' workforce, there is a big mismatch. And I think the Customs part, the cargo inspection part of this new bureau needs another budget increase of more than $1 billion a year, maybe in the area of $1.5 billion a year, and, again, 10,000 or more additional employees to do the job right.

So that is just a broad way of looking at these problems, and my final word, it is part of the broader Brookings study that we have done that suggests a homeland security budget of roughly $50 billion a year. To us that looks like the right order of magnitude for what the Federal homeland security requirement really should be which is in contrast to the $41 billion proposal of the administration. That is in the right direction, but we think it is still probably about $10 billion a year shy for the reasons like the ones I have just mentioned this morning.

Thank you.

Chairman COLLINS. Thank you for your testimony.

Mr. Flynn, you have written a lot about the economic impact of a possible attack using a container. Could you expand on that? After the attacks on our Nation of September 11, we lost 3,000 lives. It stunned the Nation. It sparked an economic downturn. But it did not cripple the economy. If 90 percent of U.S.-bound cargo arrives by container, what would be the impact if we had an attack using our cargo system?

Mr. FLYNN. There aren't hard numbers, of course, that give us a sense of that because of this elusive—how do you restore public confidence and what time would that take? There are the mechanics of just when you turn your system off, it is hard to turn it back on again for some of the reasons I have just outlined.

But in the case of aviation after September 11, we grounded, of course, all the planes. We went through every single plane to verify there was no terrorist or means of terrorism on the planes before we restarted. That took 3 days.

If you had to do it in surface transportation, intermodal transportation, just stop, freeze, and check, you are talking a minimum of about 6 months. That obviously is something that this country couldn't afford to do. But you are faced with this dilemma. If you had a box go off, potentially tens of thousands of people's lives lost. So people are looking in their streets, in their neighborhoods, and they are seeing rail cars come through as they come right by this Capitol Building here, or they are seeing trucks that are coming by, and they are saying: Where do these things come from? Who has

checked them? What has happened here? And how do we have confidence something as horrific over there—and, of course, the other challenge the President will immediately face is all this chatter will start rising up. All the stuff that has been discounted by intelligence officials up to this point as perhaps not credible now will all be surged forward because we have this clear incidence.

So there will be this great uncertainty. There will be a lot of public concern and angst, and there will be an accountability. OK, what is it that we have out there that should make me feel comfortable about this train, truck, or ship coming into my port or across my border crossing, or into my city or town?

And my concern is that when you can't point to much beyond what we have, which is, as I laid out here, well, we have a few guys overseas, they checked about 1 percent with their allies, with the seals. We are still deliberating if we should go from a 50-cent lead seal to a dollar one. Some people are talking about the electronics. We haven't quite got the standards down, but 5 years from now we will have something before the international standards organization. This is not the basis for building much confidence.

So what happens? What happens is we know that companies like Wal-Mart, basically, you know, live off of a—there is no warehouse in the back of the store. This is the most profitable corporation in our country, and it basically depends upon a supply chain getting goods there. The GMs and the automotive companies, Ford, they basically require that—they are ordering 10 times a day shipments often coming across the Canadian border into the United States. That stops within the space of about 3 hours. They just don't have the parts to assemble cars. And that is true across the board for manufacturers.

Many manufacturers are just-in-time—toys, for instance, are built around Hollywood promotions, around movies, and McDonald's and so forth here. There is a window of about 2 weeks when you can sell a toy. If you have a delay, it is gone because the kids have moved on to something else, some other exciting thing.

You have got basically—the core of our competitiveness, which has been a big part of it, has been low inventories, being able to very nimbly build things in a hurry, relying on vast networks of outsourcing. All that grinds to a halt. So it is our retail sector, it is our manufacturing sector, and plus all the workers of that service community that are dispossessed.

All we can point to is the 10-day lockdown of the West Coast over the longshoremen's strike last—if there ever was a wake-up call on this issue, it seemed to me that should have been one. But it was viewed just as a labor-management issue. But those 10 days, the estimates are on the order of about $20 to $30 billion of disruption. And it took a week for every day that you turn off the system to recover, just the mechanics, not the public confidence.

I know I was a little long-winded on that, and there are not hard numbers, but that is a sense of the scale of what we are dealing with here.

Chairman COLLINS. That is one reason I think this is such a tempting target for terrorists. Not only can they cause enormous loss of life, potentially, but they could cripple our economy, cripple the whole system of international trade.

Mr. FLYNN. And what we know is that is the stated goal of the Al Qaeda network.

Chairman COLLINS. Right.

Mr. FLYNN. It is to do just that kind of things.

Chairman COLLINS. Right. Mr. O'Hanlon.

Mr. O'HANLON. Senator, just very quickly, my colleague Peter Orszag, an economist, last year estimated the consequences of different kinds of terrorist attacks, and it is in our study. And this kind of a scenario that you are postulating was his No. 1 most potentially significant loss of economic activity, a container that winds up being the way in which a nuclear weapon or a major biological attack is generated in the United States. He estimated up to $1 trillion in potential economic damage—very rough estimate, and he would be the first to emphasize that. But it was top on his list of potential economic consequences of any and all terrorist attacks he could envision.

Chairman COLLINS. Captain Monroe, you are on the front lines in operating a local port, the largest one that we have in Maine. Do you have a clear sense of who to go to in the Federal Government, who is in charge? Do you get clear and consistent guidance from the Federal Government?

Captain MONROE. I have to say honestly it seems like every agency has got some level of responsibility, and it is really difficult sometimes to determine who really is in charge of the program.

I find that the most effective way to do all of this in working with Federal agencies is to make sure we try to get everybody into the loop, which is an enormous effort. Many times we will have one agency talk to us and give us some guidance, ask us to do something, only to find out that it may not be consistent with what another agency would like us to do.

It is creating an enormous amount of difficulty just getting people to talk and work with each other.

Chairman COLLINS. That is of great concern to me because it is people like you who have to implement a lot of these programs in cooperation with Customs and with other agencies. And it seems to me that we are still having problems with coordinating, providing accurate information, and providing access to timely information so that you can do your job.

Captain MONROE. I think one of the most significant problems we face is just a lack of intelligence, and obviously, we have heard the stated concerns about how we often find out from CNN a lot faster than we do from our own Federal Government as to what level of security threat we are at. But I find that just getting the information around from our Federal agencies is oftentimes disjointed.

If we did not have the aviation sector to rely on, we would not get the information as far as we do.

Chairman COLLINS. Thank you.

Mr. Hall, before I yield to Senator Coleman, I want to go back to the case study that you conducted with the container that was shipped containing light bulbs from Slovakia to New Hampshire, and I want to put up the picture of the container.[1]

[1] The photographs referred to appear in the Appendix on page 48.

It is my understanding—well, we have only to look at it to see. You have the tracking device, the light sensors. This had antennae, wires coming out of that. Were you surprised that all of this equipment didn't prompt an inspection of this container?

Mr. HALL. Clearly, we were, Madam Chairman. Let me just point out, the photograph on the right is actually a photograph of what is in behind the door which is in the photograph on the left.[1] So if an inspector had been prompted to inspect the container because the inspector saw the antennae and the wire on the back end, that is what the inspector would have seen inside, I suspect prompting even more questions. They never got to look at those gizmos on the inside, which were really parts of the sensing equipment and transmitting equipment.

Chairman COLLINS. Do you think that the antenna which was on the outside should have prompted an inspection? I mean, clearly, it sounds like the wires that I pointed to were concealed inside. But there is still unusual material on the outside of this container by the antenna. Do you think that should have prompted it?

Mr. HALL. Absolutely, Madam Chairman. When we were reviewing the initial studies at an oral presentation from the Volpe Center right after the completion of the project, that fact alerted every law enforcement officer in the room, and we had representatives from Customs, Coast Guard, Marshals Service, and our offices. The antennae—our antennae went up, and we asked specifically that Volpe include that as one of the essentially unintended consequences of what they found out. We weren't expecting to see that at all as an issue.

Chairman COLLINS. And it is my understanding this container went through several ports. Is that correct?

Mr. HALL. That is correct. It crossed, I believe, four international boundaries in Europe, went into a seaport, came back into a seaport in Montreal, cleared there, came over the port of entry from Canada into the United States.

Chairman COLLINS. Thank you. Senator Coleman.

Senator COLEMAN. Thank you, Madam Chairman.

I have to say what a fabulous hearing this is. Both the distinguished Chairman and myself in the course of these discussions about homeland security often ask the question, What is the impact on the local level? And, for instance, when Secretary Ridge was here, we raised the questions about communications and have continued to do that. So I think it is important to get the local perspective, the grass-roots perspective.

Captain Monroe, a specific question to you, though. Are you involved in the joint terrorism task forces? Because when the FBI folks were here, we talked about what was going on at the local level. It appeared that from their perspective—and I was both a former prosecutor and a mayor, and so I have had opportunity to work with these groups. But it appeared that the kind of grass-roots basis for sharing of information, the framework was built around these joint terrorism task forces. Are you involved in those efforts?

[1] The photographs referred to appear in the Appendix on page 48.

Captain MONROE. We are involved in, I can roughly estimate, no less than 24 committees right now that are currently looking at all of this, and there is an enormous amount of effort at the Federal, State, and local level, with people trying to look at security. Part of our reason and our concern is that all of these efforts need to be focused and brought together.

Senator COLEMAN. It appeared to us that the singular focus, at least when we had the FBI and the CIA and others at these joint terrorism task forces, it is obvious that when you get back to the local level, that message has to be much clearer and much more focused and easier for all of us to understand.

Commander Flynn, you talked about a test, and you indicated that it would take 100 cargoes and just kind of pull them out and just kind of see if there are any problems. What do you mean by problems? Assuming we were to try to have that test become a reality, what would folks be looking for?

Mr. FLYNN. Well, the real issue here is that a risk management approach is having confidence that you are, in fact, pulling out of the queue all that which deserves an inspection, that is not compliant with the rules of commerce, so, therefore, might pose a risk. The only way, it seems to me, that you can have real confidence with what is in place is to routinely demonstrate that what you are not missing things in the low risk pool.

The O.S.C. story is in part that of showing there are risks even with the ultimate trusted shipper. Osram-Sylvania couldn't have been a better corporate citizen. It should be commended in the Rose Garden for their support in trying to help improve supply chain security. But Osram-Sylvania doesn't exercise much in the way of control over what happens to this box as it moves through the system, and things could happen along the way, as they will be the first to attest as a part of this process.

So what we need to be able to do, if we are going to stand up and tell the American people that we are checking the right containers, we have got to be able to point to how we are refining and working on that model. So for me, I guess what I would like as a comparison where we would periodically pull out 100 randomly. If you find that 5 or 10 of those are not compliant but only 3 of those would have hit your risk criteria, then you know you better go back and refine the criteria.

What I am worried about is not subjecting to scrutiny a blanket statement that "we are getting the right ones, don't anybody worry about it."

I think it also requires a focused oversight effort over how that algorithm, the rulemaking process is being evolved. What we know is that the system was set up for regulatory compliance. The automated targeting system Customs used was for regulatory compliance is built around cargo manifests. That is just not sufficient in the new security environment we are in, particularly when we only are going to inspect such a small percentage. So making that robust—there are efforts underway with the coordination with the Office of Naval Intelligence and with the Coast Guard and so forth to try to advance and improve this, but day-to-day inspectors sitting down there flipping through the manifests do not have access

often to all the available data, and they are largely using an old system to make their targeting choices.

Senator COLEMAN. You are really then raising two issues, as I understand it. One is the issue of is the system working, so we are saying we have got a system that is working, and you are saying we can measure that. But then I think you are raising a larger issue, and I am not sure how to address it, by the way, and that is the issue of confidence. It is not a matter of whether if it is working. If it is working, do people believe that it is working? Our whole system of criminal justice, the reason we are not out there in vigilante groups enforcing law ourselves, or the reason that we don't cower in our homes when a murder takes place in our neighborhood is because we have confidence that those responsible will deal with it, even if we don't deal with every case.

And what I am hearing being said here, if we have one incident of some material being sent through our cargo system that causes loss of life, we are fearing a whole system shut down, even though in other places around the world where there are terrorist attacks, such as Israel, life goes on. What I am hearing is we are not prepared for that here, psychologically not prepared. We don't have the level of confidence in the system, and as a result, we face shutdown. If we face shutdown, the consequences are enormous.

So I think we have to be giving some thought not just to—this is why I asked about your test—not just finding out whether it is working, but then having some discussion of what are the things that we do to generate confidence that even if there is a problem, we don't shut everything down.

Mr. FLYNN. Yes, Senator. I guess the only thing I can point to as an example is aviation safety. In its earliest years, that is an industry that started with barnstormers. Only stunt people got on planes. What the industry had to do, turn around that image to make it commercially viable was to build safety into every aspect of the plane, and have a built-in as a response capability. That some kind of infrastructure now has to be built in the supply chain around in the face of the new security paradigm. And I think projects like Operation Safe Commerce are designed to pull all the right stakeholders together and to help build that system and build that confidence that there is a way to get to where we need to be.

But, the resources are very limited, and we are not moving very fast. Operation Safe Commerce was a quarter-million-dollar investment. That is the total amount of money the U.S. Government has spent on doing a full supply chain analysis and testing whether these technologies even work.

Senator COLEMAN. Very helpful. Thank you, Madam Chairman.

Chairman COLLINS. Thank you very much, Senator.

Captain Monroe, I want to get back to an issue that you touched on in your testimony, and that is, some people have suggested that all cargo go to the mega-ports and that the smaller ports be cut out of the process and that would somehow improve security.

In addition to the devastating economic consequences of a decision like that on smaller ports, could you expand on your proposal that it actually might be better to do the opposite, to divert more cargo from the mega-ports to the smaller ports, which might have

more time to do the kinds of inspections that we have been discussing today?

Captain MONROE. Well, I will make it akin to an example in the aviation industry. Imagine if we had a problem and everybody decided to close all the small regional airports and put everybody through Logan Airport. The reality here is that the mega-ports have to deal with a much more significant volume of cargo, and that a lot of cargo does come into the United States right now and is immediately moved onto feeder services, whether it is barge or small ship. It moves up and down the coast. So a lot of it could not even have to go down through highway systems and whatever. That cargo could arrive in bond at the very small terminals, and then in turn, more of that cargo could be identified, inspected, and checked.

Whether it is outbound or inbound doesn't make any difference, and there has been a maritime transportation system initiative before the Federal Government for a number of years now, and it has never really gone anywhere, primarily because when focusing on that, we still move our containers mostly by rail or by truck through the system, and people don't recognize the value of the Waterborne System.

I think in many cases we are much more capable of looking at our boxes more effectively. We know, for example, that every container that comes off our feeder ship from Halifax, Nova Scotia, is looked at by a member of the International Longshoremen's Association, primarily for damage, and the reason being that if there are any damages on the container, there are claims that are made. And when doing so, it is easy to look at that and see things that are abnormal.

Now, for example, this antenna system, this array that was put on the outside of this container, probably would have been something that was picked up. Even though we have seen those things before, there have been a number of tests made for tracking containers through GPS transponder technology. But at the end of the day, somebody would have said there is something abnormal there. And when you involve only the Federal agencies, because a lot of times we say, well, that is just Customs' job to do it, it isn't. It is everybody on the pier. It is every longshoremen, every terminal operator, every stevedore, every port official, and every Federal agency who is down there on the dock looking. We should all be looking for those things. And I think we have a better capability by spreading that out and not just rely on Federal officers.

The other thing, too, if we do have an attack on our transportation system, we are able to get that system up and running faster. After September 11, they closed the Port of New York, and in doing so a lot of mega-cruise ships had to be diverted to other ports. Ports like Boston and Portland, Maine, were able to absorb that. We were able to adapt the system. And I think we have that capability there, but putting all our eggs in one basket is not the right thing to do.

Chairman COLLINS. Mr. Flynn, what is your opinion on the proposal to concentrate cargo in the mega-ports?

Mr. FLYNN. Well, it is the tail wagging the dog. It is basically saying we have got a finite amount of inspection resources; there-

fore, we will reconfigure the entire global transportation system to conform to those available resources. I mean, this is madness.

Yes, the non-intrusive inspection equipment is costly, $1 million for the package deal to install one of these screeners. But they need to be put in feeder ports.

A core issue I have learned from focusing on the border security issue over the last decade is that the more inefficient you make a system, the less police-able it becomes. If you impose an inspection regime that essentially causes a fragmented market response you ceate more in security. I point to Laredo, Texas, as a perfect example of this. The drayage, the small truck owned by Mom and Pop operations, this is where old trucks go where they die. You have an incredibly transient labor force, about 300-percent turnover. All that trucking sector services the fact that you don't take a long-haul truck and sit for 6 hours to go across the border and come back empty.

So sometimes your security measure will create a more chaotic environment which will be more difficult to police. The corollary of that is the more efficient we make transportation systems, as long as there is sufficient oversight and can we have confidence in their integrity, you actually have a national security rationale to improve the bottlenecks.

We should have been working on our ports for a long, long time. We are an island nation, effectively, when it comes to global trade.

The kind of keystone cop Federal behavior at ports makes no economic sense, but it also creates shadows that bad guys can exploit. We have a security rationale to improve efficiency. So we should not even see this as a tradeoff. These are mutually reinforcing. A more efficient transportation system with the eyes and ears, the collective ones, applied to it is the kind of direction we need to go. And I would recommend that all this work being done on retooling at our transportation authorization acts must have this conversation going on in parallel.

Chairman COLLINS. Mr. Flynn, I had one other question I want to get your answer to, and that is, the Customs system relies very heavily on the accuracy of the manifest in order to target containers for a physical inspection or a technological inspection.

How accurate do you think manifests are? Do you have a concern in that area that leads you to propose the random review of certain containers?

Mr. FLYNN. Well, I think you do periodic random reviews because they are necessary to ensure—there is some deterrent value, and they are also necessary to constantly refine your model. But they are, in fact, limited scale. You are relying primarily on this risk management analog, this matrix to choose what it is that you are looking at.

The manifest traditionally has been the weakest link in commercial documentation. Basically, the common phrase used by carriers is "is said to contain," because there is no time for a master to actually know what is actually in this box. He is stating that whoever his client is told him that this was a shipment of this or that, and all he is saying is that is what I think I have.

You are talking about ports like Hong Kong and Singapore that have 5,000 trucks a day entering into a terminal with cargo. There

are 120 movements an hour going onto that ship by three gartry cranes. The idea that you are somehow filtering all this is at the brow of the ship is unrealistic.

So the manifest issue remains a challenging one for builing a credible targeting system. The 24-hour rule is getting at that saying we need some specificity in the manifest beyond "freights of all kind." But there is a whole range of other commercial documentation in electronic form that any company must use to maintain their supply chain.

The problem has been that, again, it is the tail wagging the dog. Customs has been built to basically look at cargo manifests; therefore, all the rest of the industry has been directed to adapt to that by giving information Customs needs to make its machinery work. Customs is not being malicious or draconian. It has an ancient system that hasn't been well financed. The automated commercial environment is still 3 years away from being deployed.

Now, there are means—there are efforts and initiatives underway in the Federal Government. Again, the Office of Naval Intelligence has been brought in on this, the Coast Guard is working on this. The real effort, though, must be to drill down to that commercial data from the purchase order, ideally. When we first know that something is going to happen, that gives us the ability to detect the abnormal behavior, to have the confidence when we target something as a potential problem that it is likely to be a problem. And so moving beyond the manifest, I think, is going to be absolutely essential.

Chairman COLLINS. Captain Monroe, do you have any comments on that and, also, in general your evaluation of the programs that Customs has put in place?

Captain MONROE. Well, let me talk about the manifest. This is something that was intentionally done, and the reason it was intentionally done is for many years organized crime targeted containers. So the more information that they had available to them, the more that shippers and the carrier community and the stevedoring companies eventually got to the point where they realized that the more vague we are, the less our chance of having a container or our cargo stolen.

The technology exists to have very accurate manifests, and there is no reason that Customs can't demand those manifests, particularly if the new automated Customs system for computer tracking is implemented. That information does not have to be made available to many folks who might be handling the cargo, but it certainly should be available to Customs, and it certainly should be available to the ports, because they at least will be able to measure what might be potentially dangerous to their community if those containers come through. And as I say, that is an easy fix.

As far as Customs is concerned, I think they are certainly headed down the right path, and I have to agree with Dr. Flynn that we have grossly underestimated what it is going to take to make our ports secure and to make sure that we have the resources available. I think if you look at the nature of what the value of our marine transportation system and the amount of cargo we move through that system is, we are not really taking it as seriously as

we did the aviation system. We know that cargo doesn't vote, and that is part of the problem.

The reality here is that unless we pay good attention to this, the programs that Customs wants to implement and the timeline they want to implement those programs on are not going to be accomplished effectively. So that is essentially the first step in moving this in the right direction.

I honestly believe that Customs is headed down the right path. I sincerely hope that in doing so, in their zeal to get this closed in, that they do engage the industry. One of the problems we faced early on was the arbitrary decision that was made to have all containers bypass Portland and be cleared in Boston, and then those containers be brought back to us by truck. A lot of us raised our concerns when that happened, and it got put aside. But things like that cannot arbitrarily happen. There has to be an interchange. The best solutions for how to deal with seaport security and container security often lie with those of us who deal with it every day.

Chairman COLLINS. Well said, and a good note on which to conclude this hearing.

Mr. O'Hanlon, I want to thank you for bringing up the needs of the Coast Guard. Coming from the State of Maine, I am very aware of how stretched the Coast Guard is, and I am very concerned that we not jeopardize the traditional mission of the Coast Guard, which is so important in a fishing State like Maine. And we are making progress. The budget is up considerably. But your point about the number of Coast Guard members is a very good one. Providing more assets, providing more cutters is a step in the right direction, but the personnel are still very stretched. So thank you for raising that point.

I want to thank all of our witnesses today for excellent testimony and to thank you for the thought and the expertise that you bring to bear on this subject. I believe this is our single greatest vulnerability, and it is going to take the collective wisdom of all of us at all levels of government and in the private sector as well in order to come up with solutions. So I very much appreciate your taking the time to be with us today. Thank you for your excellent testimony.

The hearing record will remain open for 15 days. This hearing is now adjourned.

[Whereupon, at 11:54 a.m., the Committee was adjourned.]

# APPENDIX

## PREPARED STATEMENT OF SENATOR LIEBERMAN

Thank you, Madam Chairman, for holding this hearing today on a subject that should be of profound concern to anyone interested in safeguarding our nation from terrorist attack.

The vulnerability of our ports—and in particular the vulnerability of containers—to terrorist mayhem is one of the more sobering pieces of information to emerge from an array of security assessments conducted over the past few years. It is a vulnerability that the Federal Government—in partnership with state and local governments and the private sector—must turn to in earnest, *with a commitment of adequate resources,* to protect not just people and property, but the very hear to of our economy.

We have a panel of knowledgeable witnesses here today—some like Commander Steve Flynn and Michael O'Hanlon who have established themselves as premier experts on maritime security and from whom we have received valuable advice in the past. I'm sure their testimony will once again aid the government's efforts to prevent, prepare for, and respond in the event of a terrorist attack on our ports.

Our ports and borders must be securely defended because they are our mail links to the global trade that has, without question, fueled our economic progress and provided all Americans with the highest quality of life in the world today.

According to the second report on national security produced by former Senators Gary Hart and Warren Rudman, 11 million containers carry 90 percent of the world's cargo today. Yet, there are no required security standards governing the loading or transport of containers. In fact, the architects of the inter-modal transportation revolution never really took security into consideration. Their priorities were lowering costs, and increasing the speed and efficiency of operations. They achieved their goals brilliantly, which, ironically, now leaves us open to peril.

In December 2001, shortly after the shock of September 11, this Committee held a hearing on port security. One of the witnesses, F. Amanda DeBusk, a former commissioner of the Interagency Commission on Crime and Security at U.S. Seaports, laid out the challengers in coordinating port security. Most ports, she told us, are chartered by states or local government. Some are operated by public port authorities, some by private concerns. There were at least 15 federal agencies with jurisdiction at the seaports, in addition to state and local agencies and the private sector. Today, we have the Department of Homeland Security to coordinate this tangle of authority. But I hesitate to proclaim victory.

Each day, *five million tons of goods* cross our borders by ship, truck, or train. Much of it arrives in the *21,000 containers that enter U.S. ports daily.* The Administration tells us that only 3.7 percent of those containers are physically inspected, which means that, at any given time, authorities still have very little idea about the contents of thousands of multi-ton containers traveling on trucks, trains, or barges, on roads, rails, and waterways throughout the country. The cunning with which a terrorist might smuggle chemical, biological or even, nuclear weapons into one of those containers, without being detected, knows no bounds. And it would be foolhardy to doubt that an interruption of the flow of commerce would have anything but catastrophic consequences for all of us.

Hypothetical scenarios have hinted at the potential impact of an attack through maritime trade. Listen to how one incident is played out by a group of experts from government and industry. On day one, an unknown number of dirty bombs enter the country through ship containers. One is found at the port of Los Angeles. And that port is closed. On day four, another dirty bomb is found while a container is being unloaded near Minneapolis. All ports and border crossings are closed, paralyzing the entire supply chain.

On day five, the Dow is down 500 points. On day eight, fuel deliveries stop, gas prices skyrocket, and supply chains report inventory shortages and plant closures. On the 20th day, a freight car in Chicago explodes and half of all Fortune 500 companies issue earnings warnings. The experts conclude that port, shipping, and manufacturing activity will not return to normal for two months, at which point economic losses are estimated at $58 billion.

It's scary stuff. But we can prevent a scenario like I just described if Congress, the Bush Administration, and the private sector come to understand—before disaster occurs—the consequences of inattention, inaction, and under funding.

The President's FY 2004 budget, regrettably, does not reflect an understanding of the risks at hand. As is the case in general with homeland security funding, the rhetoric simply is not matched by hard dollar commitments. One of the most glaring gaps—the physical security of our ports—is ignored by the Administration completely. The President's budget contains no money for even the most basic improvements—like perimeter fencing, security patrols, employee background checks—which the Coast Guard has estimated will cost $4.4 billion. I believe $1.2 billion needs to be spent next year for these basic protections.

The Administration has done a better job at inspecting high-risk cargo before it reaches our ports. Its Container Security Initiative, which we will hear more about from our witnesses today, stations Customs officers overseas to inspect containers *before they begin their voyage to the U.S.,* though they will need technology on site to address the new task. Once again, however, the Administration is providing only a fraction of the money needed to ensure successs—$62 million for FY 04. I have called for an additional $100 million to expand this program to track containers as close as possible to their point of origin.

The Coast Guard has made a heroic effort—through Operation Noble Eagle and Enduring Freedom—to step up port supervision and still fulfill its other mission. But it has done so using antiquated equipment and limited resources. Before September 11, we were on track to modernize the Coast Guard over a period of 20 years, and the President has proposed spending $500 million in FY 2004 toward that effort. But that time frame and that level of funding is no longer practical. I have suggested an additional $700 million, for a total of $1.2 billion in FY 04, to complete the job in half the time.

Finally, the Transportation Security Administration, which has concentrated so far on improving airline security, has virtually ignored the security of other transportation systems. Unfortunately, the Administration's proposed TSA budget of $4.8 billion is a 10 percent decrease from last year's proposal. Only $85 million is requested for land security activities. I am urging an additional $500 million to restore the Administration's proposed cuts and another $500 million specifically for freight and passenger rail security improvements.

No matter how you slice it, we need to make significant investments just to *begin* to bring our system of maritime trade security into the 21st century. With the vast volume of merchandise passing through our ports and over our borders, we simply cannot inspect every container by hand. But we need to continue to work with the private sector and state and local authorities to use advanced technologies to make sure that all containers are scanned, coded, logged, and tracked with a transponder, and have their contents verified, starting as close as possible to their point of origin.

The best way to protect, ourselves, of course, is to stop terrorists before they act. But we have learned the hard way that we must also prepare for the worst. In the case of port security, that means directing people, technology, and yes, money, toward the goal of keeping dangerous materials from entering and traveling around the country. We have much work to do to get our entire system of importing and exporting to a point where it is not just efficient but physically and economically safe. I am hopeful that the testimony we hear today will put us on track toward a sensible an sound strategy to do just that.

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## PREPARED STATEMENT OF SENATOR CARPER

Thank you, Madam Chair.

I'm pleased today that the committee is holding a hearing on cargo container security, an issue of great importance to my state.

The Port of Wilmington in Delaware is the 20th busiest port in the country for container traffic. It is also the largest importer of food in North America, leading the way in shipments of fresh fruit, meat and juice concentrate.

In the months following September 11, 2001, the federal government moved swiftly to upgrade the security of our aviation system. We've spent billions of dollars hiring an army of baggage screeners and other security personnel and putting them

to work at airports across the country. I applaud the Transportation Security Administration for meeting the tough deadlines Congress set for them in the Aviation and Transportation Security Act. Today, a passenger getting on a plane at any airport in the country is screened by a federal employee and has every piece of their baggage checked for explosives and other dangerous items.

The federal government has taken smaller steps in the area of port security. Programs like the Cargo Security Initiative and Operation Safe Commerce are promising, but only a fraction of the containers that enter U.S. ports each year are inspected by Customs agents. Inspecting every ship and every container is impossible but I'd like to hear from Secretary Hutchinson about what percentage of cargo Customs can reasonably be expected to inspect I'd also like to hear how effective the pre-screening that is taking place under CSI has been and whether programs such as the Customs-Trade Partnership Against Terrorism that depend on businesses policing their own supply chain can really be a substitute for more inspections.

In talking about port security, however, we should not forget that the cargo that comes off of ships at our ports does not stay there. Some of it goes onto trucks that drive through our cities and neighborhoods. Some of it also goes onto trains. Unfortunately, the federal government has done very little to improve security in surface transportation.

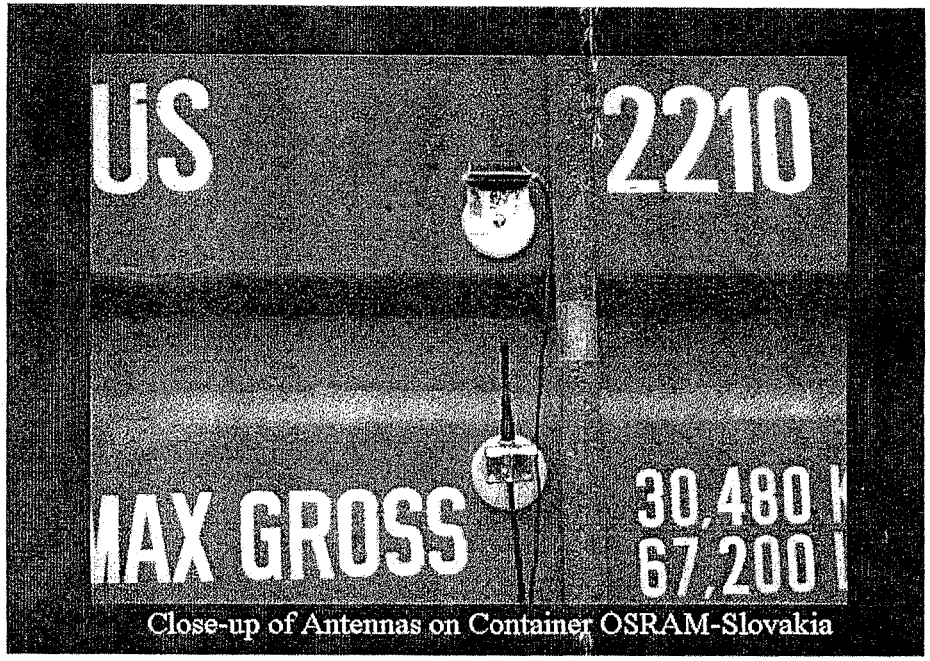
The Transportation Security Administration was tasked after September 11 with securing our entire transportation infrastructure, from aviation to ports to rail. Despite the progress the agency has made in aviation, however, only a fraction of its budget is dedicated to other modes. Of the $18 billion included in the president's FY04 budget for the Department of Homeland Security's Directorate for Border and Transportation Security, of which TSA is now a part, nothing at all is set aside for rail security.

Last Congress, when this Committee, under Senator Lieberman's leadership, reported out a bill to creating the Department of Homeland Security, it included an amendment I authored authorizing $1.2 billion in new rail security efforts. This amendment was stripped from the final bill, however, and subsequent efforts to pass a similar rail security package with my colleagues Senators McCain and Hollings were blocked. The 107th Congress came to a close without taking any meaningful steps to improve the security of our nation's railroads or to protect the millions of Americans who travel by rail every day.

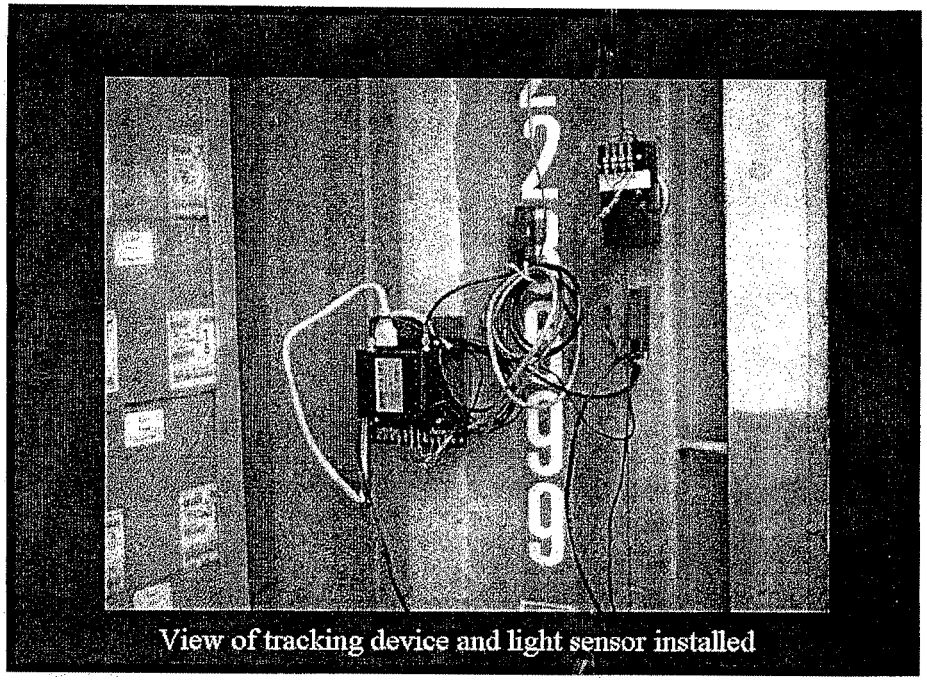
For all of our commendable focus and attention on preventing future attacks against the aviation industry, it is unconscionable that we are unable to ensure that the roughly 25 million intercity passengers and many millions more that commute aboard our trains are as safe as the ones in our skies.

To address this grave omission, Senator Hollings reintroduced his National Defense Rail Act this Congress. It provides funding for the Secretary of Homeland Security to conduct an assessment of rail security threats and to come up with steps railroads can take to protect rail infrastructure, stations, and facilities. The bill would authorize for the $515 million to undertake the assessments, addressing rail security threats or awarding grants to passenger and freight railroads to implement the Secretary's recommendations.

I hope that Undersecretary Hutchison can comment on this issue today and discuss how the Department plans to address of rail security.

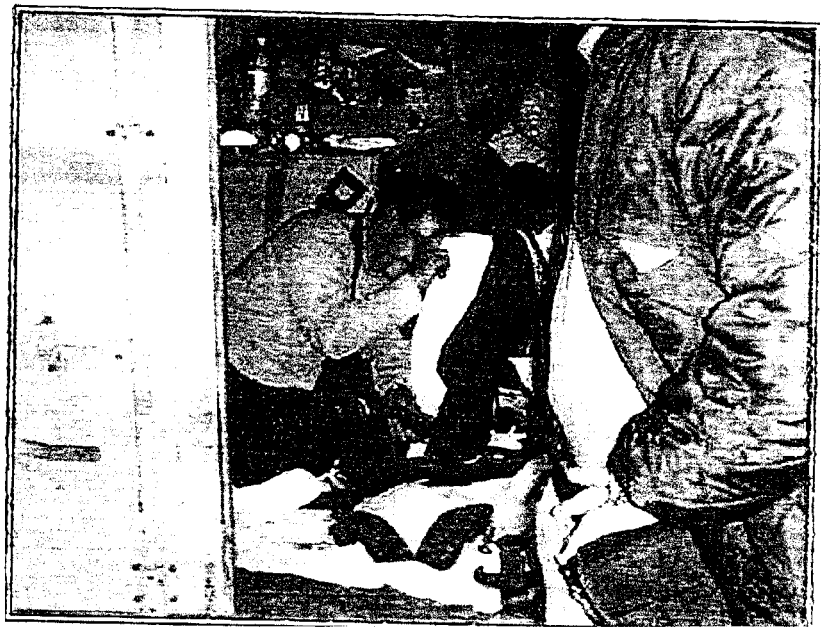



**Antenna visible on exterior of Operation Safe Commerce Phase One container**




**Tracking device and light sensor inside Operation Safe Commerce Container**

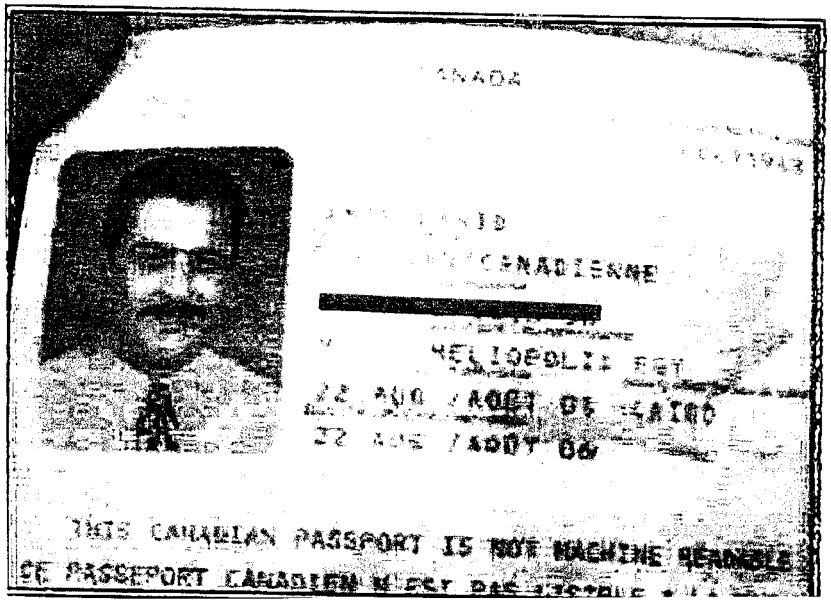
5398-5034-02 18OCT01 06



UNCLASSIFIED

**Rizk inside container, outfitted with a bed, toilet, power supply, two computers and a satellite telephone.**

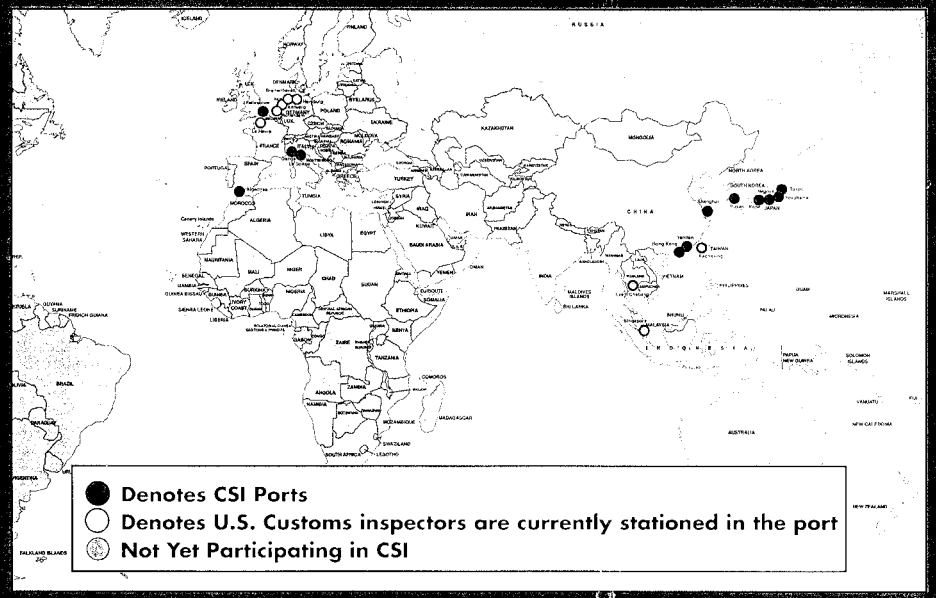
5398-5034-02 18OCT01 08




UNCLASSIFIED

**Canadian passport of Amir Farid Rizk, found in Italy inside a container one month after 9-11.**

# Participation in CSI Among Top 20 Foreign Ports*




*By volume of U.S.-bound container traffic

**Statement of Asa Hutchinson**
**Under Secretary of the Border and Transportation Security Directorate**
**Hearing on Container Security:**
**Assessing the Threat and Evaluating Our Response**
**Senate Governmental Affairs Committee**
**March 20, 2003**

Good morning, Madame Chairman and members of the Committee. Thank you for this opportunity to testify.

I am pleased to be here on behalf of the Border and Transportation Security Directorate (BTS) to discuss some of the initiatives we have implemented to improve security in the aftermath of the September 11th attacks – and to do so while still protecting the flow of legitimate trade so important to our national economy. On March 1, 2003, the initiatives I will discuss today became Department of Homeland Security initiatives as the U.S. Customs merged with the Border Patrol and the immigration and agriculture inspection programs to form the Bureau of Customs and Border Protection, or BCBP. As you know, BCBP is within the Department of Homeland Security's BTS Directorate.

As Secretary Ridge has oft stated, our primary objective here at the Department is to prevent terrorism. At BTS, and specifically within the Bureau of Customs and Border Protection, our priority mission is preventing terrorists and terrorist weapons from entering the United States. That extraordinarily important mission means improving security at our physical borders and ports of entry, but it also means extending our zone of security beyond our physical borders. Indeed, the initiatives I am going to discuss today are designed to push our zone of security outward so that American borders are the last line of defense, not the first line of defense against the international terrorist threat. These initiatives – like all BTS Smart Border initiatives – are designed to improve security without stifling the flow of legitimate trade. In fact, many of these initiatives promote the more efficient movement of trade. Securing trade and facilitating trade are two of the main goals of the BTS Directorate. My statement today focuses on those specific initiatives the Committee asked that I discuss.

## Container Security Initiative (CSI)

Ocean-going sea containers represent the most important artery of global commerce – some 48 million full sea cargo containers move between the world's major seaports each year, and nearly 50 percent of all U.S. imports (by value) arrive via sea containers. That means nearly 6 million cargo containers arrive at U.S. seaports annually.

Because of the sheer volume of sea container traffic and the opportunities it presents for terrorists, containerized shipping is uniquely vulnerable to terrorist attack. Most experts believe that a terrorist attack using a container as a weapon or as a

means to smuggle a terrorist weapon, possibly a weapon of mass destruction, is likely. If terrorists used a sea container to conceal a weapon of mass destruction and detonated it on arrival at a port, the impact on global trade and the global economy could be immediate and devastating – all nations would be affected.

The purpose of the Container Security Initiative, CSI, is to prevent and deter terrorists from using cargo containers to conceal terrorist weapons, including potentially nuclear weapons or radiological materials. Under CSI, which is the first program of its kind, we are identifying high-risk cargo containers and partnering with other governments to pre-screen those containers at foreign ports, before they are shipped to our ports.

The four core elements of CSI are:

- First, identifying "high-risk" containers. These are any containers that pose a potential risk for terrorism; i.e., that may contain – based on intelligence and risk-targeting principles – terrorist weapons, or even terrorists. We are using a structure called the Automated Targeting System (ATS), a sophisticated rules-based system, capable of sorting and processing vast quantities of information very rapidly to identify the "high-risk" containers.

- Second, pre-screening the "high risk" containers at the foreign CSI port before they are shipped to the U.S.

- Third, using technology to pre-screen the high-risk containers, so that it can be done rapidly without materially slowing down the movement of trade. This includes both radiation detectors and large-scale x-ray-type machines in order to detect potential terrorist weapons.

- Fourth, using smarter, "tamper-evident" containers – containers that indicate to BCBP officers at the port of arrival whether they have been tampered with after a security screening.

Under CSI, we have deployed and continue to deploy small teams of BCBP personnel to the foreign ports, of nations that are partners in the CSI initiative. These U.S. personnel target containers using computers that are connected to our Automated Targeting System (ATS) system here in the United States. Our host nation customs partners add information useful to the targeting process, using their own systems. Pooling our information and data results in better targeting decisions.

The next step is that the host nation's customs officers inspect the containers identified as posing a risk, using non-intrusive inspection (NII) and radiation detection equipment. The NII equipment generates x-ray and gamma ray images, which U.S. and host nation officers study for anomalies that could indicate the presence of terrorist weapons, including nuclear or radiological materials. In the event that an anomaly is detected through the NII or radiation detection equipment, the host nation's customs

officers conduct a physical inspection of the contents of the container. U.S. Customs and Border Protection officers observe this entire process to make sure security protocols are followed.

CSI adds substantial security to containerized shipping without slowing down the flow of legitimate trade. Containers that have been pre-screened and sealed under CSI will not ordinarily need to be inspected again by U.S. Customs and Border Protection when they arrive at United States seaports. Currently, every container identified as high risk is being screened on arrival to the United States. With CSI, it will usually be unnecessary to do this screening here, if it has been done – "there" – at a CSI port.

The Customs Service developed the CSI initiative in the last two months of 2001, and Commissioner Bonner announced CSI in January, 2002. Since then, CSI has generated exceptional participation and support.

The goal for the first phase of CSI was to implement the program at as many of the top 20 foreign container ports – in terms of volume of cargo containers shipped to United States seaports – as possible, and as soon as possible. Those ports were the logical place to start CSI, because the top 20 alone account for nearly 70 percent, over two-thirds, of all cargo containers arriving at U.S. seaports. The top twenty ports include: Hong Kong, Shanghai, Singapore, Kaohsiung, Rotterdam, Pusan, Bremerhaven, Tokyo, Genoa, Yantian, Antwerp, Nagoya, Le Havre, Hamburg, La Spezia, Felixstowe, Algeciras, Kobe, Yokohama, and Laem Chabang.

Within one year of the announcement of CSI, 18 of the top 20 ports agreed to participate in CSI. CSI has been implemented and is operational in Le Havre, France; Rotterdam, the Netherlands; Antwerp, Belgium; Bremerhaven and Hamburg, Germany; and in Singapore, the largest container transshipment port in the world. It will be operational at other CSI ports very soon.

BCBP is in the process of formulating the second phase of CSI. Under CSI Phase 2, the CSI program will be implemented at other foreign ports that ship a significant volume of cargo to the United States, and that have the infrastructure and technology in place to support the program. Sweden and Malaysia have already signed CSI agreements for this phase. To date, a total of 14 countries have agreed to implement CSI.

**24-Hour Rule**

Because CSI involves getting and using information about containers before those containers leave foreign ports, the advance transmission of complete and accurate vessel cargo manifest information to BCBP is essential to its success. Advance transmission of that information is also essential to overall successful targeting of high-risk cargo containers from any port, regardless of whether that port is part of CSI, because the better the information and the sooner we have it, the more effective and efficient U.S. Customs and Border Protection can be in identifying high-risk cargo

and screening that cargo for terrorist weapons, including nuclear and radiological material.

A final advance manifest regulation relating to oceangoing cargo was issued on October 31, 2002, requiring the presentation of accurate, complete manifest information 24 hours prior to loading of a container on board a vessel at the foreign port. Under that regulation, vague descriptions of cargo, such as "FAK" (Freight All Kinds) are no longer acceptable. On February 2, 2003, a strategy was begun to ensure compliance with the so-called "24-hour rule," following a 60-day grace period to permit the trade to adjust its business practices. BCBP is continuing that strategy. The compliance strategy has involved issuing "no load" orders and denying permits to discharge containers in the event of non-compliance.

In the first month of enforcement, BCBP issued approximately 150 "no load" orders, but the trade is working very hard to comply and we are seeing significant compliance with many aspects of the rule.

**Additional Protocols For High-Risk Containers**

If high-risk containers are identified after they have set sail for the United States, BCBP makes a determination on their level and source of risk. Depending on that assessment, BCBP has protocols in place for working with a variety of agencies, such as the Coast Guard to take appropriate next steps. For example, when a determination is made that cargo should not reach U.S. shores, BCBP works with the Coast Guard to ensure that the cargo is screened and examined, including the possibility of conducting examinations at sea.

**Customs-Trade Partnership Against Terrorism**

The Customs-Trade Partnership Against Terrorism, C-TPAT – developed and started by the Customs Service in January 2002 – is an initiative designed to further reduce the risk that terrorist weapons could be concealed in cargo shipped to the United States. It does this by substantially improving security along the entire supply chain, not just at foreign seaports. By partnering with the trade community – U.S. importers, customs brokers, carriers, shippers, and others – we can better protect the entire supply chain against potential exploitation by terrorists or terrorist weapons.

Under C-TPAT, companies sign an agreement with BCBP to conduct a comprehensive self-assessment of their supply chain security and to improve that security – from foreign loading docks to the U.S. border and seaports – using C-TPAT security guidelines. These guidelines were developed with a large amount of input from the trade community, and include such items as procedural security, physical security, personnel security, education and training, access control, manifest procedures, and conveyance security.

Those companies that meet C-TPAT security standards receive expedited processing through our land border crossings, through our seaports, and through our

international airports. This partnership enables us to spend less time on lower-risk cargo, so that we can focus our resources where they are needed most – on higher-risk cargo. It is a program through which businesses win, government wins, and, most importantly, the American people win.

To date, over 2,000 companies – 2,060 as of March 13, 2003 – are participating in C-TPAT and have signed agreements with BCBP to improve the security of their supply chains. Members of C-TPAT include 60 of the top 100 importers and 32 of the 50 largest ocean carriers. Collectively, C-TPAT companies represent 90 percent of the containerized sea cargo entering the United States, and about 40 percent of all imports by value.

Currently, importers, carriers, brokers, freight forwarders, and non-vessel operating common carriers are eligible to apply for participation in C-TPAT. In January 2003, we also began accepting applications from domestic marine port authorities and terminal operators, who are already encouraged to participate in the U.S. Coast Guard Navigation and Vessel Inspection Circular (NVIC) program for waterfront facilities. We have plans to expand C-TPAT to foreign manufacturers and shippers as well.

Finally, to ensure the consistency of guidelines provided to operators of marine ports and terminals, BCBP and the Coast Guard have worked closely to ensure that the Coast Guard's (NVIC) programs for waterfront facilities are consistent with C-TPAT guidelines for Ports and Terminal environments.

**Operation Safe Commerce**

Operation Safe Commerce (OSC) is a public/private partnership being implemented by the TSA, dedicated to finding methods and technologies to protect commercial shipments from threats of terrorist attack, illegal immigration, and other contraband, while minimizing the economic impact upon the vital transportation system.

OSC involves developing and testing technology and systems to improve container security, consistent with the principles and security practices of ongoing security programs, such as CSI and C-TPAT. Specific supply chains along particular trade routes are identified; then every aspect of the supply chain, from packaging to delivery, is analyzed for vulnerabilities. Based on this analysis, plans will be developed to improve security throughout the entire supply chain, and potential solutions will be tested in an actual operating environment.

Specifically, OSC is addressing three key components to secure supply chain management. They are: (1) demonstrating what is needed to ensure that parties associated with commercial shipping exert reasonable care and due diligence in properly packing, securing, and manifesting the contents of a shipment of goods in a container; (2) demonstrating various methods to ensure that information and documentation associated with these shipments is complete, accurate, and secure from unauthorized access – this may entail transmitting information in a secure electronic

format; and (3) testing supply chain security procedures and practices in order to determine the impact of these procedures when combined with the implementation of enhanced manifest data elements and container sealing procedures (including effective intrusion detection), to determine the most effective method to reduce the susceptibility of a shipment in transit in an international or domestic supply chain to illicit interference.

OSC is to be carried out using the three major U.S. container load centers: Seattle/Tacoma, New York/New Jersey, and Los Angeles/Long Beach. Seventy percent of U.S. container movement originates or terminates at these centers. We are now, accepting proposals from these identified ports. This acceptance period closes on March 20, 2003.

OSC's Executive Steering Committee, which is co-chaired by the Deputy Commissioner of BCBP and the Associate Deputy Secretary of the Department of Transportation, is responsible for managing OSC. The Transportation Security Administration, the Coast Guard, the State Department, the Commerce Department, the Justice Department, and the Homeland Security Council also have individual representatives on the Steering Committee.

**Conclusion**

CSI and the 24 Hour Rule provides a mechanism for the U.S. Government to appropriately scrutinize the international movement of marine containers coming to the USA. The cooperative efforts of the federal government and the regulated parties in C-TPAT and OSC allow realistic, practical, business-oriented enhancements to that scrutiny. This provides more assurance of a secure international trade network, allowing BTS to deliver on securing and facilitating trade.

Thank you again Chairman Collins, and the members of the Committee, for this opportunity to testify. I am happy to answer any questions you may have.

STATEMENT OF

PETER W. HALL
UNITED STATES ATTORNEY
DISTRICT OF VERMONT

BEFORE THE
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

CONCERNING

CARGO CONTAINER SECURITY

MARCH 20, 2003

Chairman Collins, Senator Lieberman and distinguished members of the Committee, I am the United States Attorney for the District of Vermont. It is a privilege and an honor to be asked to testify before this Committee concerning cargo container security and an interagency, intermodal and international initiative for cargo container security called Operation Safe Commerce – Northeast (OSC - NE). This group, which I will describe in more detail, is the original Operation Safe Commerce.

Since the early 1980's and the advent of Law Enforcement Coordinating Committees (LECC's), sponsored by the Department of Justice and the U.S. Attorneys Offices, there has been an expansive, cross-border effort in the Northeastern United States and Eastern Canada for members of law enforcement on both sides of our northern border, and at all levels – local, state, provincial and federal – to come together regularly to share working intelligence information and to discuss and address issues of common interest. Building on pre-existing relationships,

this loose-knit group now comes together for regular meetings of between 60 and 80 officers, agents, and prosecutors. It has been observed that there is no other place in the world where inter-agency and international cooperative law enforcement is better implemented.

Against this backdrop and out of this culture of cooperation, OSC was born in August 2001, a month before the events of September 11, 2001. Of obvious significance to those agencies working in this area have been organized criminal efforts in close proximity to the border, many of which involve smuggling of humans and contraband, including drugs and stolen property. At that time, U.S. Coast Guard Commander Stephen Flynn met with the cross-border LECC intelligence group to present his views on the need to secure and monitor the world's cargo container supply chains more effectively. The group was aware from our work together that historically drug shipments came into the Port of Montreal by cargo container and that stolen vehicles had left the port by the same method. We also knew that there was theft of goods from container shipments while in and around the port. All this indicated clearly that the containers were easily accessible and able to be breached on a regular basis. Members of the LECC group offered ourselves as a test bed for a project on cargo container and supply chain security, seeking to study and test point-of-origin to point-of-delivery security, in-transit transparency and accountability, and concomitant data query capability.

Thus, OSC - NE first manifested itself as a loose-knit working group that evolved from a cross-border intelligence sharing group comprised of law enforcement representatives principally from northern New England, northern New York, Quebec and eastern Ontario. The original aim

was to guard the cargo container supply chains against the insertion of materials not listed on the container manifest (smuggling) and the extraction of materials from the container as it was in transit (theft).

The events of 9/11 gave an immediate and unparalleled urgency to the work that we were undertaking. We recognized that terrorists could use the global cargo container delivery system to attack the United States in a number of significant ways. First, because the security of the system had not been a high priority, containers were in large part throughout their routes of travel easily accessible to the insertion of explosive devices, including weapons of mass destruction (WMD). Once inserted, such weapons could be detonated at any point along the route, most likely in a port or at some other intermodal transshipment point. Second, even if a WMD were not used, terrorists could wreak havoc with the cargo container transportation system itself by a combination of a smaller device and disinformation that a larger, more powerful device was already in the system. Because the system does not yet have a built-in ability for security review, this could likely cause the United States and the rest of the world community to shut down the entire system while we hunted for the problem container – with potentially catastrophic consequences. Third, in the traditional smuggling context, component parts of WMD's could be inserted into and extracted from cargo containers and then assembled outside the intermodal delivery system. Fourth, we know that traditional smuggling of contraband, whether drugs, cigarettes, knock-off products, or other goods, may be used to support terrorist activities. Such smuggling is accommodated by a container delivery system that is easily breached.

Moreover, we know that groups which have engaged in smuggling operations in the past have been well organized and have sub-operations that enable injection or removal of items into or from cargo containers in ways to defeat previous efforts at inspection. Although we in our group cannot quantify the likelihood that such would occur, intuitively it is logical to assume that organizations that engage in smuggling operations, and that make use of cargo containers, may buy them, knowingly or otherwise, to smuggle into this continent either weapons or component parts.

The purpose of Phase I of OSC - NE was to begin identifying where injection and removal points occurred in a simple cargo container supply chain and to begin testing some possible technologies to detect intrusions and to track the container for anomalies. Coming together to start the process of addressing the potential devastating impact on world commerce described by Commander Flynn were representatives from the northeastern United States of the following agencies: U.S. Customs Service, U.S. Coast Guard, U.S. Immigration and Naturalization Service, U.S. Attorney's Office, U.S. Marshals Service, the state economic communities, particularly those of New Hampshire, and through the state economic development arm, members of the private sector. Members of the working group began having serious discussions with representatives of agencies in Washington, particularly within the Department of Transportation. In conjunction with this effort, the Volpe National Transportation Systems Center of Cambridge, Massachusetts ("Volpe"), prepared a white paper proposing to study a simple cargo container supply chain. The Technical Support Working Group agreed to fund the Volpe Center's initial effort, and the loose-knit affiliation that had come together to promote this

project took on a more structured existence. The United States Attorneys for the Districts of New Hampshire and Vermont together appointed a joint law enforcement coordinating committee subcommittee to be tri-chaired by each of them and the Governor of New Hampshire. The rural and economic development arm of New Hampshire provided the necessary and critical linkage to the private sector.

Operation Safe Commerce, as conceived a year ago, had a single mission:

"Operation Safe Commerce represents a comprehensive coalition of federal agencies, state governments and private sector businesses committed to the concept of enhancing border and international transportation security without impeding free trade and international commerce. Operation Safe Commerce gathers and provides information and assists in collaborative efforts to develop new models for international freight monitoring and transportation that maintains open borders and facilitates commerce while improving security."

As the working group reminded itself on a regular basis, this group worked together "on a spit and a handshake" basis; agency egos were "checked at the door." The limited strategic goal we sought to achieve was simple:

"Operation Safe Commerce will provide a demonstration model for the international container shipping system that maintains open borders and facilitates commerce while improving

security practices by using point-of-origin security, in transit tracking and monitoring and data query capability designed to validate and facilitate the movement of containerized cargo."

The New Hampshire/Vermont Joint Law Enforcement Coordinating Subcommittee for Operation Safe Commerce has maintained as its mission engaging in strategic planning on behalf of, and providing general and specialized advice to, personnel charged with responsibility for effecting OSC strategic goals by drawing on the collaborative efforts and the expertise and input of the agencies and entities represented by its membership.

Announced in March 2002, the OSC - NE working group's initial goals were:

1. To establish and facilitate a mechanism for identifying and securing on-going support and funding for Operation Safe Commerce.

2. To develop and implement a mechanism for expert and agency-specific input into the ongoing work of the demonstration project OSC - NE.

3. To promote international trade security concepts through Operation Safe Commerce to be viable within 18 months and encompassing federal, state and international agencies coupled with representatives from the private sector to assist with future demonstration projects of Operation Safe Commerce as may be needed.

The group came together by telephone conference and face-to-face, first, to assist Volpe in refining the parameters of the proposed demonstration project, second, to push the project along and oversee it as it was undertaken, and third, to review and analyze the Volpe reports and assist in the preparation of the final report, which I understand has been released by Volpe for restricted distribution.

Throughout the process, our aim was to look at a prototype and to support and guide a process that would begin gathering data which could then be used to promulgate regulations and set new standards for secure international transportation of cargo containers.

Phase One of the project was accomplished in two parts, both of them involving cargo containers used to ship automobile light bulbs from the Osram-Sylvania plant in Nove Zamke, Slovakia, via the Port of Hamburg, to the Port of Montreal, across the U.S.-Canadian border at Highgate Springs, Vermont, and on to the Osram-Sylvania plant in Hillsboro, New Hampshire. First, the Volpe Team studied the actual supply chain for a cargo container, seeking to understand and report the way in which the cargo container was handled and the various potential problems for intrusion that could occur along the route. Second, Volpe put instrumentation and monitoring devices on another container to determine whether it could be tracked and monitored effectively with commercially-available technology.

The technology they used is described in more detail in the report. It involved Global Positioning Satellite (GPS) technology, tracking and multi-node downloads, with transmission of

data from those nodes to a central point at Volpe's headquarters. There were also installed a serious of sensors which detected light changes inside the container and detected possible intrusions through magnetic sensors, similar to a home security system, and through an electronic seal on the exterior door of the container. The intrusion data monitored by the interior sensors and the GPS tracking data were downloaded to nodes at the outset of the container's trip, at the port entryways in Hamburg, Germany, at the Port of Montreal, at the border port of entry at Highgate Springs, Vermont and at the receiving company premises in Hillsboro, New Hampshire. By and large the equipment worked well and provided information at each of the nodes that was subsequently transmitted to Volpe. There was some problem getting the data transmitted from the entryways at the Port of Hamburg, because there was two choices for entry, truck and rail, and getting them both set up in time became a problem. (Note that this was not a flaw in the equipment but a problem in the timing of the shipment and the delayed arrival of the node equipment as Volpe personnel were seeking to set up the download nodes.) Also, because the container was in the hold of the ship as it traversed the Atlantic Ocean, the GPS capabilities were nullified. A download of information at the Port of Montreal, however, indicated that the container had not been tampered with while on board ship.

The test runs informed our OSC - NE working group that there is a basis for continuing to explore both container tracking and container intrusion. Our group, however, always saw itself as a vehicle for providing data to regulatory bodies within the United States, and through them to entities throughout the world, which could be used for setting standards to ensure greater safety from intrusion in the handling and transportation of cargo containers. Indeed, in proposed Phase

Two, OSC - NE is partnering with Lawrence Livermore National Laboratory to test additional intrusion detection devices within the container and monitoring and detection equipment to be used in moving cargo containers at the ports. How soon more comprehensive technical solutions to container tracking and intrusion will be developed depends, of course, on additional study and monitoring of more complex supply chains for additional vulnerabilities that may be addressed by technology.

An important lesson learned from the Phase One supply chain analysis and monitored test run is that a comprehensive answer cannot be provided by technology alone. The security systems, or lack thereof, and the cargo container handling arrangements of companies participating in the supply chain sometimes create additional vulnerabilities. For example, on the loaded container there was an absence of seals and use of un-secured seals that were easy to duplicate for short periods of the container's trip. Also, the container involved was held up at a border crossing in Europe for an extended number of hours. The waiting truck traffic at that point was drawn up along side a tent city where drivers were exposed to temptations of ways in which to bide their time while waiting to cross through the port of entry, potentially leaving the container that they were hauling easily subject to tampering. The former problem can be handled by an initiative such as Customs - Trade Partnership Against Terrorism (C-TPAT), which would set standards for companies originating and transporting cargo containers if they wanted to receive a "safe commerce" designation. The latter problem, it appears, would more likely need to be addressed by world customs organizations and possibly bi-lateral or multi-lateral agreements.

Other lessons learned include the fact that it took little if any credentialing for the engineers setting up the electronic nodes to have access to secure areas of international ports – identifying another potential vulnerability. Also, the cargo container, which had on the exterior of its entry door visible additional wires and antennae and which was accompanied by no special documentation indicating that it was an experimental test run, cleared at least five international borders and two shipping ports without once being opened for examination.

## Conclusions

To date, the OSC - NE project is the only one of its kind that has provided a study of an existing supply chain and certain technical tests. We understand that additional projects are in the process of being proposed for funding by Transportation Security Administration grant monies that were part of the 2002 budget. These projects are open to the three largest United States load centers: Los Angeles/Long Beach, Seattle/Tacoma and New York/New Jersey. Additional testing of actual supply chains and technical modalities may also be warranted. The data from all of these sources should be used to detect and analyze vulnerabilities not yet identified and to articulate best practices, standards and regulations for the handling of cargo containers that will decrease their vulnerability and ensure that they can move expeditiously through the cargo container transportation system.

The Operation Safe Commerce initiatives are complementary to, and intended to build upon, the CSI (Container Security Initiative) and C-TPAT programs that are now in place.

Almost invariably, however, extending the analysis and effectuation of security for cargo containers from point of origin to point of destination will go beyond dealing with the participants who are enrolled in C-TPAT and CSI. Container handling standards and technological solutions must ultimately affect manufacturers, shippers, freight haulers, terminal operations, shipping lines, warehouse operators, and the like as well as government regulatory agencies.

As modeled by the membership of the OSC - NE working group, ongoing examinations of supply chains for vulnerabilities, testing of the technological proposed solutions and ultimately promulgation of proposed standards and regulations will be a function of the cooperative work of multiple agencies. True security in the system will come from a combination of enhanced security practices, technological solutions, appropriately shared intelligence information and the experienced intuition of agents and officers on the line responsible for seeing that the system remains both secure and operational. The multiple agencies that are part of the OCS - NE working group exemplify the kind of coalition that has proven effective to produce test results, exemplifying a multi-agency and public/private partnership. Since the completion of Phase One, the working group has reached out to involve more directly the U.S. Attorney's offices from Western and Northern New York along the border to Maine and down to Massachusetts and has engaged our law enforcement partners in the Eastern Canadian provinces, as well. Meaningful standards will evolve from the data derived from additional test runs that examine vulnerabilities, on-going efforts that improve inspection and handling security, and technological solutions. To accommodate fully the philosophy and mission of the Operation Safe Commerce initiatives, the solutions will need to evolve from inter-agency cooperation, address intermodal transportation issues, including truck, rail and shipping, and be international in scope.

Madam Chair, that concludes my prepared remarks. I thank you and the other Members of the Committee for the opportunity to appear before you today. I look forward to answering your questions.

# "The Fragile State of Container Security"

Written Testimony before

a hearing of the

U.S. Senate Governmental Affairs Committee

on

"Cargo Containers: The Next Terrorist Target?"

Stephen E. Flynn, Ph.D.
Commander, U.S. Coast Guard (ret.)
Jeane J. Kirkpatrick Senior Fellow in National Security Studies and
Director, Council on Foreign Relations Independent Task Force
on Homeland Security Imperatives

Room 342
Dirksen Senate Office Building
Washington, D.C.

9:30 a.m.
March 20, 2003

Chairperson Collins, Senator Lieberman, and distinguished members of the Senate Governmental Affairs Committee. I am the Jeane J. Kirkpatrick Senior Fellow for National Security Studies at the Council on Foreign Relations where I recently directed the Independent Task Force on Homeland Security, co-chaired by former Senators Warren Rudman and Gary Hart. In June 2002, I retired as a Commander in the U.S. Coast Guard after 20 years of active duty service. I am honored to be appearing before you this morning on the issue of container security.

On October 12, 2001, I had the opportunity to testify before this committee at its first post 9-11 hearing on homeland security. At that time, I asserted that "the economic and societal disruption created by the September 11 attacks has opened Pandora's box. Future terrorists bent on challenging U.S. power will draw inspiration from the seeming ease at which America could be attacked and they will be encouraged by the mounting costs to the U.S. economy and the public psyche associated with the ad-hoc efforts to restore security following that attack."

A year later I joined with former senators Warren Rudman and Gary Hart in preparing our report, "America: Still Unprepared—Still In Danger." We observed that "nineteen men wielding box-cutters forced the United States to do to itself what no adversary could ever accomplish: a successful blockade of the U.S. economy. If a surprise terrorist attack were to happen tomorrow involving the sea, rail, or truck transportation systems that carry millions of tons of trade to the United States each day, the response would likely be the same—a self-imposed global embargo." Based on that analysis, we identified as second of the six critical mandates that deserve the nation's immediate attention: "Make trade security a global priority; the system for moving goods affordably and reliably around the world is ripe for exploitation and vulnerable to mass disruption by terrorists."

This is why the topic of today's hearing is so important. The stakes are enormous. U.S. prosperity—and much of its power—relies on its ready access to global markets. Both the scale and pace at which goods move between markets has exploded in recent years thanks in no small part to the invention and proliferation of the intermodal container. These ubiquitous boxes—most come in the 40'x8'x8' size—have transformed the transfer of cargo from a truck, train, and ship into the transportation equivalent of connecting Lego blocks. The result has been to increasingly diminish the role of distance for a supplier or a consumer as a constraint in the world marketplace. Ninety percent of the world's freight now moves in a container. Companies like Wal-Mart and General Motors move up to 30 tons of merchandise or parts across the vast Pacific Ocean from Asia to the West Coast for about $1600. The transatlantic trip runs just over a $1000—which makes the postage stamp seem a bit overpriced.

But the system that underpins the incredibly efficient, reliable, and affordable movement of global freight has one glaring shortcoming in the post-9-11 world—it was built without credible safeguards to prevent it from being exploited or targeted by terrorists and criminals. Prior to September 11, 2001, virtually anyone in the world could arrange with an international shipper or carrier to have an empty intermodal container delivered to their home or workplace. They then could load it with tons of material, declare in only the most general terms what the contents were, "seal" it with a 50-cent lead tag, and send it on its way to any city and town in the United States. The job of transportation providers was to move the box as expeditiously as possible. Exercising any care to ensure that the integrity of a container's contents was not compromised may have been a commercial practice, but it was not a requirement.

The responsibility for making sure that goods loaded in a box were legitimate and authorized was shouldered almost exclusively by the importing jurisdiction. But as the volume of containerized cargo grew exponentially, the number of agents assigned to police that cargo stayed flat or even declined among most trading

nations. The rule of thumb in the inspection business is that it takes five agents three hours to conduct a thorough physical examination of a single full intermodal container. Last year nearly 20 million containers washed across America's borders via a ship, train, and truck. Frontline agencies had only enough inspectors and equipment to examine between 1-2 percent of that cargo.

Thus, for would-be terrorists, the global intermodal container system that is responsible for moving the overwhelming majority of the world's freight satisfies the age-old criteria of opportunity and motive. "Opportunity" flows from (1) the almost complete absence of any security oversight in the loading and transporting of a box from its point of origin to its final destination, and (2) the fact that growing volume and velocity at which containers move around the planet create a daunting "needle-in-the-haystack" problem for inspectors. "Motive" is derived from the role that the container now plays in underpinning global supply chains and the likely response by the U.S. government to an attack involving a container. Based on statements by the key officials at U.S. Customs, the Transportation Security Administration, the U.S. Coast Guard, and the Department of Transportation, should a container be used as a "poor man's missile," the shipment of all containerized cargo into our ports and across our borders would be halted. As a consequence, a modest investment by a terrorist could yield billions of dollars in losses to the U.S. economy by shutting down—even temporarily—the system that moves "just-in-time" shipments of parts and goods.

Given the current state of container security, it is hard to imagine how a post-event lock-down on container shipments could be either prevented or short-lived. One thing we should have learned from the 9-11 attacks involving passenger airliners, the follow-on anthrax attacks, and even last fall Washington sniper spree is that terrorist incidents pose a special challenge for public officials. In the case of most disasters, the reaction by the general public is almost always to assume the event is an isolated one. Even if the post-mortem provides evidence of a systemic vulnerability, it often takes a good deal of effort to mobilize a public policy response to redress it. But just the opposite happens in the event of a terrorist attack—especially one involving catastrophic consequences. When these attacks take place, the assumption by the general public is almost always to presume a general vulnerability unless there is proof to the contrary. Government officials have to confront head-on this loss of public confidence by marshalling evidence that they have a credible means to manage the risk highlighted by the terrorist incident. In the interim as recent events have shown, people will refuse to fly, open their mail, or even leave their homes.

If a terrorist were to use a container as a weapon-delivery devise, the easiest choice would be high-explosives such as those used in the attack on the Murrah Federal Building in Oklahoma City. Some form of chemical weapon, perhaps even involving hazardous materials, is another likely scenario. A bio-weapon is a less attractive choice for a terrorist because of the challenge of dispersing the agent in a sufficiently concentrated form beyond the area where the explosive devise goes off. A "dirty bomb" is the more likely threat vs. a nuclear weapon, but all these scenarios are conceivable since the choice of a weapon would not be constrained by any security measures currently in place in our seaports or within the intermodal transportation industry.

This is why a terrorist attack involving a cargo container could cause such profound economic disruption. An incident triggered by even a conventional weapon going off in a box could result in a substantial loss of life. In the immediate aftermath, the general public will want reassurance that one of the many other thousands of containers arriving on any given day will not pose a similar risk. The President of the United States, the Secretary of Homeland Security, and other keys officials responsible for the security of the nation would have to stand before a traumatized and likely skeptical American people and outline the measures they have in place to prevent another such attack. In the absence of a convincing security framework to manage the risk of another incident, the public would likely insist that all containerized cargo be stopped until adequate safeguards are in place. Even with the most focused effort, constructing that framework from scratch could take months—even years. Yet, within three weeks, the entire worldwide intermodal transportation industry would effectively be brought to its knees—as would much of the freight movements that make up international trade.

This is why initiatives such as "Operation Safe Commerce" (OSC), the "Container Security Initiative" (CSI), and the "Customs Trade Partnership Against Terrorism" (C-TPAT) are so important. Let's be clear. Right now, none of these initiatives have changed the intermodal transportation environment sufficiently to fundamentally reduce the vulnerability of the cargo container as a means of terrorism. However, all are important

stepping-off points for building an effective risk management approach to container security—a foundation that simply did not exist prior to September 11, 2001.

At its heart, risk management presumes that there is a credible means to (1) target and safely examine and isolate containers that pose a potential threat, and (2) identify legitimate cargo that can be facilitated without subjecting it to an examination. The alternative to risk management is to conduct random inspections or to subject every cargo container to the same inspection regime. Risk management is the better of these two approaches for both economic and security reasons. The economic rationale is straight forward. Enforcement resources will always be finite and delays to legitimate commerce generate real costs.

Less obvious is the security rationale for risk management. There is some deterrent value to conducting periodic random inspections. However, since over ninety percent of shipments are perfectly legitimate and belong to several hundred large importers, relying on random inspections translates into spending the bulk of the time and energy on examining those containers by the most frequent users of containerized cargo who are most likely to be perfectly clean.

Examining 100 percent of all containers is not only wasteful, but it violates an age-old axiom in the security field that if "you have to look at everything, you will see nothing." Skilled inspectors look for anomalies and invest their finite time and attention on that which arouses their concern. This is because they know that capable criminals and terrorists often try to blend into the normal flow of commerce, but they invariably get some things wrong because they are not real market actors. But, an aggressive inspection regime that introduces substantial delays and causes serious disruption to the commercial environment can actually undermine an enforcement officer's means to conduct anomaly detection. Accordingly, allowing low risk cargo to move as efficiently as possible through the intermodal transportation system has the salutary security effect of creating a more coherent backdrop against which aberrant behavior can be more readily identified.

Deciding which cargo container rates facilitated treatment, in turn, requires satisfying two criteria. First, an inspector must have a basis for believing that when the originator loaded the container, it was filled only with goods that are legitimate and authorized. Second, once the container is on the move through the global intermodal transportation system, an inspector must have the means to be confident that somewhere along the way it has not been intercepted and compromised. If he cannot point to a reliable basis for assuming these two criteria are satisfied, in the face of a heightened terrorist threat alert, she must assume that the container poses a risk and target it for examination.

Prior to the most recent post-9/11 initiatives to enhance container security, the means for concluding that a shipment was legitimate at its point of origin was based strictly on an evaluation of the requisite documentation. If there were no discrepancies in the paperwork and a shipper had a good compliance track record, their shipments were automatically cleared for entry. But, the requirements surrounding the documentation for these "trusted shippers," charitably put, were nominal. For instance, shippers involved in consolidating freight were not required to itemize the contents or identify the originator or the final consignee for their individual shipments. The cargo manifest would simply declare the container had "Freight All Kind" (F.A.K.) or "General Merchandise." The logic behind taking this approach was straightforward when the primary inspection mandate was to collect customs duties. The Internal Revenue Service does pretty much the same thing for individual taxpayers. The presumption is as long as a company maintains appropriate in-house records, the data presented up front can be kept to the bare minimum. Compliance can be enforced by conducting audits.

Inspectors intent on confirming that the integrity of a container has not been violated on its way to its final destination, rely primarily on a numbered-seal that is passed through the pad-eyes on the container's two doors. As long as the number on the seal matches the cargo manifest and there are no obvious signs of tampering, the container's contents are assumed to be undisturbed. This remains the case today even though front-line enforcement agents have known for some time that there are a number of relatively straightforward ways to break into a container, including removing the door hinges, without disturbing the seal.

The inherent limits of relying on these enforcement tools to confront the terrorist threat were starkly demonstrated in the June 2002 prototyping of what has become the "Operation Safe Commerce" initiative. This

prototype involved tracking a container of automotive light bulbs from a manufacturing facility in Slovakia to a distribution center in Hillsborough, N.H. A global positioning system (GPS) antenna was placed on the door of the container and was connected to a car-battery inside the container which served as its power source via a wire that passed through the door's gasket. For anyone who was not forewarned that this was a sanctioned experiment, this equipment should have looked a bit scary. Yet, the container ultimately crossed through five international jurisdictions without any customs official ever raising a question. When the container made the trip on its final leg from Montreal to Hillsborough, N.H., the driver took 12 hours to make what should have been a 3 ½ trip, having made several unauthorized stops along the way.

The OSC prototype highlighted a core reality of modern global logistics—even the most trusted shippers currently possess little to no capacity to monitor what happened to their freight when it is in the hands of their transportation providers. As long as it arrives within the contracted time frame, they have had no incentive to do so. Accordingly, any effort to advance container security must have as its ultimate objective the development of the means to assure the integrity of a shipment from its starting point through its final destination.

The Customs-Trade Partnership Against Terrorism (C-TPAT) is a commendable first step toward improving container security by encouraging greater awareness and self-policing among the private sector participants most directly involved with shipping, receiving, and handling containerized cargo. Its current weakness is the nearly complete absence of Customs Service personnel to monitor the level of compliance among the C-TPAT participants. This lack of auditing ability creates the risk that if a terrorist incident involves a C-TPAT participant, the entire program would be discredited since Customs would have no grounds to suggest why other participants did not also pose a similar vulnerability. What is required is the kind of commitment in resources to allow Customs to put in place a "trust, but verify" system of C-TPAT oversight as well as a regular recertification protocol.

The Container Security Initiative (CSI) is another very important program towards bolstering container security and Commissioner Robert Bonner should be commended for his leadership in successfully enlisting as CSI partners 19 of the 20 busiest ports in the world in the space of just one year. CSI represents a true paradigm shift by changing the focus of inspection from the arrival port to the loading port. The result is to potentially provide greater strategic depth in identifying and intercepting dangerous cargo and to improve cooperation among our key trade partners in advancing this vital agenda. But, as in C-TPAT, there are very serious resource implications associated with making this a truly credible system. To date the U.S. Customs Service has only 20 inspectors assigned overseas to support this initiative. What it requires is the equivalent of a diplomatic service since the goal is to move beyond the world's largest ports to include dozens of smaller ports that ship or transship cargo to the United States.

Assigning U.S. inspectors overseas—and playing host to foreign CSI participant inspectors here at home—provides its greatest value-added by improving both the timing and quality of targeting which containers should be viewed as high risk and therefore be subject to inspection. This is why the new "24-hour rule" is so essential. CSI is meaningless unless the risk assessment can be accomplished by an inspector in a loading port. That data must arrive in time for an inspector to analyze it and to follow up on any questions he might have. But the "24-hour rule" alone does not ensure that the data to support the targeting is both accurate and has sufficient detail to detect anomalies. Indeed, cargo manifests have been notoriously unreliable documents. Accordingly, advance risk assessments must be built around more detailed commercial data that ideally goes all the way back to an original purchase order for an imported good. Failing that, the targeting of shipments whether conducted at a U.S. port or overseas will not likely pass the public credibility test following an attack involving a pre-cleared shipment.

Operation Safe Commerce holds out the most promise towards advancing a comprehensive and credible approach to container security. It builds on C-TPAT and CSI but goes the next step by (1) building a greater understanding of the current vulnerabilities within a variety of global supply chains, and (2) ensuring that new technologies and business practices designed to enhance container security are both commercially viable and successful. But OSC will be of little value if the end-game is not ultimately about arriving at common performance based standards that can be quickly developed and adequately enforced within the global transportation and logistics community. At the end of the day, there must be a level playing field for all the

stakeholders who undertake enhanced security measures; i.e., they must not be at a competitive disadvantage for taking steps to serve broader public interests.

Developing enhanced container security standards will require actively enlisting the support of U.S. trade partners. The inclusion of transportation security as an agenda item in the 2002 G-8 Summit and the most recent APEC meeting in Thailand are commendable in this regard. I am particularly enthusiastic about an effort underway in northern New England to partner with the Canadian government and the Ports of Halifax and Montreal to undertake a follow-on Operation Safe Commerce initiative. Canada is our largest trade partner and is vested in ensuring the cross-border shipment of goods is not interrupted by serious security breeches that originate outside North America as well as within the continent.

Ultimately, this agenda will require ongoing support by senior officials and policy makers in the Department of State, the Department of Commerce, the Department of Treasury, and the U.S. Trade Representative as well as others involved in promoting U.S. interest overseas. It will also require a substantially larger investment in federal resources than have been made available to date. At the end of the day, container security is about constructing the means to sustain global trade in the context of the new post-9-11 security environment. We cannot afford to be penny-wise and pound foolish in advancing this vital agenda.

Thank you and I look forward to responding to your questions.

**CARGO CONTAINERS: THE NEXT TERRORIST THREAT**

TESTIMONY BEFORE THE SENATE COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 20, 2003

Presented by CAPTAIN JEFFREY W. MONROE, M.M., DIRECTOR

DEPARTMENT OF PORTS AND TRANSPORTATION,
CITY OF PORTLAND, MAINE

Good Morning Madame Chairman and distinguished members of the Committee. As the Director of Ports and Transportation for the City of Portland, Maine, I want to thank you for the opportunity to discuss my Department's experiences since I last had the privilege of testifying before a Senate committee in October of 2001.

The Department of Ports and Transportation manages the Portland International Jetport, the municipal marine facilities in the Port of Portland and coordinates surface transportation programs in our metropolitan area.

In the eighteen months since 9/11 we have come a long way in securing our nation's transportation system, particularly in aviation. The Transportation Security Agency has successfully managed the hardening of our aviation facilities on an accelerated schedule. They have supervised the installation of scores of screening devices and the training of thousands of new employees. We commend their efforts. But now as the TSA turns its attention to our nation's seaports, it faces an even more difficult task. Our ports remain critically vulnerable. While we have made great strides in many areas of port security, particularly in managing our international cruise ship passenger trade, we still must find solutions to the most serious problems on the waterfront which include:

1. Lack of coordination between agencies regulating seaport commerce;
2. Lack of standardization of procedures between and within agencies;
3. Continuing lack of intelligence information available to port managers;
4. Agreements on manner, amounts and sources of funding.
5. Long term solution in providing qualified and well trained personnel for port security programs.

Today I would like to address these problems and offer suggestions for the successful outcome of a number of proposed programs.

I would like to preface my comments by saying that I am in complete agreement with those who have advocated pushing back the nation's borders when it comes to container security. We all understand that by the time something is found at the pier, it may be already be too late. We support the Container Security

Initiative (CSI) and the Customs Trade Partnership Against Terrorism (C-TPAT). Monitoring the supply chain and making brokers, freight forwarders and carriers assume a new level of responsibility is critical. Control of containers from the point of loading to the point of discharge, and the assurance that nothing can be added to units in transit, is a critical method of managing potential threats. Every step of the process must have a series of checks and balances to insure that the system is working correctly. U.S. Customs must be the single federal agency that monitors the activities of carriers, brokers and stevedoring companies that work in multiple ports.

We fully support programs to harden our continental borders and propose the establishment of marine border crossings. As we design our new passenger and freight terminals in Portland, we are including critical security elements in our planning. Canada is our closest neighbor and working together, our two nations must establish a set of procedures for cross border commerce that allows that cargo to move quickly between our countries while establishing a joint continental boundary to protect our respective nations. I am encouraged by the exchange of federal officers in some of our major ports where U.S. bound cargo arriving in Canadian ports can be pre-screened and Canadian cargo arriving in U.S. ports is similarly handled.

We also support tightening the loophole on the difference between an *entry* port and the point where the shipment reached U.S. territory. Cargo containers can no longer be allowed to continue their journey by highway or rail without declaration of their contents or being screened. Some of this cargo moves through the heart of our major population centers in bond before it is ever looked at or cleared by Customs.

Cargo that is leaving the United States also needs to be checked as part of an international effort. We support the new 24 hour rule, but note that it is will be extremely difficult for agricultural, seafood and other suppliers of perishable products to strictly comply due to the fact that often those products go from harvest to delivery on the dock through a "just in time" delivery system. The handling of agricultural and similar products must be managed in a different, but equally secure means.

While we applaud the efforts of Congress and federal agencies as they promulgate new rules for secure operations, we find ourselves in the unique position of acting as mediators between various rule-making bodies. This situation cannot continue. On my desk, I have a plethora of paper designed to help me secure the port. These rules cover everything from the height of fences to the height of lettering on badges. They are issued by agencies without regard or knowledge of what other agencies are regulating. I fully understand that we are in a transitional phase as we design and implement our new Department of Homeland Security but one of our first priorities must be the coordination between these agencies. In addition, the application of rules and standards must

be the same in every port. Washington must educate their regional and field personnel how new regulations are to be applied and how to account for port differences. Field personnel must understand that there is a balance between the flow of commerce and the security of our borders. If that balance cannot be achieved, then those who seek to harm this nation have found their success. There must be regulatory consistency between our seaports.

I believe that our federal, state and local government agencies need to work together under the direction of the federal government and that industry representatives must be included as equal partners in determining what will work best locally. Like in aviation, a key representative of critical non-federal agencies in each port should be given a top secret clearance so that person may work with federal agencies to assist in measuring threats and responses. Our federal agencies need to include industry's local experts in determining how to manage their new responsibilities.

There also needs to be a significant effort within the new Department of Homeland Security to assess measures and response. Port commerce is not just about ships and piers, it includes trucks, rail, aviation and a host of other transportation infrastructure that must be included in determining what will work best. To that end, I propose the Transportation Security Administration establish a Coordination of Seaport Threat Reduction Task (COSTR) Force. This group would include officials from the various rule-making bodies such as Customs, INS and the Coast Guard. It would also include a number of port operations personnel representing the broad spectrum of U.S. port's and members from the aviation, rail and trucking industries. The task force would advise the Secretary of Homeland Security through the TSA regarding threats and actions focusing on:

1. Analysis of alternatives and solutions;
2. Review of Plans;
3. Timelines for implementation; and
4. Standardization of methodologies.

One of task force's duties would be the examination of new regulations in four categories: redundancy; incompatibility; potential benefit; and economic impact. Additionally, the committee would provide recommendations on the sharing of data and intelligence between agencies and coordinate proposals for Congress. This mediation and coordination must be done in Washington and not on the local level. Protocols and procedures must be uniform throughout the system. Local decision-making cannot be incompatible from one geographic location to another and quality controls must be put in place and closely monitored. The Task Force should also assist with the periodic examination of the mission effectiveness of the agencies that impact ports under Homeland Security. They would also insure that all types of ports; seaports, airports, railports and highway border crossings are dealt with in the same manner.

Their last function would be the initiation of funding programs. Many of our smaller municipally owned ports cannot begin to comply with the new rules, regulations and requirements that are being proposed or implemented by various agencies. Towns and cities throughout this country are in dire financial condition and many ports are still paying bills from 9/11 that will not be reimbursed. Port security is a national issue. Local taxpayers are unable to shoulder this additional burden and should not be expected to. The ports in Maine alone are struggling to keep their business and can ill afford to loose the many jobs associated with maritime activities.

The discussion of user fees has to be broad based. A fee structure cannot provide a disincentive for using a port nor should the industry be saddled with numerous new fees when shippers are annually paying billions into federal coffers. This money must be used for its intended purpose.

Ultimately, we are concerned that new concepts that may come out of our desire to solidify our borders may put smaller ports at a disadvantage. Some agencies have suggested that the number of container ports should be consolidated and that small feeder ports should be eliminated so that screening resources can be concentrated in the megaports. The distribution of feeder ports has been an asset to regional and local economies. We should encourage the *Short Sea* initiative of the Maritime Administration and optimize use of water transportation along our U.S. coastline, keeping containers out of population centers and off our highways and rails until absolutely necessary. Over 70% of container traffic is concentrated in just a few ports in this country. That in itself makes megaports potential targets. I believe that smaller feeder ports have a better opportunity to identify a shipment that is potentially threatening. The support of the Marine Transportation System would deliver cargo to geographic areas by water, reducing highway congestion as well as enhancing safety and security. Every port that currently handles containers should be equipped with the proper screening equipment and trained personnel to meet new security requirements.

Finally, I am concerned that as we seek to develop the financial resources for our effort, we must also develop a new generation of qualified professionals who can maintain those efforts far into the future. All of our federal agencies are working hard to meet their newly expanded security missions. Personnel resources are getting scarce. I believe that we should support the inclusion of new educational programs at our maritime academies to prepare young men and women to take up the responsibilities in our ports and federal agencies and that we should support the development of a U.S. Merchant Marine Reserve to utilize the expertise of those who are willing to help not only in the defense of our nation, but also the protection of our seaports. Merchant Mariners are an untapped area of great expertise that we have not availed ourselves of to date.

With all of the new and increased focus on container traffic, I do not believe that our enemies will be able to deliver a weapon of mass destruction though a single

shipment over water. I do believe however that through multiple conduits, such as seaports, airports, and border crossings, that terrorists will be able to ship component parts that are disguised as regular cargo, and can be assembled later to create a weapon that would be a significant threat to our nation. Intelligence is the only defense we have against such an effort. We must look at our transportation industry and make an effort to insure that those who are in critical positions are legitimate. The aviation industry was able to develop a system of screening airport personnel through a coordinated federal database. That system must be extended, without exception, to all maritime and transportation workers. We cannot afford any more delays in instituting a federal credential for transportation workers. We must also look at shippers, carriers, brokers and freight forwarders to insure they have every safeguard in place and that they have the support of our federal agencies in coordinating efforts in screening shipments.

In 2001, I supported Senator Snowe's legislation to create a unifying federal agency to oversee all sectors of transportation, which eventually became the TSA. I envisioned its primary mission as just such coordination, and an agency that can respond rapidly to our nation's transportation needs in times of crisis. It is time for the TSA to begin its active participation in our seaports.

We have come along way in eighteen months but the journey is far from over and our efforts must be coordinated and the responsibility shared for protecting our seaports as well as our entire transportation system. Every step we take puts up one more barrier to those who would seek to do us harm. Every step we take must also be measured so that the reaction to that threat is not so draconian that the mere possibility of a potential attack achieves more in impact than any single assault ever could. It is indeed the responsibility of all of us at every level of our transportation system, to insure we are working together as a team to protect our way of life while we seek to protect our nation.

Thank you.

TESTIMONY OF MICHAEL O'HANLON BEFORE THE SENATE GOVERNMENTAL AFFAIRS COMMITTEE, MARCH 20, 2003

Senator Collins, Senator Lieberman, and other members of the committee, it is an honor to testify today on the important subject of cargo security. In my short testimony, I will offer up a "back of the envelope" calculation for estimating increased needs in traditional customs operations as well as the Coast Guard for homeland security purposes. This simple approach suggests that resource levels for homeland security are not yet adequate; indeed, going beyond the immediate cargo issue, our Brookings team supports a federal homeland security budget of about $50 billion rather than the $41 billion requested by the Bush administration for 2004.

First, let me say that I consider the cargo threat quite serious. The fact that al Qaeda and other terrorist organizations have not yet made major use of container shipping is not particularly reassuring. As the Bush administration rightly argues in its Homeland Security Strategy, and as we argued at Brookings in our study last spring, *Protecting the American Homeland* (my primary source for the following calculations), terrorists are strategic and adaptive actors. They can be expected to use new tactics—especially when they can identify glaring vulnerabilities in our defenses. Recent successes in the war on terrorism in Afghanistan and Pakistan and elsewhere have probably bought us some time. Dispersed cells of al Qaeda operatives would have a harder time imagining and orchestrating a new type of attack than would the cohesive organization we faced until eighteen months ago. But al Qaeda may find new leadership and may recover. We must make maximum use of its current relative and temporary weakness to protect the country before we are struck again in an innovative and catastrophic fashion.

With that as background, I now turn to two simple calculations. One asks how much larger the Coast Guard might need to be in order to patrol coastal regions and ports adequately, while also maintaining its other responsibilities. The Coast Guard is highly relevant to the topic at hand because it is responsible for verifying the origin and characteristics of ships coming into the United States, and it has the job of stopping ships that do not belong here. The second asks how much larger traditional customs inspections resources (now part of DHS's directorate of border and transportation security, as you well know) should be. They must now screen cargo coming into the United States well enough to deter dangerous shipments, and failing that to detect the presence of nuclear materials, surface-to-air antiaircraft weapons, substantial quantities of chemical weapons, and other potential terrorist weapons.

THE COAST GUARD

The U.S. Coast Guard has received substantial additional resources since 9/11, but it remains a very small service, several times smaller for example than during World War II, and most added funds will do little to increase its fleet size or personnel strength. It is growing from roughly 35,000 active-duty personnel in early 2001 to about 40,000, pursuing its deepwater modernization plan, and adding a ship here and a ship there as the Navy is able to donate them. Its budget has grown by $1.5 billion or 36 percent, though much of that growth is to properly fund preexisting modernization plans that were chronically underfunded prior to 9/11.

Moreover, its force structure has not been seriously reevaluated for the demands of the current strategic environment.

In the immediate aftermath of 9/11, more than half of the Coast Guard was devoted to port and waterway security against possible terrorist attacks. Even today, at least a quarter of Coast Guard assets are devoted to such missions. Other activities ranging from environmental protection to patrolling of U.S. maritime economic zones to counterdrug missions have suffered. My understanding is that, through herculean efforts, the Coast Guard has maintained its maritime search and rescue capabilities essentially unscathed, though even there strain may ultimately take a toll.

The Coast Guard needs more than a bigger budget; it needs a bigger fleet. Today's Coast Guard includes almost 100 cutters, just over 300 smaller boats, about 90 special-purpose vessels such as icebreakers and buoytenders, and roughly 200 aircraft. Those numbers have changed little since 9/11. The 2004 budget will, for example, only fund 9 more coastal patrol boats.

It is difficult, absent a more detailed knowledge of Coast Guard operations and a more rigorous study, to know how these numbers should grow. In broadest brush, one might expect the fleet size and Coast Guard end-strength to increase 20 to 30 percent, given the demands placed on the fleet by homeland security efforts. However, as a practical matter, there are probably new and more efficient ways to do things. In addition, given the emphasis on coastal operations, increases are probably more important for smaller boats and aircraft than for cutters or special-purpose vessels.

As one notional alternative Coast Guard, one might imagine a service with 100 cutters, 400 smaller boats, 90 special-purpose vessels, and 250 aircraft. This reflects an average increase of about 15 percent in the four main categories of capital assets that I am examining here. A basic force structure of this size might be expected to require a Coast Guard of 45,000 active-duty personnel and an additional increase of $1 billion in the annual budget.

CUSTOMS ACTIVITIES

The main focus of this hearing is on the actual inspection of cargo, so I now turn to that topic. A similar type of calculation to that done above for the Coast Guard suggests that, within this part of the new Department of Homeland Security as well, substantially greater resources are needed. In fact, the needs here are perhaps even more glaring than for the Coast Guard.

Prior to 9/11, Customs had a budget of about $2.4 billion, a workforce of some 20,000 deployed mostly at roughly 300 points of entry to the country, and a capacity on balance to inspect about 2 percent of cargo entering the United States. After 9/11, Customs may have doubled that percentage, but even today, despite the dedicated and hard work of its employees, it still inspects less than 5 percent of all cargo reaching the country.

In one of the most creative and commendable government responses to the heightened terrorist threat, Customs also developed its container security initiative, by which it places U.S.

inspectors in foreign ports to monitor ships as they are loaded prior to embarking for the United States. Its goal is eventually to work with the 20 world ports that together account for 50 percent of all containers shipped to this country.

Up to 4,000 more personnel have been hired since 9/11 to work in border enforcement operations, involving most or all of several former agencies—Customs, the Border Patrol, INS, and Agricultural Quarantine and Inspection program. That will make for a total strength of about 42,000 in the new Bureau of Customs and Border Protection.

It is difficult, given available documentation and new procedures at DHS, to know how many of these 42,000 individuals focus primarily on goods and how many on people. But since the overall magnitude of the personnel increase for this bureau is about 10 percent, I will assume that cargo inspection personnel have also gone up roughly 10 percent. These individuals will also benefit from an increase in capital investment accounts of about $500 million.

These steps are good, but most insufficient. Few would claim that cargo needs to be inspected with 100 percent completeness; ships from reputable companies and ports can be spot-checked from time to time, with the companies of interest providing most security and monitoring. This concept, inspired largely by Steve Flynn, is reflected as well in the Customs Trade Partnership Against Terrorism initiative. But even with such measures, my informal survey of experts suggests that we would be wise to aspire to inspections of 15 to 20 percent of all goods coming into the country—in other words, about a fourfold increase over current levels. Those who would doubt the need for such a growth in capacity should remember that, even when the container security initiative is fully realized, it will cover only 50 percent of all cargo headed for the United States.

What does this mean for budgets and workforce strength? A first blush guesstimate might simply take the pre-9/11 budget and personnel strength of Customs and scale upward by a factor of four. That implies an increased budget of about $7 billion and added personnel numbering 60,000 or so. Those numbers contrast with increases to date, for the Bureau of Customs and Border Protection, of $1.6 billion and 4,000 people.

Undoubtedly, my numbers are too high. The technology DHS is buying to monitor cargo will allow much more efficient inspections in many cases. Moreover, several thousand of Customs' previous workforce of 20,000 was not involved in border functions but in internal investigations (pursuing smugglers and so on). Those latter numbers do not need to be scaled up by a factor of four for present purposes.

But on balance, using these admittedly crude estimating techniques, it appears to me that we need 10,000 to 20,000 more personnel inspecting cargo in this country, and additional budgetary resources of $1 billion to $2 billion for those purposes.

Thank you for the opportunity to testify. I look forward to your comments and questions.

Responses to Post-Hearing Questions from Hon. Asa Hutchinson

**Questions Submitted By Chairman Susan M. Collins**

**"CARGO CONTAINERS: THE NEXT TERRORIST TARGET?"**
**March 20, 2003**

**QUESTION 1(A):**

In February 2002, there was an incident involving a shipment of Sea Sparrow missiles from Germany to a Raytheon corporation facility in Arizona. As I understand it, there were signs of forced entry on the container, the serial number on the seal did not match the manifest, and the shipment was not properly documented. As it turned out, the signs of forced entry were from a French inspection of the same container and the shipment was legitimate, but that was not determined until after a team of Customs, Navy and Coast Guard personnel opened the container. Does this incident suggest a lack of international coordination in the inspection and tracking of cargo containers?

**ANSWER:**

The incident in question involved the February 2002 shipment of a container from Germany via France destined to New York aboard the French vessel CMA CGM LA TOUR. The U.S. Coast Guard (USCG) profiled the vessel as being a security threat after the ship reported the presence of HAZMAT materials aboard and USCG research disclosed several inconsistencies in the shipping documentation. USCG officials, accompanied by Customs and Navy personnel, boarded the vessel and identified another container, manifested as "rockets" which contained warheads for U.S. short-range conventional missiles. Boarding officers noted the suspected manipulation of the container's seals and USCG ordered the vessel's arrival at the Port of New York delayed for several days to clarify its status.

It was determined that the shipment was a legitimate consignment of NATO warheads co-manufactured in Raytheon's German subsidiary en route to Raytheon's Tucson AZ facility for final assembly. The apparent seal tampering was in fact the official resealing (with a new seal number) of the in-transit container in La Havre, France after examination by the French authorities. Upon arrival in New York port, the consignment was examined and entered without further delay.

**Questions Submitted By Chairman Susan M. Collins**

**"CARGO CONTAINERS: THE NEXT TERRORIST TARGET?"**
**March 20, 2003**

**QUESTION 1(B):**

How would the response to this incident have been different if the container had come from a CSI port with Customs personnel in place?

**ANSWER:**

The shipment did in fact transit a CSI port at La Havre, France, where it was examined and resealed by the French for verification and compliance. It was not otherwise considered suspicious.

The USCG boarding was undertaken independent of Customs actions. However, we anticipate that as we improve on cooperation and communication between the Coast Guard and Bureau of Customs and Border Protection, enforcement actions will be more closely coordinated, and situations such as these will take place far less frequently.

CSI has added an entirely new dimension to the gathering of information and improvements in our automated targeting system. We receive cargo information earlier in the supply chain and we are validating that information through collaboration with our host country partners. This enables us to refine our targeting criteria and scoring mechanisms.

The advantage to having a CSI team in-place at the foreign port is that it allows both targeting teams the opportunity to evaluate the threat and verify the contents of each container prior to transshipment to the US. If the targeting indicators justify an inspection, an audit of the transactional process would be conducted along with an examination of the container. If a violation is discovered, the US CSI team would coordinate and determine the appropriate action with the host country.

If the container had been subjected to a CSI examination in the foreign port, it would have been readily identified by the high visibility, tamper-evident tape used to seal the container. If there was evidence that the container had been compromised after the examination, the container would be re-examined in the most prudent manner, including a radiation scan, an NII examination, a physical devanning of the container, or an appropriate combination of the above.

Once a container arrives in the US, the CBP port director may re-inspect the container particularly upon receipt of additional information or similar contributing factors.

As foreign participation in the CSI program increases and we achieve better coverage of cargo originating from or transiting foreign CSI ports, we anticipate that the number of incidents such as these will, in fact, decrease.

**Questions Submitted By Chairman Susan M. Collins**

**"CARGO CONTAINERS: THE NEXT TERRORIST TARGET?"**
**March 20, 2003**

**QUESTION 2 (A):**

Many people have pointed to the low rate of inspections of sea-borne containers, previously around two percent, as a source of anxiety about container security. According to the latest figures provided to the Committee, it appears that Customs has increased its rate of inspection to about 3.7% in the first quarter of 2003. Please describe how you have been able to achieve this increase, and whether you anticipate further increases to the inspection rate?

**ANSWER:**

Our Smart Border Programs and initiatives have enabled us to increase the rate of inspection of cargo containers. These initiatives include advance electronic information, automated targeting systems, the 24-hour rule, the Container Security Initiative (CSI) and the deployment of additional non-intrusive inspection (NII) technology and radiation detection technology.

These programs, combined with a heightened threat level and additional staffing resources in support of deployed technology, have contributed to an increased rate of inspection of cargo containers.

It is very important to note that we are screening all containerized cargo bound for the United States. Furthermore, we actually inspect 100% of all cargo identified as high risk by these screenings.

Our goal and outcome is to steadily increase our base container inspection capabilities yearly. We are constantly exploring our resource needs and our major goals require elevating our use of physical and research technology. Additional NII equipment will enhance our screening capabilities, whereas research technology improves our risk scoring abilities.

**QUESTION 2 (B):**

What percentage of the inspections involves actually opening t container, and what percentage involves only the use of non-intrusive detection equipment?

**ANSWER.**

As this information is sensitive, I would be glad to provide it to you or your staff in a more appropriate setting.

**Questions Submitted By Chairman Susan M. Collins**

**"CARGO CONTAINERS: THE NEXT TERRORIST TARGET?"**
**March 20, 2003**

**QUESTION 2 (C):**

In terms of raw numbers, rather than a percentage of the total, approximately how many inspections were conducted annually before 9/11, and approximately how many are being conducted annually post-9/11?

**ANSWER:**

As this information is sensitive, I would be glad to provide it to you or your staff in a more appropriate setting.

**QUESTION 3:**

The targeting system that Customs uses was not originally designed for counter terrorist purposes. What has been done to adapt the system to this new purpose?

**ANSWER:**

The Automated Targeting System (ATS) was originally designed as a decision support system for our inspectors. The intent was to augment the inspectors' considerable talents by providing quick access to historical profiles and weighted risk assessments. However, in support of counter-terrorism efforts, a baseline risk threshold was set and shipments scoring above this threshold are required to be reviewed or examined respectively. Although not initially designed as a counter-terrorist tool, it was designed to assist with the detection of shipment anomalies. ATS advances Customs and Border Protection's ability to identify anomalies suggesting potentially smuggled implements, whether they are for terrorism or other uses. The risk factors measured in ATS go beyond general inspection knowledge and use national data involving cargo movement history, prior violations, and specific entity information and take advantage of computerized analytical capabilities that efficiently parse, evaluate, and display this information in a useful manner.

**Questions Submitted By Chairman Susan M. Collins**

**"CARGO CONTAINERS: THE NEXT TERRORIST TARGET?"**
**March 20, 2003**

**QUESTION 4 (A):**

The CSI team in Rotterdam had just completed its first six months of duty. Can you describe how well the process of jointly targeting containers worked there and what was learned from the experience?

**ANSWER:**

CSI has been operational in Rotterdam since September 2002. On February 25, 2003, the Government of the Kingdom of the Netherlands published a mid term review of the CSI operating in Rotterdam. This review was prepared jointly by CSI representatives from the United States and the Netherlands and addressed various issues including targeting, management oversight, areas for improvement, and mid term recommendations.

US and Dutch Customs maintained regular contact at the management and operational levels in order to monitor the progress of the CSI pilot program. Through this close working relationship the team identified several key issues that needed additional coordination.

In June 2002, in preparation for the initial pilot phase of CSI in Rotterdam, CSI task force members from the United States and their Dutch counterparts met to develop risk indicators to target high-risk containers. During subsequent meetings, US and Dutch Customs both agreed to update and expand the rules set (risk indicators) used in ATS and periodically adjust these rules to incorporate experience and knowledge gained from targeting.

Dutch Customs identified the need to collect and automate export data for targeting purposes as a result of CSI operations.

**QUESTION 4(B):**

Please describe any cases in which the Customs Inspectors in Rotterdam discovered contraband because of their cooperation with Dutch authorities.

**ANSWER:**

On January 29, 2003, Dutch Customs requested assistance from the US CSI Rotterdam regarding a 40' container destined for the US. The contents of the container were manifested as tableware. The CSI team was able to provide Dutch Customs with information that supported an examination of the container. Based on the collaborative effort, Dutch Customs inspected the container and discovered 121 Dutch military tank periscopes. The periscopes were seized by Dutch Customs based on export violations since the shipper obtained no export license. The remainder of the container's contents, including 2,100 gas masks, were allowed to depart the Netherlands. The CSI Rotterdam coordinated the impending shipment with the appropriate offices of the BCBP and the Office of Investigation, Bureau of Immigration and Customs Enforcement (BICE).

**Questions Submitted By Chairman Susan M. Collins**

**"CARGO CONTAINERS: THE NEXT TERRORIST TARGET?"**
**March 20, 2003**

**QUESTION 4(C):**

Please describe any situations in which our inspectors considered containers to be high risk and wanted to inspect them, but the Dutch disagreed and describe how the situations were resolved.

**ANSWER:**

Prior to the enactment of the 24 Hour rule, Dutch and US Customs representatives met to develop a set of risk indicators that would be used by the joint CSI targeting teams to identify potentially high-risk containers. This common set of indicators was intended to guide the targeters attempting to identify high risk containers and to serve as the basis for deciding which containers would be referred and ultimately, examined.

Post 24-Hour rule, BCBP made several modifications and refinements to its Automated Targeting System (ATS) to accommodate the 24-hour rule based on new information and intelligence. However, targeters from Dutch and US Customs determined that the initial set of rules did not meet the established targeting requirements. The CSI targeters had referred a substantial number of containers for Dutch consideration that did not relate to the previously agreed to indicators. Therefore, these referrals did not get inspected. However, CSI targeters collaborated on each referral and agreed that the contents of the subject container did not contain WMD items.

US and Dutch Customs both agreed to update and expand the rules set (risk indicators) used in ATS and periodically adjust these rules to incorporate experience and knowledge gained from targeting.

**Questions Submitted By Chairman Susan M. Collins**

**"CARGO CONTAINERS: THE NEXT TERRORIST TARGET?"**
**March 20, 2003**

**QUESTION 5:**

The Administration has been criticized regarding its requests for funding of the CSI program. Please explain whether CSI has been adequately funded to date, and how CSI will be funded in the future.

**ANSWER:**

The Container Security Initiative (CSI) is a key component of the President's Homeland Security Strategy and as such, a major program within the Bureau of Customs and Border Protection (BCBP). The program was launched in early 2002 and is proving to be a tremendous success

In FY 2002, $3.5 million was obligated for establishing agreements with foreign ports, including TDY costs; purchasing communications systems and equipment for overseas offices; and improving BCBP's Automated Targeting System (ATS) capabilities at seaports to target, inspect for and detect and seize explosives, other weapons of mass destruction and other contraband while processing legitimate trade.

In FY 2003, BCBP had $12 million available from FY 2002 Terrorism Supplemental (Maritime) carryover funds for CSI. Carryover funds are being used for continuing TDY and operating costs for ports with signed agreements and for pre-planning at additional locations. Funding was also received in the amount of $10 million from the Treasury Forfeiture Fund as well as $35 million as part of Wartime Supplemental funding. Launching of Phase II will use funding from the FY 2003 budget and FY 2003 Supplemental. It is anticipated that Phase 2 of the program will incorporate CSI practices at approximately 47 ports around the world.

In FY 2004, the President's Budget requests $62 million for this initiative. As the FY 2005 budget process gets underway, the program will continue to undergo evaluation and resource requests will be made to further implement the program as needed. Funding requirements will be reviewed and evaluated as part of this process.

**Questions Submitted By Chairman Susan M. Collins**

**"CARGO CONTAINERS: THE NEXT TERRORIST TARGET?"**
**March 20, 2003**

**QUESTION 6:**

A typical container ship can carry some 3,000 containers. I have been told that there are ships being designed today that will accommodate twice that amount and some ships could carry up to 12,000 containers. How is Customs preparing for this potential increase in marine container traffic to be able to screen and identify high-risk containers coming into a port?

**ANSWER:**

BCBP continues to employ a multi-layered process to target high-risk shipments while simultaneously facilitating legitimate trade and cargo. Examination of sea containers is a part of this process.

BCBP uses computerized tools such as the Automated Targeting System, Automated Manifest System, and Automated Commercial System to manage its targeting and examination workloads. Additionally, BCBP has put forth regulatory and legislative initiatives such as the 24-hour rule and the Trade Act of 2002 to support the receipt of accurate advance arrival data. The majority of targeted cargo containers are screened with NII technology and we continue to deploy additional NII equipment to increase our screening capabilities.

BCBP, through its Customs-Trade Partnership Against Terrorism (C-TPAT) initiative, is informed about a business entity's activity to secure its supply chain and take advantage of that knowledge by expediting the review and movement of the legitimate cargo.

Whether a ship contains 3,000 containers or 12,000 containers, BCBP's automated systems will efficiently manage the workload, provided the electronic transmission of cargo data during the shipping process is timely and accurate, enabling proper identification and early warning capabilities.

**Questions Submitted By Chairman Susan M. Collins**

**"CARGO CONTAINERS: THE NEXT TERRORIST TARGET?"**
**March 20, 2003**

**QUESTION 7(A):**

Securing the entire process of moving goods from origin to destination will certainly require significant cooperation from everyone involved in the process. By providing incentives for everyone to make their business practices more secure and meet common security guidelines, C-TPAT appears to be a step in the right direction. Is there any independent auditing to ensure that companies have conducted a security review and are meeting the C-TPAT guidelines?

**ANSWER:**

BCBP is sending teams of CBP officers to validate the supply chain security of the C-TPAT participants. C-TPAT security procedures will also be reviewed on a regular basis and updated or changed as events warrant.

**QUESTION 7(B):**

Should there be some enforceable, uniform, security standards that are applied to C-TPAT participants?

**ANSWER:**

C-TPAT is a voluntary business partnership that enables its members to conduct a self-evaluation of their security and identify areas for improvement. While we provide security recommendations, CTPAT participants are expected to maintain the security standards and practices to which they agree to adhere as a condition of their participation. Should our validation teams determine that any participating company is not adhering to its standards, its participation in the CTPAT program, including its receipt of expedited processing, will be suspended or revoked, when appropriate.

**Questions Submitted By Chairman Susan M. Collins**

**"CARGO CONTAINERS: THE NEXT TERRORIST TARGET?"**
**March 20, 2003**

**QUESTION 8 (A):**

One of the weak points identified by the Phase One analysis of a shipment of light bulbs from Slovakia to New Hampshire, was the short haul trucking that moves the container to the originating port and away from the destination port. The identities of the drivers are unknown or not verified. Even a trusted shipper engaged in a high volume of legitimate commerce may entrust the container to drivers who may be vulnerable to hijacking, bribery, or other tampering with the contents of a U.S.-bound container. What can be done, what is being done to improve the quality of identification and credentialing of these short haul drivers?

**ANSWER:**

The *FAST* program is a bilateral initiative between the United States and Canada designed to ensure security and safety while enhancing the economic prosperity of both countries. In developing this program, Canada and the United States have agreed to harmonize, to the maximum extent possible, their commercial processes for clearance of commercial shipments at the border. This will promote free and secure trade by using common risk-management principles, supply chain security, industry partnership, and advanced technology to improve the efficiency of screening and clearing commercial traffic at our shared border.

*FAST* is a harmonized clearance process for known low-risk shipments. Thus, any truck using *FAST* lane processing must be a C-TPAT approved carrier, carrying qualifying goods from a U.S. Customs-Trade Partnership Against Terrorism (C-TPAT) approved importer, and the driver in the possession of a valid *FAST*-Commercial Driver Card. *FAST* processing is based upon advanced electronic transmission of information. The following are the key components:

**Importer Registration:** Importers will complete separate applications to the Customs administrations in the United States and Canada. Importers authorized to use the *FAST* program for clearance into the United States will have a demonstrated history of complying with all relevant legislative and regulatory requirements, and will have made a commitment to security enhancing business practices as required by C-TPAT.

**Carrier Registration:** Carriers will complete the *FAST* Highway Carrier Application Process requirements that include corporate information, a security profile, and a written Highway Carrier Agreement. In order to qualify for *FAST* Highway Carrier membership into the U.S. and Canada, two separate applications must be submitted to each country's respective *FAST* Processing Center. Each country will perform an independent risk assessment and each country will issue independent approvals for participation. For the United States, a *FAST* approved carrier will have met all aspects of C-TPAT through the *FAST* registration process.

**Questions Submitted By Chairman Susan M. Collins**

**"CARGO CONTAINERS: THE NEXT TERRORIST TARGET?"**
**March 20, 2003**

**Commercial Driver Application:** Drivers will complete a single *FAST* Commercial Driver Application for the U.S. and Canada. The application will be risk assessed by the customs and immigration services of both countries. Applicants identified as low risk will report to an enrollment center where they will be interviewed, have their original identification and citizenship documents reviewed, be fingerprinted and have a digital photo taken. Low-risk applicants will then be issued a *FAST* – Commercial Driver Card.

**PATRIOT Act Background Checks** Furthermore, the PATRIOT Act required that all holders of commercial drivers license with endorsements permitting them to transport hazardous materials receive a fingerprint based criminal history records check. Regulations will be published in the near future which to implement this requirement by this Fall.

**The Operation Safe Commerce** pilot program, in which private companies will have the ability to test protocols and systems designed to ensure the security of the entire supply chain, will also assist us in identifying weaknesses in cargo supply chain, and work with private companies to shore them up.

Refining and expanding upon these cooperative programs in the future will help us to better ensure the security of the entire cargo supply chain.

**8(B)** Assume there was a major event associated with a container and law enforcement or intelligence agencies need to identify every person who had touched a particular container in order to investigate the incident. Is there currently any way to gather data about the identities of workers who have access to U.S. bound containers, and what plans are there to gather such data?

**Answer:** Currently there is no universal, systematic process in place to identify specific drivers, stevedores/longshoremen, and vessel crewmembers that have handled a specific container. It is possible to identify individuals who have worked a shift or "gang" at a container facility and to identify all crewmembers on a vessel during the loading/offloading of a container. Trucking firms transporting a container to or from a port can identify the specific driver that handled the container. The Transportation Worker Identification Credential (TWIC), once implemented, may be a potential way to identify U. S. workers at ports with access to containers, including truck drivers entering and leaving the port area.

**Questions Submitted By Chairman Susan M. Collins**

**"CARGO CONTAINERS: THE NEXT TERRORIST TARGET?"**
**March 20, 2003**

**QUESTION 9 (A):**

In September 2002, Customs inspectors boarded and searched the container ship Palermo Senator. When the inspectors received a positive reading on their radiation detectors, the ship was ordered to remain offshore for three days. The source of radiation turned out to be clay tiles, which naturally emit trace amounts of radiation and can prompt false positive readings from the pagers. How often do inspectors face this type of false positive reading?

**ANSWER:**

This type of event is more accurately referred to as detection of a Naturally Occurring Radioactive Material (NORM); radioactivity above background was present and was detected. Materials that emit radioactivity above background levels can include granite, marble, porcelain fixtures, ceramic tile, produce, camera lenses and potassium nitrate fertilizers. In the flow of legitimate commerce, there will be a significant number of alarms that result from NORMs and the rate will depend on the type of cargo, the frequency of shipment, and the specific Port of Entry. At one particular land port of entry on the Canadian border, about 1 truck in 750 causes an alarm, a result dependent on the settings of the particular sensor in use.

**QUESTION 9(b)**

Does the technology exist to enable Customs screeners to differentiate between radiation from legitimate shipments versus a potential terrorist threat, and if so, is Customs pursuing this technology?

**ANSWER**

Available technology is being applied to localize and identify the source of a radiation alarm triggered by gross radiation detectors. The available technology may not be able to identify the source of an alarm in all situations or optimized for use in all operational settings. For example, the identification process may be slower than desired for a certain operational context. The DHS Science and Technology Directorate is coordinating with Bureau of Customs and Border Protection to evaluate and improve technology that enables rapid discrimination of NORMs from potentially threatening materials.

**Questions Submitted By Chairman Susan M. Collins**

**"CARGO CONTAINERS: THE NEXT TERRORIST TARGET?"**
**March 20, 2003**

**QUESTION 9C**

In an October 2002 report, GAO stated that Customs had not yet deployed the best available technologies for detecting radioactive and nuclear material at U.S. border crossings and ports of entry. The current technology being used is plagued by "false positives" – alarms given off when natural materials are encountered. Over the past year, the Lawrence Livermore, Berkeley, and Los Alamos Labs as well as DOE and DOD and private industry have conducted testing of detectors using high purity germanium (HPGe) technology. These tests indicate that HPGe detectors are capable of reading the unique gamma energies emitted by radioactive materials that can tell an inspector exactly what radioactive material he is dealing with, eliminating false positives. Recently, battery-operated mechanical coolers have been introduced to handheld HPGe detectors enabling their deployment in the field. Is Customs looking into the use and deployment of high resolution HPGe detection devices?

**ANSWER:**

In its October 17, 2002, testimony, the GAO expressed concern that personal radiation detectors, worn by inspectors as part of their everyday inspection equipment, are by themselves inadequate to the large task of detecting radioactive material in shipments crossing the border. The Bureau of Customs and Border Protection (BCBP) agrees with this assessment, and believes that personal radiation detectors are more effectively used in conjunction with other radiation detection equipment, such as radiation portal monitors (RPMs). At the time of the GAO's testimony, only one portal monitor had been deployed, and the results from its pilot test were not available for review. Consequently, the GAO concluded that "Customs has not yet deployed the best available technologies for detecting radioactive and nuclear materials at the U.S. border crossings and ports of entry." Portal radiation detectors suited for the CBP operational environment are currently being deployed at the top northern border ports of entries, international mail facilities and international express consignee facilities.

In general, BCBP is deploying the technologies that meet our operational requirements and are commercially available in sufficient quantities so that we may provide radioactive screening to our ports as quickly as practicable.

The DHS Science and Technology Directorate is aware of the ongoing work within the Bureau of Customs and Border Protection regarding the potential use of high-purity germanium detectors in their field operations. Commercially available cryogenically cooled high-purity germanium detection systems are not well suited to current operational environments. However, the Science and Technology Directorate will work with the Bureau of Customs and Border Protection as it evaluates new technical developments that would meet the operational requirements for field deployment of high-purity germanium detection systems. Furthermore, S&T will continue to work with and assist BCBP to continue its exploration of other options for improving radiation source identification.

Responses to Post-Hearing Questions from Dr. Stephen E. Flynn

**"Cargo Containers: The Next Terrorist Target?"**

**March 20, 2003**

**Post-Hearing Questions Submitted by Chairman Susan M. Collins**

**Question No. 1 (A):** *The Operation Safe Commerce demonstration project was designed to determine the feasibility of tracking cargo containers and installing tamper-proof seals on containers. Did the project demonstrate that it was feasible to do this?*

**Answer:** The Operation Safe Commerce demonstration project determined that there is off-the shelf technology capable of tracking a container across the surface and maritime modes of transportation from its point of origin/point of loading to its final destination. It also demonstrated that it is possible to place sensors inside a container to monitor the internal environment of the container and that sensor alarms could be communicated along the transit route.

The project did not involve the installation of a robust "tamper-proof" seal. But, the use of light and temperature sensors were incorporated into the project in part to obviate the need for such a seal, since the purpose of removing the seal is to gain access to the contents of the container. If sensors can detect a change in the internal environment when the container is open and then register an alarm, it should ideally deter an effort to disturb the traditional seal, and detect the tampering should deterrence fail.

The Operation Safe Commerce demonstration project did not determine if it is commercially viable to track and monitor the integrity of all containers. This is why it is so important to move ahead with the other OSC projects prepared by the ports of New York/New Jersey, Los Angeles/Long Beach, and Seattle/Tacoma. The operations of global supply chains are diverse and complex. We should test a variety of technologies among a large sample of these supply chains to get a better sense of likely costs and benefits as we move towards establishing universal security requirements.

**Question No. 1(B):** *We have a global inventory of around 12 million containers. What can the United States do to encourage or require that all these containers be equipped with tamper-evident seals and tracking technology?*

**Answer:** The U.S. government has substantial leverage to create incentives for the global inventory of containers to be outfitted with tracking and sensor devices. The best incentive would be to create a "green lane" for containers, where shippers and transportation providers receive an upfront assurance that they will receive expedited clearance, if they in turn make investments in supply chain visibility and accountability. Specifically, access to the "green lane" would require satisfying three criteria: (1) Accurate and complete data about a container shipment is forwarded

to U.S. authorities when the purchase order is first made and when the box is loaded to fill that purchase order; (2) the shipper of the container participates in an approved supply chain security program such as the Customs-Trade Partnership Against Terrorist (C-TPAT), and (3) the container is outfitted with a tracking devise and sensors to monitor the integrity of the shipment and the status of location and sensors are monitored on a near-real time basis. Ideally a fourth criteria could be added when the equipment becomes available which requires that a scanned image of the interior of the container be taken at the port of loading and made available to the transshipment and importing jurisdictions. Since improvements in transit times and enhanced predictability within a supply chain have real economic value, there is an incentive for majors shippers to incur the economic costs that go with satisfying these criteria. The process of acceptance can be sped up by creating a greater disincentive for not working towards gaining access to the green lane. Specifically, containers that cannot meet this criteria must be subject to an enhanced risk of disruption and delay associated with more frequent inspections. When the private sector sees that the U.S. government is serious about inspecting containers that are not tracked and monitored, they will have an added incentive to embrace measures that minimize their risk of being targeted for these inspections.

**Question No. 1(C):** *How much will it cost, per container, to do this, and who should pay for it?*

**Answer:** If tracking, seal, and sensor technologies are made mandatory for all 12 million containers, the per unit cost can get quite low. The equipment cost will be roughly $100 per container and the service cost of monitoring the container as it moves along the supply chain will be $1-2 per trip. The most cost effective way to place the equipment into service would be to build it into the container at the factory as old containers are discontinued and as the demand for new containers rises. The current cost of constructing a new container is about $2500.

To put these costs into context, in 1998, major shippers from Asia were paying ocean carriers nearly $3000 per container to ship up to 30 tons of freight per transpacific trip. In 2002, those same shippers were paying $1500 per container per transpacific trip because ocean carriers had more capacity than there was demand, so they had to dramatically lower their prices. Major shippers therefore saw nearly a $1500 savings in their per container transportation costs in a period of 4 years. Since none of the shippers were complaining that these costs were injurious to their competitive position in 1998, it is hard to imagine that an additional $100 cost today would have a particularly adverse effect.

Ultimately, the cost of improving the security of global supply chains should be borne by the companies that most benefit from reliable access to the international intermodal transportation system—manufactures and retailers, not the transportation carriers who are operating on such thin profit margins. Of course the consumer will ultimately pay for these enhancements, but the cost to the consumer in most cases will be quite small. For instance, the current ocean transport cost to ship a pair of designer sneakers from Asia to the United States that will retail for $120, is under $1. Even a doubling of that shipping cost will not likely have an measurable effect on the consumer's decision to purchase the sneakers. However, he and the retailer will certainly notice if the sneakers are not even on the shelf because the transportation system has been shut down in the wake of a terrorist attack.

Responses to Post-Hearing Questions from Dr. Stephen E. Flynn

**"Cargo Containers: The Next Terrorist Target?"**

**March 20, 2003**

**Post-Hearing Questions Submitted by Ranking Member Joseph I. Lieberman**

**Question No. 1:** *Phase One of Operation Safe Commerce taught us some valuable lessons about security of the commercial supply chain. I understand that some inspectors and officials who saw the container as it traveled through Europe to New Hampshire sometimes failed to react to a container which had a number of devices and antennas attached to it. I would have thought those are the kinds of things we were training people to identify as suspicious. The Department has told use that inspectors examine containers that the Automated Targeting System identifies as high risk.*

*Do you know what portion of containers inspected are ones identified by the targeting system?*

**Answer:** The Automated Targeting System identifies between 1-3 percent of containers for examination at our busiest seaports; i.e., Los Angeles/Long Beach, New York/New Jersey, and Seattle/Tacoma. The more serious issue is not the small percentage of containers that are targeted for inspection, but the quality of the input data and algorithm used to support the targeting. The long delays in designing and fielding the Automated Commercial Enviornment (ACE) has left the Customs Service dependent upon input from the Automated Manifest System (AMS) and the Customs Entry Declaration form as the basis for ATS. Historically cargo manifest have been the weakest of commercial documentation; i.e., error prone, vague descriptions, and no data on the complete transit route if the cargo has moved through multiple transshipment points. The customs entry declaration provides more detailed information on the contents of container and includes contact information for the purchaser, shipper, and consignee, but these forms are not submitted prior to point of entry for in-bond shipments or for shipments using a free trade zone. That means that in many instances, ATS is relying only on the cargo manifest information to determine if a container is high or low risk. This is unacceptable. At a minimum, Congress should be accelerating the ACE program which is still 3 years away from full deployment.

*What portion is inspected based on simple visual inspection of containers and an inspector's intuition and experience?*

**Answer:** A visual inspection of a container not identified by ATS is very much the exception to the rule. Most of these containers---up to 95 percent---will leave a container terminal without a customs inspector ever setting his or her eyes on the box. Customs has recently instituted roving patrols of inspectors on the terminal and aboard some ships before unloading. These patrols are

random and might identify a container that an inspector would decide should be inspecting even if not identified by ATS. But, it is unclear that Customs has the sufficient field inspectors and funding to sustain these random patrols at anything above a token level.

*Do inspectors have the time, resources, and freedom to look at containers they identify as potentially risky?*

**Answer:** Until the fall 2002, the number of potentially risky containers actually examined by Customs inspectors was contingent on the available staffing at the port on any given day so even containers identified as worthy of examination were often cleared without any inspection when there were not enough field inspectors to check them all. The Commissioner of the Bureau of Customs and Border Protection has recently mandated that field inspectors examine all containers identified by ATS as risky. Yet it is unclear whether there are sufficient field inspectors and funding to pay for overtime to sustain this over the long run. The inspection of containers judged to be high risk can be extremely thorough. Since these inspections are very manpower intensive—an average of 5 agents for 3 hours—the decision to strip down a container is usually made by a field inspection supervisor.

**Question No. 2:** *Your testimony noted that the force structure of the Coast Guard has not been reevaluated for the demands of the new strategic environment in which it is operation. The Coast Guard recently released a report outlining ways to speed up the Deepwater implementation schedule from 20 years to 10 years.*

*Do you agree that speeding up the Deepwater program will assist the Coast Guard in meeting the new demands it has been given?*

**Answer:** Speeding up the Deepwater program would dramatically improve the ability for the Coast Guard to meet its current demands. It difficult to imagine how it could tackle any new demands without this program. Quite simply, if the implementation schedule of the Deepwater program is not accelerated to 10 years vs. the 30 years it is now on, the service will simply lack the patrol boat, off-shore cutter, air-craft, and command and control capacity to patrol the nations coastal regions and major waterways. The Coast Guard's maritime and aviation fleet are decades old and are suffering increasing rates of major casualties that endanger the lives of the men and women who serve on them. At the current pace of operations, more the half the service's existing fleet will likely be grounded within the next 18 months to 3 years because of the combination of excessive repair costs and safety concerns.

*What should the Coast Guard's priorities be to maximize its capabilities and readiness?*

It is important to keep in mind that the Coast Guard's capacity to support the Homeland Security mission comes primarily from it maintaining an ongoing presence in our critical waterways and it sustaining the expertise and relationships that comes from it performing its traditional regulatory and enforcement missions. Terrorist organizations that try to exploit or target our waterways are going to attempt to blend into the "normal" activities taking place within our maritime sector.

Thus, it is the daily "non-homeland security" missions of the Coast Guard that places its cutters, boarding teams, and aircraft into contact with that sector and builds the service's intelligence and awareness of real or suspected threats; i.e., it provides it with an ability to perform anomaly detection.

Recognizing the importance of anomaly detection as a tool for identifying and intercepting criminal or terrorist activity highlights the fact that an important element of the homeland security mission requires that front-lines agencies like the Coast Guard must have the means to do well what they have been traditionally tasked to do. That is, it is in pursuing their day-to-day work that they will develop the expertise, the relationships, and possess the authority to stop and intercept that which they discover to be aberrant. Coast Guard men and women who are out on daily patrols to interdict drugs and illegal migrants, to protect fisheries, to advance safety among recreational boaters, and monitoring the movements of hazardous materials on ships and within ports who are going to have the physical presence and the requisite presence of mind and authority to pick out more nefarious activities. For instance, when a Coast Guard boarding officer is tipped off by a mariner about a fishing vessel that appears to be operating erratically, and when he stops and inspects that vessel, he discovers that it has the wrong kind of gear for the fishery in which the captain claims he is working. The officer then conducts an exhaustive search and locates contraband within a carefully disguised compartment on that vessel. Accordingly, it would be self-defeating for the Coast Guard to be forced to reduce or stop its fisheries patrols so that it could concentrate more on "homeland security" patrols. The threat environment will never allow for such a tidy division of labor.

Responses to Post-Hearing Questions from Dr. Stephen E. Flynn

**"Cargo Containers: The Next Terrorist Target?"**

**March 20, 2003**

**Post-Hearing Questions Submitted by Senator Frank R. Lautenberg**

**Question No. 1**: *After September 11, 2001, you came before this Committee (on December 6, 2001) and described a scenario in which a chemical weapon could be shipped from overseas via container to Port Newark, NJ, and detonated, causing severe damage. Is this risk still apparent?*

**Answer:** The risk of a weapon of mass destruction being smuggled into Port Newark and our other container ports around the United States remains dangerous high.

**Question No. 2:** *What has been done to address this risk, and what still needs to be done?*

**Answer:** If a container is identified as "high risk", Customs field inspectors in Port Newark are much better positioned today than they were a year ago to inspect that container and identify whether or not it does indeed pose a real danger. The inventory of non-intrusive x-ray scanners within the port has increased. Customs inspectors now carry personal radiation detectors and they have access to more sophisticate detection equipment should they need it. The biggest risk that remains is that virtually all containers from "trusted shippers" are released from the port with no examination at all. The problem with trusted shippers is that while they have a strong record of regulatory compliance, there remain abundant opportunities for a container to be compromised as it leaves a factory and transits to a loading port for a ship destined for Port Newark. We need to develop requirements—and the means to verify compliance with those requirements—that improve point of origin and in-transit visibility and accountability. In the absence of this capability, no container can confidently be presumed to be low risk.

Port of Portland
Portland International Jetport
Portland Fish Pier Authority
Portland Intermodal Passenger Facility

CITY OF PORTLAND
Department of Transportation

Capt. Jeffrey W. Monroe
Director

Jeff Schultes, AAE
Jetport Manager

Benjamin Snow, MML
Maritime Manager

April 23, 2003

Senator Susan Collins
United States Senate
Chair, Committee of Governmental Affairs
Washington, DC 20510-6250

Dear Senator Collins:

At your request, I would like to provide the answers to the questions you have provided in regard to information sharing between agencies and levels of government in the area of security.

1. As the Director of Ports and Transportation for Portland Maine, how often do you receive intelligence information from federal agencies?

The receipt of information varies depending on which agency is supplying it and what area of transportation it is applicable to. At the Jetport, information is shared daily with the police department in regards to security procedures, sensitive areas requiring special attention or possible threats. In addition, briefings are provided to me and my staff on a regular basis by the Transportation Security Agency (TSA).

Information for the seaport is far less regular. While we do receive information regarding threats or significant security issues, but there is no regular scope of briefings or interaction. The U.S. Coast Guard is cooperative and willing to share what they have available but we are under the impression that most of the information is restricted or security sensitive and cannot be shared. The time difference in when we receive data from the TSA and the U.S. Coast Guard is noticeably different. I will often have data from the TSA hours or even days before we receive similar information from the U.S. Coast Guard.

In regards to surface transportation, the information is non-existent. We must try to interpret information in this area from overall data collected and then try to get it out quickly to rail and bus service providers. Generally, we fax it immediately to our transportation partners and if the issue is immediate, we will contact them by phone and make a personal connection.



40 Commercial Street, Suite 100 • Portland, Maine 04101 • (207) 541-6900 • FAX (207) 541-6905
E-mail: jwm@ci.portland.me.us

In addition to the TSA and U.S. Coast Guard, we also receive information from the Department of Justice through our police department and data from other federal agencies through the State and our Fire Chief.

There does not appear at this time to be any coordinated effort to provide important data to transportation providers, terminal operators or industry representatives on a regular basis.

2. Do you receive the kind of information you can act directly on? Is the information provided done so in a timely manner?

We generally receive information regarding alerts, changes in status of alerts or non-specific press announcements from the Department of Homeland Security. This data is generally no different then can be acquired through most public news outlets. Most information is passed along as soon as it is received from Washington in written form. That information arrives at different times from numerous sources and must be reviewed and compiled for appropriate action or passing along. Generally within 24 hours, we will receive the same information from numerous federal agencies.

In general, information we receive is very generic and does not address specific intelligence information that may be helpful in the prevention of actions or activities related to security threats. It is our understanding that most information is classified secret and cannot be shared with the general public. As a municipal official, it is difficult to understand how such information cannot be made available in the prevention of possible security threats. While we understand that some sensitive information is shared with police officials, the managers of our transportation facilties rarely get a chance to see information they can act upon.

For example, we received information recently, out of chance, that there had been a theft of derailers in Texas. These units can be used to force a train off a track at high or low speeds. Such information, proactively provided, could be useful to transportation entities in making sure that items are properly secured or accounted for, preventing them from being used as a tool of destruction.

3. What more should be done to ensure state and local authorities receive the information they need to make critical decisions?

The first critical thing that must happen is that the distribution of information for transportation must come through a single agency and be all inclusive. Local authorities find themselves in the position of having to sort through every piece of data to determine what is applicable and what is not useful. There needs to be a central location in Washington where the information can be received, interpreted, qualified and distributed. This information should then go to regional and then local federal security directors who can in turn get the information to transportation entities. If data is critical to some other area, such as law enforcement, it can go out on their respective networks. There must be

a recognition that transportation entities are on the front line and must be included in a coordinated loop.

Second, every public agency or municipal entity should have designated personnel who have been given security clearances so those personnel can view sensitive information and determine how that data may be applicable to their local area.

Third, the information provided must be of the nature that can be acted upon in a proactive manner. Information based on the experiences and investigations of agencies and entities throughout the country must be shared. The best data is of the type that can be acted upon in anticipation of a possible event.

Finally, public officials and key members of the industry must be included in the small circle of agency professionals who are reviewing information and making decisions regarding security that impacts our transportation system.

Thank you for all of the support and interest you have given security throughout the nation and here in Maine. Please let me know if I can be of service in assisting you further.

Sincerely,

DEPARTMENT OF PORTS AND TRANSPORTATION

Capt. Jeffrey W. Monroe, MM
Director

**Responses to Post-Hearing Questions for the Record**
**Submitted to Mr. Michael O'Hanlon**
**By Ranking Member Joseph I. Lieberman**

**U.S. Senate**
**Committee on Governmental Affairs**

**"Cargo Containers: The Next Terrorist Target?"**

**March 20, 2003**

1. Your testimony noted that the force structure of the Coast Guard has not been reevaluated for the demands of the new strategic environment in which it is operating. The Coast Guard recently released a report outlining ways to speed up the Deepwater implementation schedule from 20 years to 10 years.

   - Do you agree that speeding up the Deepwater program will assist the Coast Guard in meeting the new demands it has been given?

     Answer: Speeding up Deepwater will help the Coast Guard meet its new demands, but it is not enough, because the length of our nation's coastline and the limits of boat speed and the need for patrols to carry out certain missions all require a larger fleet, not just a newer one.

   - What should the Coast Guard's priorities be to maximize its capabilities and readiness?

     Answer: I think the Coast Guard's priorities need to be homeland security first--but everthing else in close succession right behind. We should not have to do less boater safety/rescue or less buoy maintenance or less environmental and economic monitoring and enforcement to protect the country. It is inexpensive enough to do all of these things, and all of these things are sufficiently important, that we should not neglect any of the major Coast Guard missions.

2. You stated that you believe closer to 15 or 20 percent of all goods coming into the country should be inspected by Customs. Can Customs meet such a standard today? Will the expansion of the Container Security Initiative allow the Department to meet a higher standard, and if so, in what time frame should Customs seek to do this?

   Answer: I do not believe that Customs will be able to inspect more than 4 or 5 percent of all cargo even with the growth of the Container Security Initiative program. I think Customs will need to grow substantially in size, certainly by at least 10,000 employees, to meet the goal of inspecting 15 to 20 percent of all cargo entering the country. I believe it is so important that we should strive to reach this capability within one to two years.

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