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THE FUTURE OF PORT SECURITY: THE GREENLANE MARITIME CARGO SECURITY ACT

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

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THE FUTURE OF PORT SECURITY: THE GREENLANE MARITIME CARGO SECURITY ACT

WEDNESDAY, APRIL 5, 2006

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10:04 a.m., in room SD–342, Dirksen Senate Office Building, Hon. Susan Collins, Chairman of the Committee, presiding.

Present: Senators Collins, Coleman, Warner, Lieberman, Carper, and Lautenberg.

OPENING STATEMENT OF CHAIRMAN COLLINS

Senator COLLINS. The Committee will come to order. Today the Committee considers the GreenLane Maritime Cargo Security Act, which Senator Patty Murray and I introduced last November with our colleagues Senator Lieberman and Senator Coleman. I am very pleased that we will shortly be joined by two of our House colleagues who have joined with us in this bipartisan, bicameral effort. Representative Dan Lungren and Congresswoman Jane Harman, who has arrived right on cue, are both outstanding leaders on this important issue. This hearing builds on the extensive efforts begun by this Committee 3 years ago to enhance the security of our Nation's maritime transportation system and the international supply chain.

Seaports are more than just waterfront facilities. They are crucial links in a supply chain that includes all modes of transportation and that reaches across the country and around the world. They are also profoundly and unacceptably at risk. The urgency cannot be overstated. Approximately 95 percent of our Nation's overseas trade, worth nearly $1 trillion, enters or leaves through our seaports. Our ports receive some 8,500 foreign vessels, which make more than 55,000 calls per year. These ships carry the bulk of approximately 800 million tons of goods that come into our country, including more than 175 billion gallons of oil and other fuels.

In fiscal year 2005, these vessels also brought more than 11 million containers. I remember 3 years ago when we held the first hearing on this issue the number of containers was approaching 9 million, and now it is more than 11 million. The number of containers entering this country by sea continues to grow by more

than 10 percent per year. While this figure represents robust trade, it also signals a considerable risk in our national security.

Al Qaeda has the stated goal of causing maximum harm to the American people and maximum damage to the American economy. Clearly, our cargo ports provide a tempting target. One has only to visit a major port like Seattle, which I did in February at the invitation of Senator Murray, with its large urban population, two stadiums nearby, and ferries bringing thousands of passengers every day, to realize the enormous loss of life that could occur if a dirty bomb were detonated. I have also had the honor of visiting the Long Beach and Los Angeles ports at the invitation of our colleague Representative Harman, and, again, the magnitude of the potential damage is evident when one tours those enormous ports.

We have already had a glimpse of the staggering economic damage that a terrorist attack on a cargo port could produce, damage that would extend far beyond the waterfront. The West Coast dock strike in the fall of 2002 cost our economy an estimated $1 billion a day for each of the 10 days that it lasted. It not only brought those ports to a halt, but harmed businesses throughout the country and along the entire length of the supply chain. That astonishing amount of harm was the result of an event that was both peaceful and anticipated. A terrorist attack, obviously, would be neither.

We cannot eliminate the risk of a terrorist attack, but better supply chain security can build a stronger shield against terrorism without hampering trade. Indeed, greater security can promote trade and strengthen the global economy by building confidence and trust.

That is why Senator Murray and I joined together last year to introduce comprehensive legislation. Our bill was developed in close consultation with key stakeholders, including port authorities, major retailers and importers, carriers, labor organizations, supply chain managers, security and transportation experts, and Federal and State agencies. Let me highlight just some of the important features of this bill.

First, it directs the Department of Homeland Security to develop a strategic plan to strengthen security for all modes of transportation by which containers arrive in, depart from, or move through seaports. Despite the myriad of programs aimed at enhancing supply chain security, the Administration has not yet brought those programs together in a coherent and seamless strategy. The plan we require in the bill would clarify the roles, responsibilities, and authorities of government agencies at all levels and of the private sector stakeholders. It would establish mandatory baseline security standards and provide incentives for additional voluntary measures.

Most important, the Secretary would be required to develop protocols for the resumption of trade in the wake of an attack. Just as the attacks of September 11 grounded all commercial flights, an attack on one port would likely result in the closure of all ports for a time. More than 4 years later, the Federal Government has yet to establish protocols for resuming port operations and for deciding which cargo would be released first after an attack.

The impact on factories and retailers using just-in-time inventory, as many businesses do, would be devastating. Much of our agricultural sector would also be harmed as farmers would be unable to export their crops. These protocols are essential to enhancing our economic security.

Second, the legislation would require the Department to make faster progress in strengthening port security and outlines priorities for action. I am deeply concerned by the slow pace of many of the security initiatives. For example, the Department has been working on a regulation setting a minimum standard for mechanical seals on containers for more than 2 years. In addition, though the Department has recently announced a timeline toward implementation of the Transportation Worker Identification Credential, the TWIC card has also languished despite the obvious importance of a secure ID to facilitate access to our ports. Such delays are simply unacceptable in this era. This legislation would set and require clear timelines for action.

The bill also provides guidance and deadlines for essential improvements in several well-conceived security programs, including the Automated Targeting System, the Radiation Portal Monitor Program, the Container Security Initiative, and the Customs-Trade Partnership Against Terrorism (C–TPAT). All of these programs are well conceived, but their implementation has been spotty and flawed in some cases.

Third, this legislation would provide for the creation of the GreenLane, a third tier of C–TPAT, which would offer additional benefits to participants that voluntarily meet the highest level of security standards. This part of our bill, which was conceived by Senator Murray, is going to be part of her testimony, so I will not go into detail. Finally, this comprehension legislation would authorize a competitive Port Security Grant Program, with $400 million of stable, consistent funding each year.

America's cargo ports, large and small, are on the front lines of the war against terrorism. Strong accountability provisions are included in this bill to prevent wasteful spending, but we need to give the ports consistent, multiyear funding. These port security dollars would originate from duties collected by Customs and Border Protection. This is a major commitment of resources. Overall, the bill would authorize $835 million a year, but it is fully proportional to what is at stake.

The controversy over the Dubai Ports issue has focused much-needed attention on the overall issue of port security. It is my hope that we can pass significant port security legislation this year. I am very proud to have worked with our colleagues on this issue, and I look forward to hearing their views. Senator Lieberman.

OPENING STATEMENT OF SENATOR LIEBERMAN

Senator LIEBERMAN. Thank you very much, Madam Chairman. Thanks for holding this hearing on a gap in our homeland security that just should not be as wide as it is, 4½ years after September 11, 2001.

As you have said, on a daily basis, 800 million tons of goods cross our borders whether by ship, train, or truck. Ninety-five percent of it arrives in the 21,000 containers that enter U.S. ports each day.

This is a number that probably startles most people because most people live away from all of the activity at our ports in this country and do not see how much is coming in. But these ports really are our lifeline to the global economy.

The Administration has told us in testimony before this Committee recently that somewhere between 5 and 6 percent of those 21,000 containers that come in every day are physically inspected. That's up from 2 or 3 percent a few years ago, and of course I am grateful for that progress, but it obviously is not enough. The fact is that, at any given moment, our government still has too little knowledge of the contents of thousands of multi-ton containers that are loaded from the ports onto trucks, trains, and other barges for shipment into and across the heart of this Nation every day. The nightmare scenario that we all have within us and together want to stop, of course, is the smuggling of a nuclear bomb or a dirty bomb within a shipping container. We know that criminals have for a long time used cargo containers to smuggle drugs, firearms, and even people into this country. We know containers have been a means for transporting terrorists and their weapons, as well. And we know that a terrorist attack at any one of our major ports could cause billions of dollars of damage to the economy just in the short-term. Given the irreparable damage that would result from the smuggling of a weapon of mass destruction across our borders in a shipping container, we have to act urgently to protect ourselves before it is too late, and that means directing people, technology, and resources toward the goal of greater port and cargo security.

That is exactly what the legislation before the Committee today does. I am privileged to have joined you, Senator Collins, Senator Murray, and Senator Coleman, on this. We are of like mind and singular purpose. We understand that we need a comprehensive, coordinated, and multilayered strategy to protect not just cargo and containers, but ships, piers, ports, and maritime workers, as well. We need to do this to protect our national and economic security before terrorists strike. That is the purpose of the GreenLane Maritime Cargo Security Act, which we introduced, again, last month.

The Chairman has outlined the bill and many important things it does. I just want to focus on one part that I believe is very important, and that is the Port Security Grant Program. Unfortunately, the Administration has tried to eliminate a dedicated Port Security Grant Program from the budget for the last 3 years in a row, despite evidence that it is crucial to our ability to improve the physical security of our ports.

Congress has, fortunately, and across party lines, rejected the Administration's proposal as many times as it has been proposed.

The legislation before us today, our legislation, would ensure that every port is eligible to apply for a port security grant. We require them to persuade the Department that they are at risk, but once they do, they are eligible for the grant.

The bill also would reauthorize Operation Safe Commerce to test innovative technologies in real-world cargo environments, another program, which unfortunately, the Administration has seemed determined to eliminate.

Madam Chairman, the legislation that we have introduced together and that has been introduced on the House side by Con-

gresswoman Harman and Congressman Lungren and others would greatly increase the security of American ports and, therefore, greatly raise our defenses against terrorists who would use our ports to attack us.

Here again, we have a choice. The warnings are clear. We can await disaster, or we can act proactively to prevent it. Ultimately, there is no choice. Our legislation acts wisely to establish the structure proactively and preventively and to provide the resources necessary to protect the American people.

I join you, Madam Chairman, in welcoming Senator Murray, Congresswoman Harman, Congressman Lungren, and I look forward to their testimony and that of the other witnesses that we have. Thank you.

Chairman COLLINS. Thank you. Senator Warner.

OPENING STATEMENT OF SENATOR WARNER

Senator WARNER. Thank you very much, Madam Chairman. In deference to our distinguished colleagues about to testify, I will ask to put my statement in the record with one or two observations quickly.

Quite interesting, the Nation's 361 ports form the heart of the U.S. maritime transportation system and function as the Nation's lifeline. I did not realize it. They handle 95 percent of all overseas-U.S. trade, extraordinary. And they serve as the conduit for 90 percent of the war material destined for major theater operations. So you can realize the full importance of what we are about to do, as this Committee moves ahead with potential legislation. I would like to say that I am privileged to represent a State that has the second largest port on the East Coast, and our port was recently recognized by the London-based *Containerisation International* as the top port authority in the world for 2004 and 2005.

I yield the floor.

[The prepared statement of Senator Warner follows:]

PREPARED STATEMENT OF SENATOR WARNER

Thank you, Madam Chairman, for holding today's hearing. It is a topic with which I share your interest both from a security and economic perspective.

I am privileged to represent a State that has the second largest container port on the east coast and is the fastest growing in the country. In fact, with the expansion of our existing port and opening of the Nation's first privately owned and operated terminal next year, the combined ports in the Hampton Roads area of Virginia will double in size. We are proud of the fact that Virginia Port Authority was recently chosen by *Containerisation International,* a London-based publication, as the top port authority in the world for 2004 and 2005.

As I stated before, the issue of enhanced port security is something I have focused on for the past several years:

- The 2002 Defense Appropriations Bill (P.L. 107–117) created four new Coast Guard marine safety and security team teams—two teams "to exclusively serve those port areas presenting the greatest security challenges, especially those ports with a substantial concentration of critical Department of Defense facilities. . . ." and two with area-wide responsibilities (one for the Atlantic Ocean, one for the Pacific).
- I have also worked with my colleague from New York, Senator Schumer, introducing our own bill in the 107th Congress. The "Port Terrorism Prevention Act" required strict cargo reporting standards, provided funds for mobile X-ray machines, and authorized grants for research and development. The passage of the Port Security Bill in November 2002 included several of our provisions, including $15 million per year in research and development grants.

Since that time the maritime industry, our Port Authorities, and the Department of Homeland Security have all worked together to improve security at our Nation's seaports. I am proud of the progress made to date and look forward to the opportunity to continue on that path.

The Nation's 361 major ports form the heart of the U.S. Maritime Transportation System (MIS), and function as the Nation's lifeline. They handle 95 percent of all U.S. overseas trade, and they serve as the conduit for 90 percent of war material destined for major theater operations. While only 2-5 percent of the 6 million cargo containers that pass through these ports each year are physically inspected, it is important to note the progress made in establishing a strong worldwide network under the Department of Homeland Security's Container Security Initiative (CSI) and Customs-Trade Partnership Against Terrorism (C–TPAT) programs that coordinate prescreening in ports and businesses around the world.

Once again, thank you Madam Chairman for holding this hearing. I look forward to the testimony of our witnesses and to working with the Committee and the rest of the Senate to advance the security of our Nation.

Chairman COLLINS. Thank you. I appreciate your reminding us of the military implications of our ports too. That is an important point.

Senator Carper.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. Thank you, Madam Chairman. It is always good to see our colleague Senator Murray, and I have not seen Dan Lungren for a while. Your career has taken an interesting set of turns, so welcome, Daniel, nice to see you. And Congresswoman Harman, great to be with you last week and again to be with you today, and thank you for your leadership in the House of Representatives on some real important issues. A brief statement I want to make, and then to have a chance to hear your testimonies.

In the wake of September 11, we all recall Congress passing legislation to transform aviation security and to allocate the billions of dollars to make our airports safer, and I am reminded, as I travel around the country and around the world, I think we have made some real progress. We all know that we have some way to go.

Around the same time, we recall that we passed the Maritime Transportation Security Act. It is a bill that requires Federal agencies, ports, and vessel owners to take a number of steps to upgrade security, and 4 years later, I am sorry to say, we have not really followed through.

While it is not physically possible to open up every piece of cargo brought onshore on our ports, we are still inspecting, as we know, only a very small portion of that. In addition, initiatives to inspect high-risk cargo overseas before it comes to us in the United States and reward shippers that secure their supply chains have proven ineffective to date, largely due to inadequate staffing and an inability to conduct necessary inspections.

In my State we do not have a port like you do in Washington. I was out visiting part of your port operation not long ago, however. We are small potatoes in comparison. We are a big banana port but small potatoes compared to what you have in Washington. In Delaware, the Port of Wilmington has been the site of a test conducted by the Department of Homeland Security of an identification system for screening port workers and blocking individuals with criminal or terrorist backgrounds from accessing sensitive areas around our port. The test under way at the port and at three other locations has been, we believe, quite successful. However,

Homeland Security, for reasons that are not all together clear to me, is ending this test, even though a national screening and identification system is still more than a year away.

I just do not think this makes a lot of sense, Madam Chairman, and I look forward to hearing from Deputy Secretary Michael Jackson, who is out here somewhere in this audience, about what the Department of Homeland Security plans to do to get this program adopted and implemented nationally and whether it makes sense to discontinue a program that is working at our port and a number of other ports. We are already using it successfully in the interim.

Thanks, Madam Chairman.

Again, to our witnesses, welcome, it is great to see you all.

Chairman COLLINS. Thank you. Senator Coleman.

OPENING STATEMENT OF SENATOR COLEMAN

Senator COLEMAN. Thank you, Madam Chairman. We may be a big potato port since we grow them in Western Minnesota, and we have a small banana port over on Lake——

Senator CARPER. Keep away from our bananas.

Senator COLEMAN. First, Madam Chairman and the Ranking Member, thanks for your leadership on this critical issue. And I applaud Senator Murray for her leadership, and I see my friends from the House who have done an outstanding job.

This is important. I will reflect on Senator Warner's words and request that my full statement is entered into the record. I have just a couple observations.

Chairman COLLINS. Without objection.

[The prepared statement of Senator Coleman follows:]

PREPARED STATEMENT OF SENATOR COLEMAN

Thank you, Chairman Collins and Ranking Member Lieberman for holding this important hearing and championing the legislative solution to the challenge of port security. I also applaud and thank Senator Murray for her leadership on this important issue. As you know, I held two hearings last week in my Subcommittee examining these issues. Our oversight investigation culminated with an extensive staff report that makes several recommendations that I believe are reflected in the GreenLane Maritime Cargo Security Act. And I am happy to be an original co-sponsor of this important legislation.

Many experts in the industry believe it is just a matter of time before terrorists compromise the security of supply chain, most likely with a dirty bomb. This legislation will help prevent that from happening by adding standards to supply chain security as well as insisting that the Department of Homeland Security expedite the deployment of Radiation Portal Monitors to our Nation's seaports. It is 4½ years after September 11, and we have a massive blindspot at our seaports. More than half of the containers that enter through this Nation's seaports are not screened for radiation.

When enacted, this legislation will significantly enhance our supply chain security and codify many existing programs. I also intend to amend this legislation and order the Secretary of DHS to report back to us within 90 days with a plan on how to improve our screening processes. As I have previously mentioned, the Hong Kong system is a promising concept that demonstrates the potential to enhance our supply chain security by screening more containers with both an X-ray and a radiation scan. We—as elected officials—have a difficult time explaining to our constituents that the Department of Homeland Security believes screening 5.4 percent of containers is adequate when technology may exist to screen close to 100 percent.

Improving supply chain security demands a public-private partnership. Not only is the task too great for government, but we do not possess the in-depth knowledge of the global supply chain.

However, we do know that the supply chain is riddled with vulnerabilities. That is what we in the government must fix. Industry and government need to work col-

laboratively and move forward on programs and technologies to secure trade. Instead of security being a cost of doing business, it must become a way of doing business.

The bottom line is this: We are safer now than we were yesterday, but we are not safe enough. Enacting the GreenLane Maritime Cargo Security Act will make us safer and solve many of the challenges that confront our supply chain security programs.

Senator COLEMAN. It has been 4½ years since September 11, and we still have massive blind spots in our container security. We simply have to do better. There is no question about that.

I am proud to be an original co-sponsor of this legislation. It is important, and it will improve our supply-chain security.

One of the things that we discussed at our hearing was we looked at a system in Hong Kong. I am not here to say that this system works, but rather demonstrates the potential to screen 100 percent of the containers as they come through the port. One of the difficulties that I have is explaining to my constituents how we are safe when we screen about 5.4 percent of the containers coming in. I believe it is important to screen more, and I intend to push the Department very hard to come back within 90 days and tell us how we are going to screen at least 100 percent of the high-risk containers, those in which we have some reason to believe, based on a process that we use, there is some risk. And I think it is also important that we have that screening done before it reaches our shores, that we have kind of a multi-layered system here. But the best place to do that screening first is before it ever gets on a cargo ship coming here. Then, when it gets here, we have to put in place many of the mechanisms that are already in place and are strengthened by this legislation.

Two other quick observations. One, I was pleased to hear, and we will hear from Secretary Jackson, that the TWIC program, the worker ID, is finally moving forward. It was indicated to us that by last Friday there would be notice published about this process. So I do hope the efforts of this Committee and others to accelerate the process by which we improve the level of securities is having a difference, and I look forward to seeing those results.

Then the last observation is this, and that is that this is something that government cannot do alone. We really do need to work with the private sector. I heard that. I saw that. They have an interest. Security, instead of being a cost of business, it needs to be a way of doing business. We have to work in partnership and, perhaps, work in partnership with some foreign companies since they control about 80 percent of the terminals.

So the bottom line is this: We are safer today than we were yesterday, but we are not safe enough. Enacting the GreenLane Maritime Cargo Security Act will make us safer and solve many of the challenges that confront our supply chain security programs today.

So thank you again for your leadership, Madam Chairman.

Chairman COLLINS. I want to commend the Senator from Minnesota for his leadership on this. You have held many hearings in the Permanent Subcommittee on Investigations to look at the effectiveness of our port security programs, and that has been extremely helpful in educating this Committee as we go forward.

I am very pleased now to welcome our first panel of distinguished witnesses, each of whom has been a true leader on port security. We will start with Senator Murray.

TESTIMONY OF THE HON. PATTY MURRAY,[1] A U.S. SENATOR FROM THE STATE OF WASHINGTON

Senator MURRAY. Thank you very much, Chairman Collins and Ranking Member Lieberman, for calling this hearing and for your leadership on cargo security.

I am here today because our country is vulnerable to a terrorist attack, and time is not on our side. By using cargo containers, terrorists can deliver a deadly one-two punch to our country. The first punch would create an untold number of American casualties. The second punch would bring our economy to a halt.

Cargo containers carry the building blocks of our economy, but they can also carry the deadly tools of a terrorist attack. Today we are not doing enough to keep America safe. Sitting here in this Senate room, it can feel like the dangers at our ports are a million miles away. In recent years, some in our government have said they could never have imagined the devastation caused by recent disasters.

So let me make this crystal clear. On March 21, just 2 weeks ago, a container ship called the Hyundai Fortune was traveling off the coast of Yemen when an explosion occurred in the rear of the ship. Here is a photo of what happened next.[2] About 90 containers were blown off the side of the ship, creating a debris field of five miles long. There were few fatalities, and the crew was rescued. They are still investigating the cause, but it does not at this time appear to be terrorist related. Here is another picture. Now I want you to imagine this same burning ship just a few feet from our shores in New York Harbor, or Puget Sound, or off the coast of Los Angeles, or Charleston, Miami, Portland, Hampton Roads, Delaware Bay, or the Gulf of Mexico.

Now imagine that we are not just dealing with a conventional explosion, we are dealing with a dirty bomb that has exploded on American shores. Let me walk you through what would happen next. First, of course, there would be an immediate loss of life. Many of our ports are located near major cities. If this was a nuclear device that exploded at a major port, up to 1 million people could be killed. If this was a chemical weapon exploding in Seattle, the chemical plume would contaminate our rail system, Interstate 5, and SeaTac Airport, not to mention the entire downtown business and residential district. At the port, there would be tremendous confusion. People would try to contain the fire, but it is unclear who, if anyone, would be in charge. Then, when word spread that it is a dirty bomb, panic would likely set in. There would be chaos as first responders tried to react and residents tried to flee.

Next, our government would shut down every port in America to make sure there were not other bombs in other containers in other cities. That shutdown would be the equivalent of driving our economy into a brick wall. It could even spark a global recession. Day

[1] The prepared statement of Senator Murray with attached photos appears on page 51.
[2] The photos mentioned by Senator Murray appear in the Appendix on page 56.

by day, we would feel the painful economic impact of such an attack. American factories would not be able to get the supplies they needed. They would shut their doors, lay off workers. Stores around the country would not be able to get the products they needed to stock their shelves.

Now, in 2002, as the Chairman said, we saw what a closure of a few ports on the West Coast would do. It cost our economy $1 billion a day. Imagine if we shut down all our ports. One study concluded that if U.S. ports were shut down for just 12 days, it would cost our economy $58 billion. Next, we would realize we have no plan today for resuming trade after an attack. No protocol for what would be searched, what would be allowed in, and even who would be in charge. There would be a mad scramble to create a new system in a crisis atmosphere. Eventually, we would begin the slow process of manually inspecting all the cargo that is waiting to enter the United States. One report found that it could take as long as 4 months to get them all inspected and moving again. Finally, we would have to set up a new regime for port security, and you can bet that any new rushed plan would not balance strong security with efficient trade.

The scenario that I just outlined could happen tomorrow, and frankly, we are not prepared. Nearly 5 years after September 11, we still have not closed a major loophole that threatens our lives and our economy. Time is not on our side. We must act.

Madam Chairman, I approach this as someone who understands the importance of both improving security and maintaining the flow of commerce. My home State of Washington is the most trade-dependent State in the Nation. We know what is at stake if there were any incident at any of our ports. That is why I wrote and funded Operation Safe Commerce to help us find where we are vulnerable and to evaluate the best security practices. It is why I have worked to boost funding for the Coast Guard and have fought to keep the Port Security Grant Program from being eliminated year after year. Right after September 11, I started talking with security and trade experts to find out what we need to be doing to both improve security and keep commerce flowing.

Ten months ago, I sought out Chairman Collins, and she has been a partner in this effort. I approached her because I knew she cared about the issue, I knew she had done a lot of work on it already, and I knew she was someone who could get things done. Since that day, we have worked hand-in-hand to develop this bill and move it forward, and I am very grateful as well to Senators Lieberman and Coleman for their tremendous work as well.

The GreenLane Act recognizes two facts: we must protect our country, and we must keep trade flowing. We know we are vulnerable. Terrorists have many opportunities to introduce deadly cargo into a container. It could be tampered with any time from when it leaves a foreign factory overseas to when it arrives at a consolidation warehouse and moves to a foreign port. It could be tampered with while it is en route to the United States. And there are several dangers. I outlined what would happen if terrorists exploded a container, but they could just as easily use cargo containers to transport weapons or personnel into the United States to launch an attack anywhere on American soil.

Madam Chairman, while I have been sitting here I have just received notice that there were 21 Chinese nationals just found this morning in a cargo container in the Port of Seattle, and I want to commend our Customs agents for being very efficient in finding them, but it shows us once again how vulnerable we are.

The programs that we have in place today are totally inadequate. Last May, thanks to the insistence of Senators Collins and Coleman, the Government Accountability Office found that C–TPAT was not checking to see if companies were doing what they promised in their security plans, and even when U.S. Customs inspectors do find something suspicious at a foreign port, they cannot force a container to be inspected. So we have a clear and deadly threat, and we know that current programs are inadequate. So what are we going to do about it? We could manually inspect every container, but, frankly, that would cripple our economy.

The real challenge here is to make trade more secure without slowing it to a crawl, and that is why Senators Collins, Coleman, Lieberman, and I have been working with all of our stakeholders and experts to strike the right balance, and the result is the GreenLane Maritime Cargo Security Act. It provides a comprehensive blueprint for how we can improve security while keeping our trade efficient. At its heart, this challenge is about keeping the good things about trade, speed and efficiency, without being vulnerable to the bad things about trade, the potential for terrorists to use our engines of commerce.

Our bill does five things. First, it creates tough new standards for all cargo. Today we do not even have any standards for cargo security.

Second, it creates the GreenLane option, which provides an even higher level of security. Companies have the option to follow the higher standards of the GreenLane, and their cargo will be tracked and monitored from the moment it leaves a factory floor overseas until it reaches the United States. We will know everywhere that cargo has been. We will know every person who has touched it, and we will know if it has been tampered with. The GreenLane will push out our borders by conducting inspections overseas before cargo is ever loaded on a ship bound for the United States, and we will provide incentives for the companies to use the highest standards of the GreenLane.

Third, our bill sets up a plan to resume trade quickly and safely to minimize the impact on our economy.

Fourth, our bill will secure our ports here at home by funding port security grants at $400 million.

Finally, our bill will hold DHS accountable for improving cargo security. DHS is long overdue in establishing cargo security standards and transportation worker credentials. We need to hold DHS accountable, and our bill provides the infrastructure to ensure accountability and coordination.

I want to thank all of our cosponsors and partners, especially Chairman Collins for her tremendous leadership, and I want to thank Senator Coleman for his leadership and work as Chairman of the Permanent Subcommittee on Investigations. Senator Coleman has helped expose our vulnerabilities and has worked to help develop solutions. I also want to thank the Ranking Member, Sen-

ator Lieberman, for his leadership and his support, and I want to commend our cosponsors, Senators Feinstein, Snowe, DeWine, and Warner. We are also seeing tremendous progress on the House side with SAFE Port Act, and I want to thank Representatives Dan Lungren and Jane Harman for their leadership.

You are going to hear today also from Mic Dinsmore. He is the CEO of the Port of Seattle. He has been a real leader on cargo and port security issues, and I have been proud to work with him.

Madam Chairman, today we have a choice in how we deal with cargo security challenges facing us, but if we wait for a disaster, our choices are going to be much starker. Let's make the changes now, on our terms, before there is a deadly incident. Let's not wait until a terror incident strikes again to protect our people and our economy.

Two months ago, the American people woke up and spoke out when they heard that a foreign-government-owned company could be running our ports. That sparked a critical debate. Now we need to set up a security regime that will actually make us safer. Until we do so, none of us should sleep well at night. A terrible image like this one, a burning container ship, with a dirty bomb, in one of America's harbors could be on our TV screens tomorrow, so this Committee and this Congress must act today.

Thank you, Chairman Collins.

Chairman COLLINS. Thank you so much for your very eloquent testimony and your hard work on this issue.

Representative Lungren, welcome.

TESTIMONY OF HON. DANIEL E. LUNGREN,[1] A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. LUNGREN. Thank you very much. Thank you, Chairman Collins and Ranking Member Lieberman, for inviting me to testify today. Although I now represent a district that is centered in Sacramento County and goes up into the mountains of the Sierras, in my previous term of service I represented a district 400 miles away on the coast in Long Beach. I had both Long Beach and Los Angeles Harbors in my district. When I was in college, I actually worked in the Port of Los Angeles at one of the shipbuilding facilities, so I have seen many changes.

After 16 years away from Congress, it is refreshing to return to an environment in which important issues such as port security can be approached in a bipartisan and bicameral fashion. The cooperative manner in which the House and the Senate are moving companion legislation on this issue is a testament not only to your leadership here in the Senate, and that of Chairman King in the House, but also evidence of the urgent need, the urgent nature of our task.

On October 18, 2001, Italian port authorities noticed unusual movement coming from a container waiting for the next leg of its transshipment to Canada. Inside the container, a man was attempting to widen ventilation holes for what had become his temporary residence. The container boasted superior amenities to those found in many homes around the globe. It had a bed, a heater, toi-

[1] The prepared statement of Mr. Lungren appears on page 60.

let facilities, water, laptop computer, and a satellite phone; all accompanied the man for his trip. Also inside the container were airport security passes, an airline mechanic's certificate valid for New York's JFK Airport, Newark Airport, LA International Airport, and O'Hare Airport in Chicago. After the man was temporarily apprehended, he disappeared. His intent and his whereabouts are unknown to this day.

This event, occurring only one month after the tragic events of September 11, is in part the product of an increasingly liberal global trade system. Those of us who remember the great film "On the Waterfront" know that only 50 years ago things were quite different. Before the advent of cargo containers, cargo had to be individually loaded, offloaded, transported to a warehouse, inspected by Customs officers, and then reloaded on to their respective vessels. Although this system ensured transparency, it was, obviously, a barrier to trade. Cargo containers are able to accommodate the transport of huge volumes of goods without manual intervention by dock workers, making global trade more efficient and more profitable, and that is the world that we live in today.

Today we must ensure that the efficiency of our intermodal transportation system does not, however, compromise American security. The various aspects that make it so unique, the various aspects that make it possible for a different world to exist today, compared to 50 years ago, where we do not have things warehoused, where our warehouses are really moving on ships and trucks around this world, and we depend on that. We depend on these things to come to us just in time. That is, as I say, the world we live in. At the same time it creates the vulnerability. The very efficiency, the very timeliness of this kind of trade provides opportunities for those who would do us harm.

I believe that the GreenLane Maritime Cargo Security Act, which we are here today to discuss, does help create an environment in which we can maintain that efficiency without compromising American security, and it does it primarily by enhancing supply-chain visibility and accountability. By involving everyone in the supply chain, including importers, freight forwarders, shippers, terminal operators, longshoremen, truck drivers, and port employees, this Act ensures accountability from the factory floor overseas to seaports here in the United States.

Let us pause here and take a moment to recognize the nature of this endeavor by Senators Collins and Murray. I think it is important to note that neither this effort in the Senate nor the companion effort in the House with the SAFE Ports Act is an afterthought to the recent Dubai Ports World controversy. Senators Collins, Murray, Lieberman, Coleman, and others began work on this bill months before the now-defunct acquisition of U.S. port operations by the United Arab Emirates-owned company made headlines around the country. That is important because this is not a reaction to headlines. It is not a reaction to the emotion of the moment. It is, in fact, a well-considered response to a continuing problem that affects all of us. The facts that were illustrated in the remarks by the senior Senator from Virginia are extremely important. We take for granted this trade. We take for granted that it is going to be there. We do not realize, as was pointed out by Sen-

ator Murray, the tremendous impact an attack on a single major port would have on all of us. It would not just close down that one port. When we had September 11, we did not just close down the airport from which the airplanes originated—we closed down our entire system. Does anyone think we would not do the same thing with respect to ports, at least for a short period of time?

When I recently was at the Los Angeles Port and met with some of the port operators there, they talked about the 11-day slowdown we had because of a little labor dispute in LA-Long Beach Harbors. They told us it took 100 days for them to recover from that 11 days. One hundred days, and this is one of the most efficient operators in the entire world. They did not want to have delay. They worked as hard as they could to get back to everyday operations, but an 11-day slowdown caused a 100-day shortfall in terms of getting back to day-to-day operations.

Nonetheless, the hullabaloo around the Dubai Ports World deal injected a sense of urgency to the need for important port security reform, and for that at least we can be thankful.

The GreenLane Act authorizes important programs such as the Container Security Initiative (CSI), the Customs-Trade Partnership Against Terrorism (C–TPAT) program, creates a third tier of C–TPAT known as GreenLane, directs the Secretary of Homeland Security to create baseline container security standards and procedures, and importantly, creates a dedicated port security grant program.

The C–TPAT program, which is authorized for the first time in this Act, incentivizes the private sector to share responsibility in the protection of our homeland from terrorist attack with government. Entities participating in the international supply chain, from importers to land carriers, are encouraged to enter into a partnership with the Department of Homeland Security. By allowing companies to volunteer to submit additional information regarding their business operating procedures, manifest data, and container contents, they will become eligible for expedited processing once their shipment reaches the United States.

This program, I believe, lies at the heart of future homeland security business approaches. It serves a dual purpose of protecting Americans from those that would do us harm, while also creating more efficient and profitable business operations for companies that choose to participate.

One company, for instance, toy manufacturer Hasbro, has seen a five-to-one return rate since becoming a C–TPAT member in 2002. What do I mean by that? The company spent approximately $200,000 in up-front costs becoming compliant with C–TPAT and about $112,500 each year thereafter maintaining compliance. After becoming a member, its inspection rates dropped significantly. Given that it imported 8,000 containers into the United States in 2003 and that port authorities charge $1,000 per inspection, they are saving about a half a million dollars a year in inspection costs alone. There is a carrot and a stick involved in this program that is in this bill.

The GreenLane Act allows the Department of Homeland Security to focus a greater percentage of its resources on those threats that pose the greatest risk. It makes little sense to spend 99 percent of

our resources hardening 99 percent of what will never become a target. Risk-based analysis is appropriate.

That is why I am here today to commend your efforts. Your legislation is reflective of a common-sense approach to port security. As you know, Congresswoman Jane Harman, ranking member of the House Intelligence Committee, and I have developed House companion legislation. Our bill, called the SAFE Port Act, Security and Accountability for Every Port Act, is somewhat different from the Senate legislation before us, but is based upon the common principle of pushing our shores out as far as possible through layered defenses. The SAFE Port Act is a comprehensive proposal to strengthen the maritime transportation system through the multi-layered security strategy that everyone agrees with, which builds on existing initiatives to secure the supply chain from the point of origin to delivery in the United States.

It focuses on improved security, both at home and abroad, by expanding capabilities, maximizing available resources, and pushing our borders forward. I would just mention three key areas.

First, enhancing security at our U.S. ports by establishing a risk-based port security grant program with dedicated funding from Customs duties. I think a dedicated revenue stream is extremely important. It also requires implementation of the TWIC program. We are happy to hear, as others are, that it looks like we are finally going to get a TWIC program. Nonetheless, we should keep it in our legislation to make sure that we do get it.

Second, preventing threats from reaching the United States by authorizing and improving two Customs and Border Protection cornerstone security programs, CSI, the Container Security Initiative, and C–TPAT, similar to the Senate bill.

And third, tracking and protecting containers en route to the United States by improving our ability to detect high-risk containers through strengthening the existing Automated Targeting System by requiring entry data, establishing container security standards, supporting additional cargo security research and development, and reviving Operation Safe Commerce.

We held legislative hearings on our bill on March 16, followed by a markup in subcommittee on March 30. We added two key provisions to the base bill. First, we established the Directorate for Policy, Planning, and International Affairs in the Department. Within this directorate, we created a position of Director of Cargo Security.

I worked with Congressman John Linder of the Subcommittee on Prevention of Nuclear and Biological Attack to establish the Domestic Nuclear Detection Office, which will work to establish relationships across departments and levels of government in order to develop a global nuclear detection architecture.

The full House committee met yesterday to hold a legislative hearing on this piece of legislation, and a full committee markup is scheduled before the end of April. We have a commitment from our leadership to have this on the floor in May. We are working expeditiously because we want to make sure that we keep up with you, and hopefully, we will meet you in conference.

Thank you very much.

Chairman COLLINS. Thank you very much, and let me commend you for the rapid action in the House of Representatives. You really

have leap-frogged us by getting it out of subcommittee already. I do hope that we will schedule a markup within the next few weeks on this bill, and I look forward to meeting you in conference. Thank you for your good work.

Representative Harman, it is a great pleasure to welcome you to the Committee today. We have worked together on so many different homeland security bills, and it is great to have you here.

TESTIMONY OF HON. JANE HARMAN,[1] A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. HARMAN. Thank you very much. I am last, but I hope I am not least. I am very excited about the progress we are making on this legislation.

Chairman Collins, my Senate Security Sister, has been to the Los Angeles-Long Beach port complex twice in the last year at my invitation to assess best practices and observe how various agencies and levels of government cooperate and coordinate. She even buckled up in a Coast Guard helicopter in Maine-like weather to see the huge complex from the air. Now, if I could only get her to go for a run on the beach, as Secretary Chertoff has.

It was during our work on the Intelligence Reform Bill in 2004 that Senator Collins, Senator Lieberman, and I really bonded. Our collaboration yielded great results then, and I am confident that it will again.

If there is a silver lining to the recent Dubai Ports World debacle, it is that it roused Congress from a deep security slumber, at least as far as port security was concerned. Congress and the American people are now focused on the huge vulnerability of our seaports.

I applaud your leadership and initiative on this issue. You and your partners, Senator Murray and Senator Coleman, have a terrific bill in the GreenLane Maritime Cargo Security Act. My California colleague, Dan Lungren, and I used many of the same ideas in crafting our SAFE Port Act. It differs in some respects, of course. In those ways it is better. [Laughter.]

But it is similar, and in that regard, I want to also commend contributions from a number of House members, including Bennie Thompson, the ranking member of the full House committee, Loretta Sanchez, ranking member on Representative Lungren's subcommittee, and former Representative Doug Ose, whose idea it was to use dedicated Customs revenues to fund long-term multi-year port security improvements.

I will not share my worst nightmare with you. It is just as bad as Senator Murray's. I am not going to embellish it with some of her information. But I also will not share with you how many times focused dock operators have found human beings in containers at the Port of Los Angeles. That is truly scary. Let's understand that instead of Chinese stowaways, we really could have terrorists in those containers, and they could be fully armed. A lot of the things they might be armed with would escape our detection techniques, and they could attack us, both in those ports, or if they continued to be in those containers, in the interior of the United States.

[1] The prepared statement of Ms. Harman appears on page 65.

Let's remember that 50 percent of our cargo, our container cargo, goes through the LA-Long Beach complex, and some of it directly goes on rail into the center of our country, and it may even end up in Maine or Connecticut. So this is a very bad nightmare.

Why did these incidents happen despite steps taken by the Homeland Security Department to improve supply chain security?

Well, first, as others have said, we still do not really know what is in the box, evidence, human beings might be in a box labeled "clothing."

Second, the system used to determine whether or not a container poses a threat remains flawed. There have been good efforts at DHS. I applaud them, and I am sure you are going to hear about them from Secretary Jackson in a moment, but nonetheless, the system is not even close to what it needs to be.

Third, many ports, as we know, do not have the technology in place to screen containers for contraband or weapons of mass destruction.

Fourth, CBP and the Coast Guard do not have adequate personnel to examine containers and conduct inspections throughout the worldwide supply chain or at U.S. ports.

The legislation we are discussing in both chambers is strategic, comprehensive, and badly needed. I am very proud to be part of this bipartisan, bicameral effort. Port security, as you have heard, must be layered and strategically structured to enhance safety without disrupting the flow of trade. These are two competing goods, and we will either have both or we will have neither, unless we get it right.

The terrorists, as we know, attack us asymmetrically, and they will look for holes in our security network and look to strike where we are weakest. It is impossible to hand search every container entering the country. As Congressman Lungren has just said, that was the old port security. The new port security has to have better strategies and the use of technology.

Our bill would do that. It would push out our borders and help prevent bad actors and hazardous materials from reaching American soil at all. I think we failed if those materials get in. Let's understand that the residents around the Port of Los Angeles, who live in my congressional district, are at risk if we find a container there that includes some sort of radiological bomb.

Central to success on port security and the war on terrorism in general is better intelligence and better technology. These two coordinates apply as much to immigration and border points-of-entry as they do to port security. Let me make that point again because I do worry that when we pass this excellent legislation—and we will—we may push the terrorists to find other ways to get bad people and bad material into America. So it is important that we think strategically about the whole issue of entry into America.

We have to make our ports safe, but we also have to make our other borders safe, and in that connection, I would just observe that building bigger walls is not an adequate answer. Finding ways to get better intelligence on who is trying to come here,or what they are trying to bring here and stopping those people and those things is a much better strategy for true border security.

Good maritime security measures have been introduced in the past, I know, many of them in the House, and they have languished. But now, finally, Congress seems appropriately focused, and as you heard from Congressman Lungren, in the House we have already had subcommittee markup, and we are poised for full committee markup in a few weeks. To my Senate friends, you should know that this is nothing short of a legislative miracle.

Time is of the essence. I am glad you are going to try to catch up with us. [Laughter.]

Good luck. The terrorists are not waiting on the legislative schedule, and nor should we.

Thank you very much for inviting me to testify.

Chairman COLLINS. Thank you so much for your testimony and your extraordinary leadership.

I want to thank this entire panel for being here today. This is evidence that when confronted with a serious threat to our homeland security, we can work together across the aisle, and even more remarkably, across the Hill—with the House and the Senate working together. I am very pleased that we have such a strong team leading the way, and I am convinced that we will see success this year. Thank you very much for being here.

I am now going to ask our second panel to come forward. Our second panel is really just one witness. It is Deputy Secretary Michael Jackson. He was confirmed by this Committee last year to serve at the Department of Homeland Security, and we look forward to hearing his comments today.

Senator Murray, I understand that you are going to stay for part of the hearing. If you would like to join us up here, we would be happy to have you do so. We would even let you sit on the Republican side if you wanted to. [Laughter.]

I guess that would be too traumatic. [Laughter.]

Secretary Jackson, welcome, and you may proceed with your testimony.

TESTIMONY OF HON. MICHAEL P. JACKSON,[1] DEPUTY SECRETARY, UNITED STATES DEPARTMENT OF HOMELAND SECURITY

Mr. JACKSON. Thank you, Chairman Collins, and thank you, Ranking Member Lieberman. I am grateful to be included in this testimony, and I am very grateful for the work that you are doing in this Committee.

You have talked about the intersection of interest and of will and of commitment to make a bill that the House and the Senate share. I just want to tell you today, and to reiterate throughout my appearance here, that the Administration shares your commitment to improved maritime security, to make a difference with this legislation. We have been working closely with your staff for months on it, and we are committed to continue to help you craft as strong a bill as possible for passage and to improve our transportation security in the maritime world.

I will not reiterate the importance of making increased security here. I would like to say that we are very grateful in particular for

[1] The prepared statement of Mr. Jackson appears on page 69.

this legislation, as well as the legislation in the House, because it has helped us focus the interest and the commitment of our Department and of the Congress on a common set of goals and objectives, and for that, I think we have made good progress.

We have made, however, and I want to say for the record, transformational improvements since September 11. I agree with Senator Coleman, we have done a lot, we have not done enough, there is more to do. I will just say it simply and stop. There is more to do. We are prepared to roll up our sleeves with you and get this done.

I would like to talk particularly today then about the path ahead and to start with a discussion of some of the principles, which the Administration and the Congress, I believe, share in common as we approach this, so that we can find a template, an approach, a basic set of principles in agreement, and then flesh out those principles to make programs that are stronger and to accomplish the objectives that you have laid out for us today.

First, I want to talk about risk. The first principle—and it is one that has been stated here in this Committee today—is that we have to talk about risk and some sense of starting where the highest risks are. As an Administration, our programs have been designed to start with the question of the nuclear and weapons of mass destruction risk. That is the starting point.

Second, a layered system of security, a strong layered set of interlocking tools. I think this is the most important part in a way for us to understand, to get our brains around, how to pull these pieces together in the legislation and in our programs. No one single thing will be sufficient in and of itself to give us the security that we need in this maritime domain. We have a system of interlocking tools, and single-point failure is reduced if we have multiple layers of security working in concert with each other. The security is seldom adequately delivered via a single silver bullet.

Next. It begs the obvious, but this is a global supply chain. It serves multiple different economies and governments, and it is a series of interdependent private sector driven businesses, so a second doctrinal component of our cargo strategy has been, where possible, to push security out, to push the borders out. So I think that is something that is very much embedded in this legislation. We are fundamentally in alignment with you there.

Close partnerships with the private sector are a third component, indispensable to make this work.

A fourth component, we have to strengthen government-to-government partnerships. When we talk about the Container Security Initiative, as an example of our government-to-government partnerships, we have to understand that we cannot control everything they do. We have to work cooperatively with them, and it is the same thing with the private sector when we work on a program like C–TPAT, which is voluntary. We have made tremendous strides with the private sector. I believe they have a strong commitment to improve security, so we have to leverage both the public, foreign, and the private relationships as well.

Let me try to just divide where the working product has to hit. There are four basic areas that we have to work on in this enterprise: First, vessel security; second, personnel security; third, we

have port facility security; and fourth, we have cargo security. So these four areas, cargo, people, facilities, and the vessels themselves, we have to work on those four sets of issues domestically and abroad, so you basically have a grid with 8 cells in it, and we have to fill in programs, processes, and tools to help us at home and abroad to strengthen this.

I would say again, this legislation, I believe, generally tries to look across that range and find appropriate tools to create this system of systems.

So let me just say a couple of words about where the Administration thinks we can get the highest return in the short term and where we would like to focus. Again, I think these are things that the Committee has found also to be high-priority items.

The first of these is in an area that we have aggregated under the rubric "secure freight." It has two essential parts, first, better targeting, and second, enhanced inspection tools.

On better targeting, we believe, as an important tool, that the Department's Automated Targeting Systems run at the Customs and Border Protection is an indispensable tool. We have made tremendous and strong growth in using this tool to screen all inbound cargo. We use this tool to screen and then do a profiling of risk for 100 percent of all inbound containers into this country. We assign scores for containers of high risk, and we then inspect 100 percent of all the high-risk containers. The next generation tool that we would use here would give us, and the ATS system, a more rich and deeper profile of the prehistory of a container move. Where has the cargo been? Who has touched it? What information do we have about it from order to order fulfillment, to the intermodal supply chains that touches that container as it moves across the globe. Today there are resident, and multiple different and non-connected businesses, information about this prehistory.

I believe it is possible, working in the right way, to aggregate that data, fuse it, share it globally, not only for containers that are bound for the United States, but to create a true global switch so that we can try to begin to get our arms around a close-loop system in which governments who have containers inbound have the opportunity to evaluate a richer and deeper prehistory of this to score that risk as they deem fit and to take measures as appropriate to inspect it. This is a natural extension of what we have done. It is a big idea here, but it is not an idea that cannot be delivered in, I think, a reasonable timeframe.

I would say, particularly to Senator Murray, that it builds very much on the initiative that you helped launch after September 11 to begin to probe supply chain weaknesses and to work with that data to help us build the next generation of tools, so for that I am very grateful.

I will tell you that before I took this job at the Department, I was invited by the Department to come talk about cargo security, and this was the area in a speech, which I was grateful to be asked to give to the people who are now my DHS colleagues, that I identified as the primary point and the focal point for us for next-generation tools.

Next, as part of secure freight, we need enhanced inspection tools. At home, again, inspection tools at home, inspection tools

abroad. At home, our target is to have 100 percent inspection of all containers that are transported by truck or rail from a U.S. port into the interior of our country. Abroad, our goal is to increase materially the number of containers inspected by radiation detection tools and by non-intrusive detection tools such as large X-ray devices. The Domestic Nuclear Detection Office, which we have created at the Department and which this bill authorizes formally, has a vital role in making that process work.

I would tell you that Secretary Chertoff was in Asia last week on a trip and was able to look at the Integrated Container Inspection System pilot in Hong Kong. He comes back with enthusiasm about the opportunities for this. I would just say after extensive discussion with the industry about the so-called ICIS pilot, we believe that its underlying technology and business concerns are very valuable and possible as a way to take, again, a next-generation and substantial leap so that we can use those tools, multiplexing the images into the United States and look at that inspection data, along with our targeting data, and have a much richer and deeper profile of what's headed our way.

And, Senator Coleman, your Subcommittee has done very good work. I was grateful for the chance to talk about this particular topic with you last week.

Finally, on the high-priority list, in addition to secure freight, is TWIC. Let me just say we have last week published a request for qualifications. There are three moving parts to go from where we are today, which is, we have completed a pilot phase of this work. We are now moving straight into deployment nationwide with the TWIC program. It has three moving parts. One, it requires regulations from the Transportation Security Administration (TSA). Two, it requires cognate rules by the Coast Guard. And three, it will require some procurement work so that we can bring in the tools for card production and distribution, for intake management, and for the back-room processing tools that we are going to need to make this a nationwide program.

I think we have a good architecture. We have a path ahead. It's going to be a balance, but it is a very aggressive commitment. Secretary Chertoff has made it very clear to his team, do it, get it done, get it in the street, get it going. And I promise you, that is where we are headed. We are moving all three of those components at warp speed through the process, through the regulatory process and through the procurement process, and I am going to be very pleased to come back to this Committee and show you the results of that in the weeks ahead.

Finally, I'll just say a quick word about the GreenLane Maritime Cargo Security Act. We believe that this proposed legislation reflects a great deal of solid agreement, as I've already tried to indicate, and we are committed to trying to work with you to close any gaps we have, to refine any places where we find disagreement, and to work with you as you move this through your Committee and to the floor.

We have already talked about a core component part of your legislation, which is next-generation Automated Targeting Systems. We believe that the vision that I have just briefly outlined is in alignment with you and will help do just that.

On the movement of radiological material, which is a key part of this legislation, we are in alignment in the core with you. We believe that the deployment strategy, both at home for getting to 98 percent inspection with some random inspection of the remainder on a short path by the end of next year, will get us where we need to be. We can accelerate this a bit. We are trying very much to push that as much as we possibly can to get that penetration there and at our land borders.

We think the GreenLane concept in principle is very important. I would just say a few words about it. I think that it is important to retain some flexibility for a voluntary program to define the terms and conditions of this GreenLane third-tier type approach. We believe that giving carrots and sticks, as has been spoken about already today, is important. The industry has to find sufficient motive to participate with us, and having the benefits of voluntarily submitting to a more rigorous security profile. We will need the chance to be nimble, and we will need the chance to be responsive to particular attacks or incidents in a post-response manner. If it is an explosion offshore, the response would be different than if it is an attack at the fences, at the gates of a terminal facility.

So we need to have the flexibility, as you think through the GreenLane privileges, to be able to work at that in an effective way.

We are grateful for your formalization of the Under Secretary for Policy. We are also very much in agreement on the need to create in the Department in our policy shop a cargo security position, a Director of Cargo Security. I will tell you that shortly after I came on board, I started trying to recruit a couple of stars from the industry. We are committed to doing this, and we are grateful for the legislation that makes it formal.

On the port security grants, we have a difference of opinion on the structure of port security grants. We are, as an Administration, committed to a $600 million transportation infrastructure program, and the targeted infrastructure program that we have proposed.

Let me just explain briefly why we think that flexible program is a better alternative to simply earmarking in the modes of transportation for transit grants, port security grants.

Last summer, after the attack in London, we were together worrying over how best to focus our funds and our resources, our limited resources, in the best possible way, and after the Dubai Ports World discussions that we have had here in public, we are now showing a lot of attention on the maritime world, rightfully so, appropriately so, absolutely necessarily so. But what we think is the principle of being able to allow State and local leaders and terminal owners in multiple different types of facilities to have some flexibility to be able to align those resources with the highest risk is a valuable tool. We have talked about the importance of having risk-based investment. This gives our colleagues at the State and local level the flexibility to say, "I'm concerned more about ports this year. We're going to put some more focus on that." They can also use UASI, State grants, and local grant money in this area. They have not historically used as much as we think they might and could and should, perhaps, in some cases.

But we are looking overall for a principle of targeting on highest risk and giving flexibility to be nimble as the threat evolves over time. When we lock these massive programs years in advance and then drive to an agenda, it sometimes reduces the flexibility that we have to be nimble and responsive to the threats that we face in the world ahead.

So I would stop there simply and say thank you very much for the opportunity to continue our work with this Committee, and I am happy to answer questions that the Committee might have on our programs and your program.

Chairman COLLINS. Thank you very much for your testimony. I am going to interpret your testimony as an endorsement of the GreenLane bill with a few qualifications, and I think my colleagues here would all agree with that interpretation. If you would like to disabuse me of that, I will give you an opportunity to do so.

Mr. JACKSON. Madam Chairman, I want to be as close to this Committee and our work together as we possibly can, and what I would tell you is we are very close around very many particulars and very much of the philosophic approach that this bill brings to the table. We have some changes, some edits, some suggestions, some differences. I will try to be clear about that here today and also to have our staff line-by-line, word-by-word, go over your latest draft to make sure that you have the benefit of our counsel as best as we can give it to you.

Chairman COLLINS. Thank you.

Mr. JACKSON. But substantial alignment, and I think that is a very good thing.

Chairman COLLINS. I think it is as well. I want to pick up on an area of disagreement, and that has to do with having a line item for port security grants. The Administration has long recognized the importance of enhancing our port security, and yet, the Administration's budget continues to lump port security grants into an overall infrastructure grant program. That is an approach that Congress has rejected in years past, and I am quite confident will do so again this year.

It seems inconsistent to me for the Administration to say: Yes, port security is a priority. It is a major vulnerability. We need to do more. We have developed all these programs such as CSI, C–TPAT, but, no, there should not be targeted funding for port security grants.

We have made the $400 million that we proposed a competitive program to address some issues that the Administration has. We know that the American Association of Port Authorities says that is needed each year to just meet the goals of the Maritime Transportation Security Act. If you lump port security in with other infrastructure needs, you risk not allocating any funding to port security grants or insufficient funding. I do not understand why the Administration is so resistant to a targeted program, given the overwhelming evidence and advice that we receive from terrorism experts. We do need to put more resources into this area.

Mr. JACKSON. Let me try to summarize it this way. We share the conviction that infrastructure investment in ports is a vital priority for the country, and in fact, what we have done—and where I think the difference is—is how best to make those investments. The prin-

ciple that we are trying to press very hard is the principle of flexibility and nimbleness. We authorized these programs in a siloed fashion years in advance and spend a year trying to get the money out the door, the applications reviewed in a systematic way. And what we are saying is we think that by giving States and locals more flexibility about how they take core infrastructure programs and their grant money associated with it that we can be more responsive to the threat itself, that we will have a more threat nimble system of grants.

In fact, the Administration has proposed more money, almost double the amount of money for the individual programs this year. We did the same thing last year. We proposed, aggregate them, give us some flexibility, and we are supporting more money. That will allow for the particular needs to be served, we think, and it will give us a stronger tool that is responsive to the terrorist threat. The terrorist threat is driven by our intelligence assessments, as Representative Harman spoke. We have to have tools in our tool kit that do not take 2 years to change course when we see that threat change, and that is the core reason for our program.

I will tell you, if the Congress should decide—we did propose it last year, the Congress decided not to support it. If the Congress decides not to support it, we will make a targeted marine port security program that is as strong and as good as we can make it, and we will do so with the funds we have available.

Chairman COLLINS. As you mentioned, Congress did reject that approach last year and instead provided $175 million for port security grants for this fiscal year. We are deep into this fiscal year, and yet the Administration still has not provided guidance, and as a result, not a dime of that grant money has been awarded. Why has that been held up? Does that reflect opposition to the concept? What is the problem?

Mr. JACKSON. No. It does not reflect opposition to the concept, and I believe that the release of the grant guidance is imminent. I get my first briefing on the details of it this week, and the next step out the door is a very short step out the door when the Secretary and I have had a chance to review it. We are trying to make sure that it is philosophically aligned with the risk-based concerns that you have articulated and that are animating the core programs of the Department. It will be very soon.

Chairman COLLINS. I am pleased to hear that, and I hope you will keep us informed——

Mr. JACKSON. Yes, ma'am.

Chairman COLLINS [continuing]. Because I do think that is an inordinate delay.

When I was in Seattle, I saw the radiation portal monitors that were used to detect radiation, and they worked pretty well. There were some false positives, but they did not delay the trucks that were rolling through them, and I thought it was an effective system. Our legislation would require that there be screening for radiation of all containers entering our seaports within a year of enactment. But I have to tell you, as I was looking at the system, I was struck by the fact that it is really too late by the time radiation is detected in Seattle. If in fact one of those containers includes a nuclear weapon or the makings of a dirty bomb, by the time it is

detected in Seattle, the risk, the explosion may already have occurred. What are we doing to push out our borders to install these radiation portal monitors overseas so that before the containers come to our shores, they have already been screened for radiation?

Mr. JACKSON. That is an excellent question. Let me try to do a couple of layers of that. First, the first important layer of defense is the screening process, the container profiling that we do in our Virginia targeting center at CBP. That is a two-part process. It involves all of the electronic data we have about the given container. It involves a massive history file that allows us to detect patterns, look at trends, find areas to probe to understand rules that will allow us to use algorithms. There are many of these rules that drive a score for us to profile the container. That is Level 1. If you have not had an opportunity to see this, I volunteered to Chairman King yesterday to take him out and show him because it is an impressive set of tools, but we can also show you what the next generation looks like. That is Level 1.

Level 2, the ICIS program that I mentioned is an example of the industry, I think, that has very responsibly volunteered to tax themselves, to assess a fee on themselves to put the radiation portal monitors in the inbound part of this equation overseas. We are talking with that industry. As I said, my boss just got back last week from an actual look-see at it and discussion, and we have some significant hope that we can work with the industry in a way that might see this work across the globe in many ports.

Will it be 100 percent overnight? No, it can never be turned on like a switch, but we see this as a very promising tool. I do not think the tool that is currently working in Hong Kong is the panacea. The technology is not as complete as it can be. That is what DNDO's research is producing for us, a next generation spectroscopic tool that allows us to target which particular type of radiation is there so that we can, with a more fine comb, understand whether we have a problem or not. But we have current generation, next generation, with afterburners blowing to move into the ports and to our land ports. We have the concept of multiplexing those images, in other words, taking those images and sending them to the United States so we can align our targeting work with the ATS, with the visual image, the inspection that is overseas, and together making a much stronger connection there. So that is a business concept that secure freight proposes for this next generation of pushing the border out.

It is, I think, a powerful idea, especially if we can take the enthusiasm of terminal operators and port owners and ocean carriers around the globe, shippers, to help us assess the fees that they would make to do this. We, obviously, would have to have an investment and make a system that would work in a more global way.

Chairman COLLINS. Thank you. Senator Lieberman.

Senator LIEBERMAN. Thanks, Madam Chairman. I mean I know there is general rumoring around here that you and I spend too much time together, having worked together, as was shown in your first two questions, and I thank you for them.

They are the first two I was going to ask. I am not going to repeat them, but I agree totally with the Chairman on the port secu-

rity grant program. This is a real priority. You understand that and have stated it very clearly today, this bipartisan feeling of Congress.

You know, people ask me at home, "What's the thing you think we haven't done enough of yet to protect our security?" And I always start with port security. If we just lump the money together, there is a danger that we all worry about, that there is not going to be the money there for meeting this priority. So I was glad to hear you say at the end that if this is our will in Congress, you will do your best to carry it out.

The second line of questioning, we both shared the same reaction. I was waiting to hear you say the Administration endorses the GreenLane proposal. I did not quite hear that. I heard about substantial alignment, which is good because we do not have to go to one of the auto places to get aligned.

But now, let me ask you this: Where are we out of alignment, just either generally or specifically? What are the areas where the Administration is not happy with the bill, where we have to work together?

Mr. JACKSON. Well, I will take on the GreenLane itself, that particular part of it. I think that we need a little flexibility to discern what the incentives should be and how they align with the C–TPAT program. That is something, I believe, that is a bridge that we can cross with some good and short-term work here to design a way to give us the flexibility to figure out in a post-incident fashion what would constitute the privileges that we would want to award to a carrier to bring containers in on a more expedited basis. That is an example of something that I think deserves a little bit of further work.

On the funding issue about the dedicated funding, I have some work to do with my OMB brethren to opine about that in a formal and final fashion, and I tell you that I will make the commitment to work with my colleagues in the Administration on that issue. But I think the principle of spending money on reducing port risk and port vulnerability is one that you would see DHS in agreement with you on.

So there are examples of that. There is another example about some of the legislation in the House and the Senate, I think, points to performance indicators. I am a vigorous advocate that we measure and report to you what our goals and objectives are and how we run our programs and we do so routinely and make it quite transparent, our performance. When we fail, we fail. When we succeed, we succeed.

But, for example, putting a deadline of one year on getting radiation portal monitors installed is unrealistic based upon the production capabilities and also trying to balance the idea that we are moving to a new generation. I really urge you, if you have not had the opportunity, to be briefed in more detail about this next-generation leap that DNDO is doing. And with the support of Congress, with a half a billion investment in this office, to move to a much more strong tool.

And so this is the constant tradeoff about risk and speed of technology and innovation. We are trying to balance the current generation of tools and the next-generation deployment and to bring

these two into harmony in a way that gets us a stronger set of tools out there for the work we have to do. It is a refinement. We can get to, for example, 98 percent coverage on exit from our ports in the United States into the country of trucks carrying these containers out by December of next year. That is the plan. And we would say to get that last 2 percent is a massive investment which should not probably be spent. We can tackle that 2 percent with portable radiation detecting programs that come into a small port that has very low volumes on a given day and, with a random basis, make such a presence in that port that we would have a deterrent effect.

So there are details like this, Senator, that I think we should work through with you.

Senator LIEBERMAN. I appreciate the answer. Those are differences, but they are bridgeable. Those are not chasms that cannot be bridged, and I think the sooner we do that, the better everybody will be.

I want to pick up on, in the time I have remaining, your last point. Under the DHS Secure Freight Initiative, you have stated the Department goal, which is to inspect 100 percent of all containers coming into a U.S. port for radiation and overseas to materially increase the number of containers inspected by radiation detection tools and non-intrusive inspections, including large-scale X-ray devices. And today, you again stated the goal of 98 percent inspection.

But as we have been educated on the Committee and as the Permanent Subcommittee on Investigations (PSI) last week heard from Steve Flynn again, a very strong argument was made that unless we have both the portal monitors and the non-intrusive X-ray equipment, we are not really inspecting. Am I right that the 98 percent goal you talked about is for portal monitor inspecting?

Mr. JACKSON. Yes, sir.

Senator LIEBERMAN. So as I understand it—you correct me if I am wrong—the portal monitors inspect a container, and they can detect radiation. But they cannot detect the nightmare package of a dirty bomb or a nuclear weapon that is shielded because the shielding is there to stop the radiation from coming out. And that is why the non-intrusive X-ray equipment is necessary because it can see the shielding, and once it does, presumably, the container gets pulled off and gets physically inspected in some way.

So my concern is that the budget that DHS has given us for the coming fiscal year includes $178 million for additional radiation portal monitors, which does move along at a good pace, and I appreciate that, but just $33 million for additional non-intrusive inspection equipment. So I wanted to ask you, do you agree that we need both types of technologies to ensure that neither nuclear or dirty bombs are able to be smuggled into the country, and if so, why are we not appropriating up to that level to achieve that level of protection as soon as possible?

Mr. JACKSON. Both tools are valuable tools. They are not the only tools that help us address the risk that you are presenting.

The first point, again, is the layered security idea. Better targeting and a better profiling of the container is the starting point for making this assessment.

Senator LIEBERMAN. And that is the kind of computer work——

Mr. JACKSON. That is the ATS—exactly, yes, sir.

Senator LIEBERMAN. And that is great.

Mr. JACKSON. So that is part one.

Senator LIEBERMAN. The beginning.

Mr. JACKSON. Part two is then we would inspect all of those containers with both tools for the high-risk ones that we have identified as high risk. We would randomly inspect other containers both for radiation and using the large-scale X-ray machines so that we have some check and randomness about the process of looking with both tools. And then the idea of the radiation portal monitors on exit is, again, aiming to the goal of 100 percent of those containers leaving having this additional check. In other words, it was not—we cannot inspect literally through these two tools everything coming off of a ship without fundamentally changing the business design of port operations, as I think Senator Murray mentioned. But as we get these tools and test them in configurations where we can make them intersect in ways that balance security and mobility, we are eager to deploy them in that fashion. That is why the idea of the ICIS program overseas inbound of trying to find a way to align in the inbound lane the two things would be another layer of security.

Senator LIEBERMAN. Let me interrupt, with thanks, because my time is up. But as I understand the Administration request, it will bring us to a point where, by the end of 2007, every port in the United States will have a portal monitor.

Mr. JACKSON. It will be by that point 98 percent of all the containers leaving a port would be done.

Senator LIEBERMAN. OK. Pretty good.

Mr. JACKSON. And then, sir, in those ports that do not have the lane equipment, there will be handheld devices; there will be random inspections using portable tools. So there will be a concept of operations that we can move through in those ports as well.

Senator LIEBERMAN. But the $33 million requested for non-intrusive inspection equipment, which can detect the shielding on a potential radiation-containing container, will only cover five prototype systems. So that is leaving—in other words, on this schedule, when do we get to a point where we have enough equipment to see the shielding that may be covering a dirty bomb or a nuclear weapon?

Mr. JACKSON. Well, again, we are doing that for every one of the high-threat containers that we identify. I would like to be able to get you a schedule, if permitted.

Senator LIEBERMAN. I would appreciate that.

Mr. JACKSON. That will give you a deployment schedule for future years, commitment of large gamma ray, X-ray type machines.

Senator LIEBERMAN. Bottom line, I think we are not spending enough fast enough in this area, although you are making progress, and I thank you for it. Thanks.

Chairman COLLINS. Thank you. Senator Coleman.

Senator COLEMAN. Thank you, Madam Chairman.

Secretary Jackson, the core foundation for our inspection program really starts with container profiling. We put a lot of stake in the targeting system, the computer program.

Just a couple questions. On the panel at my hearing last week, we had somebody from the World Shipping Council. They raised a concern about data, about entry data, and apparently before you can pick up a cargo container, once it is in the country, there are certain entry data that you need. They are concerned—and apparently they indicated that they have raised this with DHS—that this is the kind of data that needs to be looked at before the container comes into this country. And there was still concern that it was not. So, yes, you get it, but the comment by the Chairman was basically saying that it is already in, the container is already here. Obviously, we are safe when we push it back.

So my first question really has to do with the data that we have and your sense of confidence that it is sufficient to make the critical and profound judgment about whether there is any risk in this container.

Mr. JACKSON. I am going to say exactly what you said in your opening remarks. We have made tremendous progress here. There is a lot more to do so. So there are two parts of the data filing equation. One is the 24-hour notice, 24 hours before lading, before we put a container on a ship, they have to give us a core number of variables—I believe it is 22, but I may be wrong by a small amount—variables that come in that help us score risk. That again is pinged against a large database and a big history that helps us understand where these variables tease out risk. So the combination of those two things help us profile.

In addition, before arrival into the port but after the ship has left overseas, we get further data relating to the customs transaction. That data is gone back again and fused with the Coast Guard data, which was receiving information before arrival, both about the ship and the mariners on the ship.

So we take the ship, the mariners, and the cargo, and we profile, screen, and assess when it is farther out, before it has left, and also shortly before arrival.

Your core question goes to, I think, the importance of Secure Freight. We need more data elements to get a richer stew of data about the pre-history of that container. There is such data in the supply chain out there. We are just not getting it, and we are not fusing it as part of this risk analysis. By getting additional data, we can move from this level to this level, and we should do exactly that.

Senator COLEMAN. And my concern is that the whole system really, which is a targeted system, essentially rests on that. So the concern that I have raised before is the validation of ATS. Do we know that it is working? We look at high-risk cargo, but a lot of cargo that goes by is not high-risk. Are we confident that we are getting the high-risk stuff, that we are not missing something?

And so I continue to have this concern about the amount of data, the type of data, when we get the data, since so much rests on the fundamental early determination: Are we looking at something with risk?

Mr. JACKSON. Yes, I think we are doing a very good job. I do not think we are doing a perfect job. I will tell you, we will never do a perfect job. There is no risk assessment engine tool or model known to man that is perfect. We are all about reducing risk, and

you understand that very well. I think we can do more here, and I think we have to take a fundamental business model leap. Scraping the waybill electronically and assessing what is there is not where we need to be. So what we are going to have to do is something that is more complex, more time-consuming, but I think more effective, which is to take the various different supply chain partners, the people who order goods to be imported, the people who fulfill those orders, the subcontractors that are associated with the fulfillment, the drayage firms that move it out of a point of manufacture and into a port; if it is an intermodal move, the rail touch, the customs brokers, the 3PL people who manage all this. All of these entities have data. We have to find a way, without causing the economy to grind to a halt, to be able to fuse that data in some intermediary organization between the supply chain actors and the governments. And if we can fuse it appropriately and then spread it to the government, we will tap into our A system. We will get a more rich analytical tool to evaluate that data. We will also, if we create this right as an intermediary between us and the private sector with some investment from the government sector to help make it work, prove its concept, audit and monitor its activity, we can then create an international tool.

Right now we have been, in the first generation after September 11, talking almost exclusively about what the United States can do to protect ourselves. We need to take this to a more global basis so we can help our colleagues around the globe understand they need to be doing risk profiling and that they will contribute to the store of data that is being used to manage this.

So I think there is a new business model. I am very excited that it has an opportunity to be transformationally helpful in improving our capability.

Senator COLEMAN. My time is running short. I am not going to get to the follow-up, but just——

Mr. JACKSON. I know your question. I would be happy to answer it.

Senator COLEMAN. First, I hope it is our goal that we are inspecting, that we are having some kind of review of all high-risk cargo before it gets to our ports. That needs to be the goal. And, second, we need the cooperation of foreign governments, and we have to push them to do this or else tell them we are not bringing the stuff into our country. There are still too many high-risk containers out there that we have identified as high-risk and that we have asked to be inspected. We do not have that cooperation today, and I think we have to demand it. And if we are not getting it, just say it is not going to come here until that takes place.

Mr. JACKSON. Madam Chairman, can I give just a little bit of a gloss on Senator Coleman's concern? I was not adequately capable of answering your question when I spoke to you last week. I will try another shot at it, and then I would be happy to go further at another time.

The data that Senator Coleman has pointed to shows a question about what amount of cargo that we flag for a foreign country is actually being inspected in a CSI port. And here there is a distinction which my CBP colleagues have helped to educate me about.

There is a referral and a request. When we work in the targeting center, we first begin to aggregate data, and we begin to look at a container that may be in a CSI port and has not yet been loaded and sent. And we frequently have a referral, as it is called in CBP, in which we probe our colleagues in the Customs Service of another country and say, for example, there was an inadequate amount of data about the shipper itself. We have not seen him shipping things into the United States. We do not have that component of the risk—which is just one component of the risk work—fleshed out in any meaningful way. So it may turn out that the customs people in another country say, "We have a lot of data about that, and here is that data." Our CSI colleagues find it, and that lowers our concern about that particular container.

When we complete that assessment, we identify containers and have what is called a request to look at that container. The requests are averaging in the area of about 89 percent fulfillment prior to a container coming our way. So when we perfect an investigation from referral to request—and I believe that this data that you had showed referral data rather than request data—we are getting a much higher compliance level. Is it 100 percent? No. Should we look for 100 percent? I believe we should aim as a goal for that. But you see here we are doing very much more, and when it gets to the United States, 100 percent of all these containers that have not been reconciled abroad are immediately put into the system for reconciliation.

Senator COLEMAN. Thank you, Madam Chairman.

Chairman COLLINS. Senator Lautenberg.

Senator LAUTENBERG. Thank you, Madam Chairman. I apologize for coming in so late. We had another committee hearing, and it took more time than we expected, so I missed an opportunity to hear the Secretary's statement and some of the questions. I hope none of this is redundant.

I am going to use part of my time to make this statement. The proposed Dubai Ports World deal stirred up a lot of controversy, particularly because the Administration handled it so poorly. It should have been investigated more closely before it was rubber-stamped. The Dubai Ports World fiasco woke up the American people to the fact that a good job has not been done protecting our ports since September 11.

I was Commissioner of the Port Authority of New York and New Jersey, and I have been sounding an alarm on port security for many years. Now, I understand our colleague and friend, Senator Murray, knows how vulnerable our ports are, and I commend her for addressing the issue. Unfortunately, I do believe there are some major problems with the bill before us today.

Instead of meeting the 9/11 Commission demand that security grants be based on risk, it would return us to the days of the less responsive distribution of funds. Now, I worked hard to change the system for port security so grants would go to threatened areas where the impact would be the greatest. And I cannot support any measure that takes a step backward in this regard.

The measure also would continue to outsource many important links in the security of our ports by relying on voluntary actions by private companies. Additionally, I am disappointed that the bill

once again extends the deadline for DHS to develop critical standards for container security.

So when something is this important, you have got to meet a deadline, and the job should already have been completed. By failing to meet its deadlines, DHS gives the impression that port security is not quite the high priority that many of us see it, and I certainly hope that is not the case.

Mr. Jackson, what is the Department's view about port security grant programs being entirely risk-based in their distribution?

Mr. JACKSON. Senator, we believe that risk-based is the core of what we should be thinking about when we make these port security grants. As in the entire world of security, we can never address fully every single thing that might be a good idea. We have to triage in some significant way how to invest those monies.

We have had an exchange about the idea of how to structure grants to try to drive it to a more risk-based model by giving States some flexibility, and that is the Administration's position. We will, however, in whatever form of grant program we have, as we did last year, put risk at the core of the equation.

We had a program last year of port security grants, which I think did just that and made a very strong focus and improvement on analytical, measurable results that were derived from the people in our ports.

Senator LAUTENBERG. I am not sure where you are going, Mr. Jackson. Does the Department view risk as the critical factor in distributing port security grants? Now, I heard the Secretary, Mr. Chertoff, say that he believed that is the way it ought to be done. He said it publicly several times.

Mr. JACKSON. Yes, sir, and that is how we did it last year.

Senator LAUTENBERG. OK. And with the pending bill, do you see that same requirement to be in there?

Mr. JACKSON. I think the bill reflects an intent—which I cannot validate, and I would defer to the authors of the bill—that would spread more money across a larger spectrum of ports and that is not in full alignment with where the Administration was, for example, in last year's port security grant program.

Senator LAUTENBERG. In the bill it says the Secretary, acting through the Office for Domestic Preparedness, shall establish a grant program to "fairly and equitably" allocate Federal financial assistance. So that ducks the question, very frankly. It certainly does not emphasize it. And that is something—I lost in this Committee 15 to 1, so you can see where——

Chairman COLLINS. If the Senator would yield on this point, and I will yield him additional time, the bill that Senator Murray and I have drafted establishes a competitive grant program. It is not an automatic entitlement for each port, so it is consistent with the 9/11 Commission and with what you said, so I think you have misread the bill.

Senator LAUTENBERG. With all due respect, Madam Chairman, when I read this language—and I do not know what the criteria is for competitive opportunity. Does that mean competition will include the risk factors exclusively, or will it allow for other things as well?

Chairman COLLINS. All entities that are subject to area maritime security plans under the Coast Guard are eligible to apply. But it is the Department's decision on who gets funded, and that is a risk-based decision. It is a competitive process that looks at the quality of the grant applications.

Senator LAUTENBERG. Well, I regret to continue this discussion because I do not see it firmly coming down on risk-based. And when I have 2 miles within my State declared to be the riskiest 2-mile target for terrorists in this country, abutting the port, less than 2 miles from the airport, Newark Airport, a giant airport, and we devote any of these funds to anything other than risk I think is less than a good perspective on how to protect ourselves. So we have this difference.

I understand, Mr. Secretary, that you have been more and more involved in the Hong Kong pilot project, and hopefully, the target is to be able to scan all the containers that come in. Why haven't we at this point worked to develop more of a likelihood that we will have 100 percent screening as a result? Have these tests proved to be effective? Now, I know that you were discussing it, and I am sorry if it is redundant.

Mr. JACKSON. No, sir, Senator. I am happy to address this. I believe that the pilot in Hong Kong is a very promising business model and technology. It is not perfect right now. For example, the data in the pilot phase is simply retained and stored. We would need the data to be able to be networked and used on a real-time basis. There is not a technology impediment to that. We can make that happen, I think. And we need to strengthen the technology tools themselves and the business of how those are operated. We need a business operations plan that tells us how to inspect containers in a more aggressive fashion if they have been flagged for radiation. Again, I believe that can be worked through operationally to do it.

So the sum is I consider this a very promising tool. The most important part that I omitted from that list was that the industry has in Hong Kong decided to assess a fee upon themselves to pay for this, and we again find that a very public-spirited and valuable way of helping us to accelerate this type of scrutiny overseas. And so we are in close conversations with the industry about that.

My boss just got back last night from his trip overseas to look at this. We have talked about it this morning already and will be working it hard.

Senator LAUTENBERG. Has DHS spent some significant funding on maritime container security, would you say?

Mr. JACKSON. Yes, sir, I think we are spending quite a lot of money. This year it is roughly $2.5 billion in the Department for maritime security all up. If you take the period of time from fiscal year 2004 to fiscal year 2007, if the President's fiscal year 2007 bill were to be implemented, we would all up have spent $9.6 billion in that period fiscal year 2004 to fiscal year 2007. That is the whole layer of security using all the tools that we are applying at DHS.

Senator LAUTENBERG. Thank you, Madam Chairman.

Chairman COLLINS. Senator Murray.

Senator MURRAY. Madam Chairman, thank you so much for allowing me to join your Committee and for holding this hearing and for the excellent questions so far.

I did want to just join with the Chairman's and Ranking Member's comments regarding the port security grants because, as an appropriator, I think we are very frustrated that when we do not delineate where this money is going to go, it gets lost, and we have seen that with the lack of funding for fire grants, for law enforcement training grants, for emergency management performance grants that all get lost if we do not specifically say that. In fact, Operation Safe Commerce, which we are using much of what we learned from that experience to write the legislation that is before us, when we funded that I actually had to hold up a nominee from the Department in order to get that funded, even though we had said the funds were going there.

So I think many of us feel very frustrated that ports and cargo security has been sort of the forgotten stepchild of an agency that does have a tremendous amount on its plate, but which many of us see the port and cargo security as an item that we cannot any longer continue to ignore. And that is why I think we feel strongly that funding those and delineating that is extremely important as part of this bill.

And, in fact, Operation Safe Commerce, I believe the report has been sitting on your desk for some time, and I would like to know when we are going to see that because that is essential for us to be able to have the knowledge to move forward.

Mr. JACKSON. I am not aware of the timing of the release of the report. I was told that we are close to a conclusion of the sum-up of the status of what we have learned so far in Operation Safe Commerce. I would be happy to let you know directly what the timetable of that is.

Senator MURRAY. If you could give us that quickly, I think that is really essential for us to have that knowledge and move forward.

Mr. JACKSON. There has been, as you know, as a sponsor of this program, a fair bit publicly released. The last phase of it, I believe, is what has not yet been formally presented publicly.

Senator MURRAY. We are waiting for that.

Mr. JACKSON. Good.

Senator MURRAY. In your response to one of the questions from Senator Lieberman on what you may disagree with, you talked about the incentives for GreenLane post-incident. I would just ask you: If an incident occurred today in the Port of Seattle, for example, as I talked about earlier, how would you resume—I assume everything would be shut down. What would you do? How would you resume any kind of activity today?

Mr. JACKSON. Well, I am not going to dodge your question, but I will caveat it at one point by saying that a recovery plan discussed in full complexity ought to be something that we do in a classified environment so that we can preserve some of the core assumptions about what happens and not unduly expose our operational plan to those who might choose to do harm to the country.

I would say in the structure of this is part of the maritime domain awareness work that we have done. We have drafted a plan on response and recovery. We did this in close coordination with a

wide array of external parties that actually operate these businesses—our port security people, captains of the port, port operators, terminal operators, and others in the ocean carrier business and the shipping industry.

So there is a concept of operations which has been drafted for this, and I would say that one of the keys is to decide what the particular incident was and what is a measured response to that type of incident. So let's say we have a Cole-type of attack, which I believe is, in the hierarchy of maritime threats, not an inconsequential concern. We would have a different type of response to that, which would not, in my view, shut down commerce automatically in order to be able to respond to that type of incident.

If we had another type of attack, a nuclear explosion in a container, that would be a higher level—and that is the scenario that you discussed this morning already earlier. That would be a higher level of response. Again, I am not certain that we would automatically shut down the entire global system. That is a step that I think we should take with some substantial consideration before we leapt to that conclusion that an attack is an automatic response there. But that would certainly be at the high end or the far end of the equation of risk and would require our most aggressive set of tools, lockdown and other tools to be evaluated for that response.

Senator MURRAY. I think one of the holes that I know Senator Collins and I have talked about is the resumption of trade.

Mr. JACKSON. Yes.

Senator MURRAY. Senator Coleman has mentioned it as well, and I think it is very clear that we need a very strong regime in place that we are all confident, whether it is an incident small or large, that we know who is in charge, who is going to be called on, and how that is going to be resumed. So that is why it is part of it.

Mr. JACKSON. In our substantial alignment comment, let me just say I think we are aligned on your concerns in the bill on that score, producing a plan and having the right type of opportunity to share both the public and a classified version with our authorizers and appropriators and other important committees on the Hill.

Senator MURRAY. All right. In my few seconds left, you also responded about delineating timelines because technology might change as well, and I think all of us totally understand that there is a lot of great technology out there. But as someone who grew up without a color television because my Dad was always waiting for the better one to come along, I just think it is really important that at some point we make a decision and we move forward. And if new technology comes along, great, but do not let that be the enemy of the good. So I think that is important.

I thank you, Madam Chairman.

Chairman COLLINS. Thank you for your comments.

I, too, grew up without color television, but it is because my father was colorblind and it did not matter to him. [Laughter.]

Mr. Secretary, thank you so much for being here today. We do look forward to working very closely with you and turning substantial alignment into wholehearted support. So that is our goal, and I do hope that you will devote significant time to working with us because we do want to move this bill rapidly.

Mr. JACKSON. Good. You have my personal commitment to work closely with you.

Chairman COLLINS. Thank you very much.

I am now pleased to call forward our final panel of witnesses. These witnesses bring great expertise in maritime security and the security of the international supply chain.

Captain Jeffrey Monroe is the Director of the Department of Ports and Transportation for the City of Portland, Maine. He is a valuable advisor to me on all issues involving our ports, and we consulted closely with him in drafting this legislation. In addition to his responsibilities at home in Maine, Captain Monroe also serves as the Chairman of the National Maritime Security Advisory Committee.

M.R. "Mic" Dinsmore is the Chief Executive Officer of the Port of Seattle. I had the opportunity of meeting Mr. Dinsmore when I toured the port. He oversees the fastest-growing container port in the United States—that was an important fact that I learned during my trip—and he deserves much credit for its growth. I know that Senator Murray and her staff have worked very closely with him.

Andrew Howell is the U.S. Chamber of Commerce Vice President responsible for the Homeland Security Policy Division. Mr. Howell has been the Chamber's principal spokesman and strategist on issues including transportation security, critical infrastructure protection, and cyber security, and we are pleased to welcome you here today.

And, finally, last, but certainly not least, James Hoffa is the General President of the International Brotherhood of Teamsters. He has led this organization since 1998, and he represents a very important perspective on the issue of port security from the perspective of truck drivers and others in the transportation industry. And we look forward to hearing his testimony, particularly on the long delayed TWIC program.

I thank you all for being here today, and I am going to exercise the home State prerogative and start with Captain Monroe.

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

Captain MONROE. Good morning, Chairman Collins and Members of the Senate Committee on Homeland Security. It is a real honor to be here, and my personal thank you to Senator Collins for all the good work that you have done in supporting us in the public sector in regard to homeland security.

Since my graduation from Maine Maritime Academy 30 years ago, I have been involved in the supply chain, in the international supply chain and domestic supply chain of this Nation. Today, I am the Director of Ports and Transportation for the City of Portland. We operate the Portland International Jetport, also coordinate all the surface transportation system around Portland, and obviously look after the Port of Portland, Maine, and their municipal marine facilities.

[1] The prepared statement of Captain Monroe appears on page 75.

The Port of Portland is the largest foreign inbound tonnage transit port in the United States and ranks 25th among the top 100 ports in this country. I currently serve as Chairman of the U.S. Coast Guard Navigation Safety Advisory Committee, a member of the National Maritime Security Advisory Committee, and I am President of the North Atlantic Ports Association.

I appreciate the opportunity to come and talk about the GreenLane Security Act. This bill is coming at a very critical moment in port security and transportation logistics planning. It is time to take a really serious look at international cargo.

The GreenLane Maritime Security Act and its companion legislation, the SAFE Port Act, we believe will greatly improve international trade and certainly will enhance homeland security. We do support the concept of joint operation centers that are contained in the bill; however, as often as possible, we think it is very critical that we do not need to duplicate facilities. We know that there are many facilities already in place. We have one in Portland, Maine, already that works very well. And rather than creating a large set of duplications where you have miscommunications and different organizations working in different areas, we think they should all be combined, and if they exist, to be enhanced. One size can fit all no matter who it belongs to. Also, sharing allows us to do something that is very definitive in emergency management, and that is using resources for critical back-up locations.

We support the expansion of the Port Security Grant Program and commend Senators Collins and Murray on the $400 million level that is proposed in here. We would like to see funding for some regular operations and training included, as well as an expansion of authorized uses for those who need it. Not every port is as wealthy as many of the major port authorities, and many times municipal ports like ours or state-owned ports have minimal resources, and it is a real struggle.

In a regional center, such as Portland, we would be unable to comply with the Maritime Transportation Security Act without grant support. We have been very fortunate that we have received about $3.5 million, which otherwise would have had to have been borne by the taxpayers of the city of Portland, Maine, and that in competition with our schools and social services.

I absolutely agree that these funds need to be designated. There is no question that putting them all in the same pot will create a real problem, and we have seen that time and time again, and certainly in the realm of transportation where commingled monies never get to where they are supposed to be.

Our port security grants have provided us with surveillance and screening equipment, interoperable communications, back-up power, and systems integration capabilities that allow us to share resources and provide for layered facilities right at our own docks and within our city. It involves all the stakeholders, all the Federal, State, and local agencies. None of this could have been funded locally.

We also believe that an Office of Cargo Security Policy will be of great value. It lays the groundwork for the merging of the many separate cargo security responsibilities that have evolved since September 11.

We also believe that the best chance of finding problem cargo is when it is loaded and not when it is on the dock. We support the third tier of the Customs-Trade Partnership Against Terrorism that offers additional benefits to validated participants. And we also support the Container Security Initiative.

But we believe that we are not concentrating all of our efforts in the right place. Weapons of mass destruction do not necessarily come in containers. Sometimes they come in other locations. For example, we very rarely look at the millions of automobiles that are imported into the United States. We believe that these units can be brought into the United States in component form, and a lot of new research is necessary, and I am glad that the bill focuses on that.

We also believe that the almost 4-year delay in implementing the TWIC is absolutely unnecessary and puts this Nation's security at risk. To continue to operate without this TWIC standard is an area of America's greatest vulnerability and can no longer be tolerated. I cannot personally understand why we could do this in aviation in a short amount of time and haven't been able to do it in other areas of transportation.

We also believe that dynamic leadership by the Coast Guard is required in each Area Maritime Security Committee that brings stakeholders together in frequent and robust discussion and exercises. That leadership in most cases is there. But we noticed that a lot of the Federal agencies get a chance to interact with each other but do not often get a chance to interact with State, county, or city municipal officials, and those folks have to be included in all of these mixes.

We continue to see the development of advisory committees on any number of transportation and security issues, and these are essential. The reality here, though, is that most of the committees meet too seldom to be effective and are often ignored by the agencies they advise.

Homeland Security is not about collecting all agencies under one roof. It is about creating a system. And I often tell people about my own experience being in aviation, being a merchant mariner, having to go through four separate security checks under Department of Homeland Security. I was very happy that every time they found me clean, but the reality is it should have never been necessary.

Ports are just one link in our transportation network. No part of the system can be neglected or overemphasized, particularly in restoring that system, if we do have an incident. We talk about ports. We need to think in the concept of total systematic restoration. Moving cargo or people by air, water, rail, or road must be looked at collectively. Every part of our total border system, including all of our land, air, and sea ports of entry, must be monitored and managed completely cohesively through a comprehensive partnership. That partnership has to involve everyone who is in any way involved in transportation security or law enforcement. The standard for that partnership has to begin here in Washington, DC. Agencies in Washington, DC, must work together, and that is very important because that sets the standard and the tone for how they will work locally.

I am often asked if we are better off than we were on September 11. Yes, we are much better off and much better prepared than we were. And, no, because most of what we have created to address our security needs has become overly bureaucratic and sometimes non-responsive.

If we really want to make homeland security effective, it is time to trim our agencies to their fighting weights and set them up with clear, very definitive goals and absolute deadlines that help them to meet their responsibilities quickly. For guys like me who are on the dock, or on the bus or the train platform, or at the airport, we need a level of efficiency that I had hoped would come a lot further than it has today. Nearly all of the legislation you have proposed here today and that has been mentioned in the past is good legislation. But that legislation without dynamic implementation is ineffective. If the lessons of the last 5 years have taught us anything at all, it is that we can be far more effective and efficient in the protection of our Nation than we already are. And I hope that all of this gets us to the point where we can finally solve these problems and get to where we need to be.

Thank you for your time today.

Chairman COLLINS. Thank you. Mr. Dinsmore.

TESTIMONY OF M.R. "MIC" DINSMORE,[1] CHIEF EXECUTIVE OFFICER, PORT OF SEATTLE, SEATTLE, WASHINGTON

Mr. DINSMORE. Thank you, Madam Chairman, and let me start by saying to you and Senator Murray, Wow, tremendous leadership in bringing this GreenLane legislation forward today. I have sat here for 2 hours listening to many presentations, many questions, and let me start by saying I am in awe. I have been here many times for almost 40 years, long before my hair got this color, and I cannot remember a time being more encouraged, more proud of what you are doing in the U.S. Senate.

Now, I have had the good fortune—a little bit of background—of leading the Port of Seattle for almost 15 years, and that is my daytime job. I also have other roles. I am in my fifth year as Chairman of the Federal Reserve Board of the Pacific Northwest. I am in my second year as Chairman of this Nation's Center for Asian Pacific Economic Cooperation (APEC), and I share that with you only to say I get it. I have more than a neophyte understanding of the economic alignment of what you are talking about today, and it has been said so many ways and so many times, our economic vitality of this Nation is at risk unless we move forward with the creative leadership that I have witnessed here today with you and your Committee and many others.

So, almost 5 years ago, I think about what we did within 2 weeks, we, the Port of Seattle, with the open, active endorsement of the five elected officials I work for, we were back visiting with Senator Murray and said the following—we have an airport and a seaport, a very unique institution. We are public, yes, but at the end of the day we look more like a Boeing and Weyerhaeuser than City Hall. We want to make a difference. We have worked so closely with Senator Murray and her leadership for almost 5 years. Are

[1] The prepared statement of Mr. Dinsmore appears on page 79.

we better today than we were 5 years ago, Jeffrey? Absolutely yes. Senator Coleman, we are a long way from where we need to be, and thanks for your comment.

We have been an active participant, hopefully an energetic, supportive one of Senator Murray and this Nation, trying to make our movement of people and commerce more safe and secure, our Nation more safe and secure. We have been actively involved in endorsing the tremendous amount of programs. Secretary Jackson talked about CSI, C–TPAT, Operation Safe Commerce, so we know it well. But here we are, the fact remains, almost 5 years later and finally, Madam Chairman, doing the right thing.

Now, I don't mean to pretend for a minute that this piece of legislation is going to solve this tremendous challenge, but it absolutely is the right thing to do. It is a means to an end, helping this Nation be more safe and secure.

When I listened to the presenters before me, almost every issue has been covered, but a couple I want to recall again. Please continue your leadership, bring this issue to the U.S. Senate for a positive vote so we can move forward because we have to move forward. When I think about what we have not done yet, we do not yet have an integrated system that ties together with technology what needs to be done. And, yes, fortunately, we are looking at, at the national level, local level, in excess of 4.5 or 5 percent of containers. That is not the only solution. We cannot slow down the movement of commerce, nor should we. And I encourage you to move forward with your piece of legislation that enhances the movement of cargo. But we need the technology, and technology is clearly part of the solution.

Four and a half years ago, Senator Murray, we talked about what do we need to do. Then and now there are three absolute underpinnings of this legislation that I am so pleased with your actions. One, it is about making this Nation more safe and secure in the movement of commerce. Two, it is about expediting, moving more effectively and efficiently the movement of commerce. And, lastly, it is about doing something that is indeed a public-private partnership, and it is affordable. Everything I have heard you say today, Madam Chairman, is directly supportive of those three comments. So I applaud what you are doing again.

But I ask you to consider a couple more things as you move this forward, both of which have been talked about.

Five years later, we still do not have protocols to get this Nation up and running when and if there is an incident. And I am both surprised, pleased, and delighted we have not had an incident, but I think the clock is clearly ticking.

So I listened to Secretary Jackson, and I am a fan of what he is doing in Homeland Security. But when and if there is an incident, we are not going to be shut down for a day. We do not have protocols, and it is not going to be just, well, let's start again as we did our Nation's airports in 4 days. We are going to be down a while. And if, in fact, we do not have protocols, we are not going to get up and running in a manner that we would all support. So we are talking weeks, perhaps longer. So please push that forward. Let the industry be part of the solution as you have in the past.

When I hear us talk about funding—and I applaud your efforts. Is it $400 million, $500 million, $600 million? Please make sure that whatever the number is it is adequate to implement in a way in which we can all be proud of this piece of legislation. And I must tell you, I am somewhat taken with here we are today with tremendous support of the Federal Government and leaders in front of me. We are spending order of magnitude at the Federal level $8, $9, $10 billion a year in our Nation's airports. So when I hear us talk about $400 or $500 or $600 million, I suggest where we are vulnerable today is not at our Nation's airports. It is clearly at our Nation's seaports.

So let me end where I began. Your leadership has been extraordinary. I applaud you, and please keep doing the heavy lifting that we so desperately need. Thank you.

Chairman COLLINS. Thank you. Mr. Howell.

TESTIMONY OF ANDREW HOWELL,[1] VICE PRESIDENT FOR HOMELAND SECURITY POLICY, U.S. CHAMBER OF COMMERCE

Mr. HOWELL. I would like to thank Chairman Collins and Senator Lieberman for the opportunity to testify here today. Before I continue, I would ask that my full statement be submitted for the record.

Chairman COLLINS. Without objection.

Mr. HOWELL. By way of background, the U.S. Chamber of Commerce is the world's largest business federation, representing more than 3 million companies around the world. Our membership encompasses direct corporate members of all types and sizes, trade and professional associations, State and local Chambers of Commerce, and 104 American Chambers of Commerce abroad in 91 countries.

The Chamber appreciates the Committee's continued efforts to bring attention to the important issue of supply chain security. Clearly, the Chamber believes that ensuring the security of our citizens should be America's first priority. And in the maritime security arena, while we have certainly made progress, there is obviously more work to be done.

We commend Chairman Collins and Senator Murray for introducing the GreenLane Maritime Cargo Security Act. Although we have some very real concerns with aspects of the bill, the legislation by and large represents a reasoned approach to the issue. We especially appreciate the attempt to provide incentives for businesses to adopt even more robust security practices.

This approach is consistent with the multi-layered, risk-based approach that the Department of Homeland Security uses to address supply chain and maritime security. The legislation builds on the strength of successful programs established by Customs and Border Protection, including the Customs-Trade Partnership Against Terrorism, commonly referred to as C–TPAT.

Moreover, the United States has worked cooperatively with other countries through the Container Security Initiative and the World Customs Organization's Security Framework.

[1] The prepared statement of Mr. Howell appears on page 85.

Through such partnerships and on their own, U.S. companies have spent a great deal of time, effort, and money on improving supply chain security. Congress should recognize that companies have taken and continue to take voluntary measures to address key security concerns at their own expense.

Although the programs mentioned above do have room for improvement, we believe that they have individually helped improve supply chain security. And when taken in aggregate, they form effective layers of improved supply chain security.

One of the reasons our members tell us these programs have been so successful is that they are not one-size-fits-all solutions. Unlike regulatory regimes, these voluntary programs recognize differences among and between industries and modes of transportation and affirm that what works in one sector or company may not work in others. Flexibility is key to their success.

This bill would eliminate this flexibility, which leads me to our chief concern: The proposal to regulate the now voluntary C–TPAT program. We strongly oppose the idea of regulating a program that has been successful precisely because of its voluntary nature. Provisions that would require the Secretary to promulgate regulations that describe minimum requirements, program tiers, and program benefits of C–TPAT and GreenLane, respectively, run counter to how our member companies have built their security programs. This would actually damage the cooperative nature of the program and limit the ability of both government and those who move goods globally to evolve in an ever-changing security, economic, and technology environment.

Our second concern with the legislation relates to the confidentiality of information collected from businesses. While provisions in this bill would authorize the government to collect information about business operations and security procedures, there are insufficient safeguards against the unwarranted distribution of the information or data.

Third, we believe this legislation would impose significantly new compliance burdens on small and medium-sized firms. As written, the legislation does not adequately address the regulatory compliance costs that would be imposed upon such firms.

Finally, we question the wisdom of permitting new third-party validations of supply chain security practices of C–TPAT participants. The use of third-party validators raises issues of cost, confidentiality, and practicality. Instead, we believe Congress should give CBP the necessary resources to conduct the needed validations.

In addition to needing additional validations, realizing the benefits of the GreenLane concept requires new technology. As some of you may recall, last year former Customs and Border Protection Commissioner Robert Bonner laid out his vision of some basic requirements for C–TPAT in order to achieve true GreenLane status. In his words, "No inspection upon arrival—immediate release." Most critical among these requirements was the use of some form of smart box technology to detect and record whether tampering has occurred with a container seal after being affixed at the point of origin.

This technology, referenced in Section 10 of the legislation as "Container Security Devices," is a critical element in making the GreenLane concept a reality.

Over the past year, DHS has conducted tests on technologies designed to track, monitor, and secure containers against compromise. The Department has been very clear that before incorporating these devices into any government-sponsored programs, they must meet a strict 1-percent or lower false positive threshold. We agree wholeheartedly with this requirement.

At the same time, we hope that policymakers avoid mandating any one technology solution, allowing the private sector to choose particular solutions that best fit the needs of their business operations. Technology neutrality is central to fostering competition, innovation, and effective solutions.

Also, DHS must conduct a cost/benefit analysis to ensure that buyers will see an acceptable return on investment.

Finally, policy and operational requirements for container security devices must be established in order to gain the confidence of the trade community. To the extent that this legislation focuses DHS to finally make decisions in this critical area, we applaud the Committee's efforts.

In conclusion, the U.S. Chamber of Commerce and our member companies fully support the goal of continually improving the security of maritime supply chains. In fact, American companies spend billions of dollars toward this end every year. To the extent that this legislation reinvigorates the policy debate and helps DHS make long overdue decisions, we thank and congratulate you. However, we remain concerned with a number of provisions in this legislation, especially the regulation of C–TPAT. We hope that any bill that emerges from this Committee would address the points that we have raised here today.

Thank you for the opportunity to share our views. We stand ready to assist you as you move forward, and we would be pleased to answer any questions you might have.

Chairman COLLINS. Thank you. Mr. Hoffa.

TESTIMONY OF JAMES P. HOFFA,[1] GENERAL PRESIDENT, INTERNATIONAL BROTHERHOOD OF TEAMSTERS

Mr. HOFFA. Thank you. Madam Chairwoman, Members of the Committee, thank you for having me here today. My name is James P. Hoffa. I represent 1.4 million members who are very concerned about the issues of cargo and port security. I commend you and Senator Murray for your efforts to introduce the GreenLane Maritime Cargo Security Act and for holding these hearings because I think they are very important at this time.

My written statement includes specific comments about sections of the bill. It is extremely important that these issues receive the public airing that they really deserve.

Let me start by saying what the Teamsters believe. We believe that American ports should be run by Americans. We believe that port security should be managed by Americans. We believe, as it stands now, that American ports are extremely vulnerable. And we

[1] The prepared statement of Mr. Hoffa appears on page 94.

believe that something should and can be done. The GreenLane Maritime Cargo Security Act will address many of the current vulnerabilities.

These additional security protocols will improve cargo and port security in the future, but steps must be taken now to improve port security. Our union has been sounding the alarm on these issues for decades. Because of the Dubai debacle, our Nation is now focused on port security. And I am here to say let's not lose that focus.

I would like to talk about something I know something about: The labor force that works in our ports.

When a container comes off a ship, a longshoreman moves the container within the port to the container yard. From there, a port driver, a truck driver, picks up the container and leaves the port for final delivery. Longshoremen are regular employees that report every day to a hiring hall. They are the same people every day. But it is not clear who manages the port truck drivers. There are over 100,000 port truck drivers that outnumber all the other people that work at the ports, but there is no employer, no chain of control, and no accountability. And the faces of these drivers change daily. That would be unacceptable at any airport. We are really playing Russian roulette with our Nation's security.

There has been an intense congressional and media focus on funding infrastructure and improvements to protect our maritime ports, and that is as it should be. But no matter how high we build fences or how many Coast Guard cutters patrol the harbors, our ports remain vulnerable when the gates are left wide open. And that is the situation at most of our U.S. ports today.

Former Coast Guard officer Stephen Flynn, in his recent report to the Council on Foreign Relations, said that our Nation's ports are the weak link of port security. They are our Achilles heel.

A recent unpublished report by the Department of Homeland Security found that over half of the 9,000 truck drivers at the Port of New York and New Jersey have criminal records, including smuggling, and over 500 were driving without valid commercial licenses. And it gets worse.

In an effort to ratchet down the rates that truck drivers are paid, the industry uses container-hauling companies who contract with drivers who are exploited by making only $5 to $7 an hour; driving unsafe, polluting vehicles; hauling dangerously overweight containers; operating without driver's licenses; many of them have no insurance, no hazmat certificates, and who are regularly forced to violate wage and hour laws.

This is the dirty little secret of the maritime import/export business. You may not have known this, and the public and press may not have known this. But the port authorities and the terminal operators all know it.

They know that the annual turnover rates for these truck drivers is close to 140 percent, compared to 2 or 3 percent with unionized truck drivers. The steamship lines have posted incredible profits, increasing 100 to 200 to 400 percent, while most of the drivers struggle just to survive.

And the industry also knew that something was critically wrong in Los Angeles and Long Beach when dozens of trucks were aban-

doned, effectively shutting down the terminals, when the INS showed up at the gates.

The industry also knew that something was terribly wrong at the Port of Miami when drivers boycotted the ports in the year 2000 and 2004 to protest trucking companies engaged in insurance fraud.

And the industry knows that the reason one-third of the drivers in the Port of Savannah get daily passes is the fact that they cannot pass the background checks that you need to get a permanent pass.

There can really be no port security when the industry promotes a system where motor carriers operate with pirate companies, when they employ drivers who cannot find work in the regular trucking industry, all in the name of providing low-cost trucking services.

The industry uses the excuse that these drivers are not their employees. They claim the drivers are contractors or independent contractors for container-hauling companies and subcontractors with foreign-owned steamship lines. Like our airports, every one of these ports is controlled by a public authority. They must take responsibility. They must operate as stewards for the public good and place national security first.

Reasonable people can debate the issue of independent contractors, but we also know one other thing: That we really have to have security at our ports. The current system is a security nightmare. It allows port drivers to be treated like sharecroppers on wheels. Most importantly, the independent contractor system means that no one in the industry takes responsibility for these drivers and the cargo that they deliver.

Contrast this with the movement of cargo within the port itself. The U.S. Customs ruled a long time ago. In 1993, they said we are not going to use independent contractors because it is too dangerous to have them move cargo within the U.S. Customs facilities. Customs rejected the use of independent contractors because of the lack of control, and it meant that no one was responsible in the supply chain. And that is exactly my point. Someone must be responsible for these drivers.

So why are these issues of concern for national security? Because these drivers are ruled by fear. Drivers operating illegally in our ports or operating at or near bankruptcy are vulnerable to blackmail and bribery. They are susceptible, knowingly or not, to people who would harm our country. They are in a position to smuggle contraband or, God forbid, weapons of mass destruction. As many port drivers operate under the radar, they are in no position to report to the police a violation if they did see one. This is the nightmare scenario that none of us really want to see.

You know, there is a movie out that I have seen, and I hope you all see it. It is called "The Sum of All Fears," where a nuclear device is smuggled into the port of Baltimore. And I think it is instructive today with the environment we live in. What is fiction today could be fact tomorrow. Could anyone have imagined September 11, four airplanes hijacked simultaneously? You would have said it couldn't happen, but it did.

Most experts agree that a terrorist attack at a major U.S. port would cripple the entire Western economy, and, unfortunately, many experts also say that it is not a matter of if, it is a matter of when the next terrorist attack happens.

So since September 11, the shipping industry has avoided dealing with these security issues. They think that close scrutiny of the ports will increase the shortage of drivers. I am here to say that there is something more important than the companies' bottom line. You get what you pay for. Our Nation's security should not be dependent on the highest bidder or the lowest payer, especially if the highest bidder is the one who wants to cut corners when it comes to safety and security.

Congress must authorize the ports to set guidelines that will eliminate the pirate motor carriers who operate in an underground economy. As General President of the Teamsters, I know our country can do better than allow critical infrastructure to be at the mercy of companies who supply unqualified and uninsured drivers, companies who pay no FICA, no unemployment taxes, no workmen's compensation. These companies are undercutting the possibility of legitimate carriers competing for this important business. As soon as legitimate carriers enter the process, thousands of drivers who can pass security tests will line up for good jobs and deliver good services in a secure environment. Legitimate transportation companies have these obligations to their workers.

The system we have now is bad for our ports and bad for America. If Congress forces the industry to clean up its act, you will have a workforce that can pass security checks, a workforce that will be trained, efficient, and productive, a workforce that will be the eyes and ears of our ports and report any violations to the authorities.

The solution to improving port security is to stabilize the workforce, the 100,000 port drivers. Give them employee status. Give them decent pay. Make them legitimate. Give them a stake in the American dream.

On behalf of the Teamsters, I appreciate the opportunity to testify today. I think it is very important what you are doing, and sitting here today listening to all the comments has been very instructive, and I think we all share the common goals of a safe America. Thank you.

Chairman COLLINS. Thank you.

I am going to call on Senator Coleman for his questions. I am going to have to leave shortly to go to the floor to offer an amendment to the immigration bill. But I will be submitting questions for the record to each of you, and I want to thank each of you for your helpful testimony.

Senator Coleman.

Senator COLEMAN. Thank you, Madam Chairman.

First, Mr. Hoffa, in your written testimony you talked about—you didn't talk about it in the oral testimony, but I want to thank you for raising the issue of checking empties. It is something we do not talk about, and I am sure the folks operating ports understand this. So much of our focus has been what is coming in, but then containers come back, and I would be interested in the percentage, somewhere along the way there is a very significant num-

ber of percentages going back as empties. Does anybody have any information on what that number is?

Mr. DINSMORE. Out of the Northwest, I would say order of magnitude 30 to 40 percent. And let me assure you, Senator, we are checking every one.

Captain MONROE. The same thing on the Northeast. It is about 40 percent, and you can be sure that every one of those empties are checked.

Senator COLEMAN. One of the concerns that we had in the Subcommittee is the ability to smuggle materials to create a dirty bomb into this country, and the concern is if you want to shut down a port, it may be easier on the way back. So I just think it is something that we have to take a closer look at. I have not looked at that as extensively, but, clearly, when you have 30 or 40 percent going back as empties, we have to be focused on every step along the way.

Mr. Howell, just one comment about C–TPAT. I do not read this bill as regulating C–TPAT, as simply ensuring that there is some legislative specificity to say we are going to do C–TPAT. It is still a voluntary program. Where I may disagree—and I am not sure we are disagreeing. Perhaps that is my question. C–TPAT, in effect, gives you a free ride, pretty close to a free ride. You are part of C–TPAT, the chance of your cargo being inspected significantly drops. And so we have an interest in there being specific standards. It is voluntary, but if you participate, you are going to get certain benefits. Is there any question that we need to ensure that those who are involved, voluntarily work in C–TPAT, live up to the highest level of security? And today the problem is we just are not checking that. We have not been verifying it. Do you disagree with the need to verify the process, procedures that folks are using for C–TPAT?

Mr. HOWELL. Senator, I would argue those are two separate issues, the first issue being baseline criteria for C–TPAT and for the different tiers of C–TPAT. CBP has, in fact, published that and made it available on their website, and those baseline criteria are the criteria that C–TPAT participants must hit.

On the validations piece, separate issue, but we do believe emphatically that CBP should be conducting validations of C–TPAT participants, and maybe an appropriate next step is to more robustly fund CBP to perform more of those validations. And if the risk management model supports doing more of that, we are all for it because we believe this voluntary program is, again, one layer in a multi-layered security strategy, but an important one to make sure that it is, in fact, validated going forward against those baseline criteria as set by CBP.

We do not view there being a compelling need to go through the Notice of Proposed Rulemaking process to lay out those criteria.

Senator COLEMAN. So I am still trying to understand what would you find as overly burdensome or regulatory in what is in this bill? I am just not seeing that this bill is doing that kind of regulating. It is simply saying, we want to make sure that C–TPAT is there regardless of whether there are changes in Administration or changes with the head of DHS. We want to make sure this program is part of that layered security system that we have.

Mr. HOWELL. We see it being, again, a voluntary program where the criteria are published on the CBP website now, and going through the Administrative Procedures Act in order to regulate those benefits in our view eliminates flexibility and does not allow us to, on a dime, shift and change security strategies as may be appropriate as threats and technology evolve. We view the flexibility of the criteria as set on the website and as continually evolving over time as being the appropriate step to take.

Senator COLEMAN. I would submit the legislation does not create the problems that you are reflecting. I think we agree with where we want to go on this. We just want to make sure that there is a C–TPAT that is there, regardless of who is in charge, and that, in fact, there are the highest levels, that we are going to push the Department to make sure that this is validated, that it works.

Let me just switch gears and perhaps across the board. One of the benefits in the Hong Kong ICIS program is that you have a system that demonstrates the potential to screen 100 percent of the containers that come through. They are all checked with radiation portal monitors as well. There are questions about how that is used and not used. But one of the key factors here is that the private sector—this was done without Homeland Security grants. The private sector did that.

Do you think that there is the appetite in this country for the private sector to be a full paying partner in the creation of programs like ICIS in any of our ports?

Mr. DINSMORE. Senator, I would suggest to you that what you saw and I have seen many times in Hong Kong is a partial solution, including perhaps ICIS. But to your question, is there an interest in the generic maritime industry to know there has to be a financial partnership? Yes. To what degree and how do we make sure that it is really about value-added? Quite candidly—and we have said it. We have listened to it many times. Putting the emphasis back on the offshore port both with the X-ray and with the radiation portal because, quite candidly, the incident you know about last night in Seattle, where 21 people came into our harbor, a tragedy and an irony, Customs Border Patrol had flagged that container, which is the good news. The bad news, they are here. So it could have very easily been a very different set of circumstances.

Captain MONROE. I have to agree with Mr. Dinsmore. I think the reality here is that there is a blatant economic self-interest on the part of the carriers to make sure that their cargo gets from Point A to Point B with no issues. And, while the industry is always looking for ways to cut its costs, I think they recognize that this is a critical part of their business and that they need to look at this. And I think they would be willing to participate in it.

Mr. HOWELL. And if I could just add, companies have every incentive in the world to protect their people, their property, and their assets. And finding the best ways to do that is what we really need to engage in a public-private partnership to make sure we do going forward.

Mr. HOFFA. I disagree. I think that what we have is a record here of people trying to cut costs, and when it comes to the most important part, these 100,000 truck drivers that are on the docks,

what have we seen? We have seen people shirk their responsibility, want to pay them the lowest wages, get people that are unqualified, and basically to save money to make—to fatten their bottom line. So I do not think that this is working. That is why we have to have legislation or help that basically says we have to make these concessions where they have to hire people who are responsible. Take this TWIC program, move that out where more and more people have to have their backgrounds checked, that is going to get you a higher quality of people. And I do not think the voluntary system is working because we have a record of years and years and years of cost-cutting and these sharecroppers on wheels. It is not working for the truck drivers.

Senator COLEMAN. Thank you, Madam Chairman.

Chairman COLLINS. Thank you very much, and thank you for all the work you have done on this really important issue.

I want to thank all of our witnesses today. I think this has been an extremely valuable hearing that establishes a very good record for us to proceed forward in marking up the legislation, and I appreciate your sharing your expertise with us.

The hearing record will remain open for 15 days for the submission of additional statements, materials, and questions. Again, my thanks to all of you.

This hearing is now adjourned.

[Whereupon, at 12:44 p.m., the Committee was adjourned.]

APPENDIX

U.S. Senate Committee on Homeland Security and Governmental Affairs
Statement By United States Senator Patty Murray
The Future of Port Security: The GreenLane Maritime Cargo Security Act
Wednesday, April 5, 2006; 10:00 AM

Senator Murray's prepared remarks:

I'm here today because our country is vulnerable to a terrorist attack, and time is not on our side. By using cargo containers, terrorists can deliver a deadly one-two punch to our country. The first punch would create an untold number of American casualties. The second punch would bring our economy to a halt. Cargo containers carry the building blocks of our economy, but they can also carry the deadly tools of a terror attack. Today, we are not doing enough to keep America safe. Sitting here in this Senate hearing room, it can feel like the dangers at our ports are a million miles away. In recent years, some in our government have said they could "never have imagined" the devastation caused by recent disasters.

So let me make this threat crystal clear. On March 21st, just 2 weeks ago, a container ship called the Hyundai Fortune was traveling off the coast of Yemen when an explosion occurred in the rear of the ship. About 90 containers were blown off the side of the ship, creating a debris field 5 miles long. Thankfully there were no fatalities, and the crew was rescued. They are still investigating the cause, but it does not appear to be terrorist-related. Now I want you to imagine this same burning ship sitting just a few feet from our shores, in New York harbor or Puget Sound, off the coast of Los Angeles or Charleston, Miami, Portland, Hampton Roads, the Delaware Bay or the Gulf of Mexico.

Now imagine that we're not just dealing with a conventional explosion. We're dealing with a dirty bomb that has exploded on America's shores. Let me walk through what would happen next: First, there would be an immediate loss of life. Many of our ports are located near major cities.
If this was a nuclear device exploded at a major port, up to 1 million people could be killed. [i] If this was a chemical weapon exploding in Seattle, the chemical plume could contaminate the rail system, Interstate 5 and SeaTac Airport, not to mention the entire downtown business and residential district. At the port, there would be tremendous confusion. People would try to contain the fire, but it's unclear who, if anyone, would be in charge. Then, when word spreads that it's a dirty bomb, panic would likely set in. There would be chaos as first responders try to react, and residents try to flee. Next, our

government would shut down every port in America to make sure there weren't other bombs on other containers in other cities. That shutdown would be the equivalent of driving our economy into a brick wall. It could even spark a global recession. [ii] Day by day, we'd feel the painful economic impact of the attack. American factories would not be able to get the supplies they need. They would shut their doors and lay off workers. Stores around the country would not be able to get the products they need to stock their shelves. In 2002, we saw what the closure of a few ports on the West Coast would do. It cost our economy about $1 billion a day.[iii] Imagine if we shut down all our ports. One study concluded that if U.S. ports were shut down for 12 days, it would cost our economy $58 billion.[iv] Next, we'd realize we have no plan for resuming trade after an attack – no protocol for what would be searched, what would be allowed in, and even who would be in charge. There would be a mad scramble to create a new system in a crisis atmosphere. Eventually, we'd begin the slow process of manually inspecting all the cargo that's waiting to enter the U.S. One report found it could take as long as four months to get them all inspected and moving again. [v] Finally, we'd have to set up a new regime for port security. And you can bet that any new, rushed plan would not balance strong security with efficient trade.

The scenario I just outlined could happen tomorrow, and we are not prepared. Nearly five years after September 11th, we still have not closed a major loophole that threatens our lives and our economy. Time is not on our side. We must act.

My Approach

I approach this as someone who understands the importance of both improving security and maintaining the flow of commerce. My home state of Washington is the most trade-dependent state in the nation. We know what's at stake if there were an incident at one of our ports. That's why I wrote and funded Operation Safe Commerce to help us find where we're vulnerable and to evaluate the best security practices. It's why I've worked to boost funding for the Coast Guard and have fought to keep the Port Security Grant program from being eliminated year after year. Right after 9/11, I started talking with security and trade experts to find out what we need to be doing to both improve security and keep commerce flowing. Ten months ago, I sought out Senator Collins as a partner in this effort. I approached Senator Collins because I knew she cared about the issue, I knew she'd done a lot of work on it already, and I knew she was someone who could get things done. Since that day, we have worked hand-in-hand to develop a bill and move it forward. And I'm grateful to Senators Lieberman and

Coleman for their tremendous work. The GreenLane Act recognizes two facts: We must protect our country, and we must keep trade flowing.

The Threat

We know we're vulnerable. Terrorists have many opportunities to introduce deadly cargo into a container. It could be tampered with anytime from when it leaves a foreign factory overseas to when it arrives at a consolidation warehouse and moves to a foreign port. It could be tampered with while it's en route to the U.S. And there are several dangers. I outlined what would happen if terrorists exploded a container. But they could just as easily use cargo containers to transport weapons or personnel into the U.S. to launch an attack anywhere on American soil.

Current Efforts Are Inadequate

The programs we have in place today are totally inadequate. Last May, thanks to the insistence of Senators Collins and Coleman, the Government Accountability Office found that C-TPAT was not checking to see if companies were doing what they promised in their security plans. Even when U.S. Customs inspectors do find something suspicious at a foreign port, they cannot force a container to be inspected. So we have a clear and deadly threat, and we know that current programs are inadequate. What are we going to do about it? We could manually inspect every container, but that would cripple our economy.

The Challenge – Security and Efficiency

The real challenge here is to make trade more secure without slowing it to a crawl. That's why Senators Collins, Coleman, Lieberman and I have been working with stakeholders and experts to strike the right balance. The result is the GreenLane Maritime Cargo Security Act. It provides a comprehensive blueprint for how we can improve security while keeping trade efficient. At its heart, this challenge is about keeping the good things about trade, speed and efficiency, without being vulnerable to the bad things about trade, the potential for terrorists to use our engines of commerce.

How the Bill Works

Our bill does five things. First, it creates tough new standards for all cargo. Today we don't have any standards for cargo security. Second, it creates the GreenLane option which provides an even

higher level of security. Companies have the option to follow the higher standards of the GreenLane. Their cargo will be tracked and monitored from the moment it leaves a factory floor overseas until it the reaches the U.S. We'll know everywhere that cargo has been. We'll know every person who's touched it, and we'll know if it's been tampered with. The GreenLane will push out the borders by conducting inspections overseas before cargo is ever loaded onto a ship bound for the U.S. And we'll provide incentives for companies to use the highest standards of the GreenLane. Third, our bill sets up a plan to resume trade quickly and safely to minimize the impact on our economy. Fourth, our bill will secure our ports here at home by funding Port Security grants at $400 million. Finally, our bill will hold DHS accountable for improving cargo security. DHS is long overdue in establishing cargo security standards and transportation worker credentials. We need to hold DHS accountable, and our bill provides the infrastructure to ensure accountability and coordination.

Thank You

I want to thank all of our cosponsors and partners, especially Senator Collins for her tremendous leadership. I also want to thank Senator Coleman for his leadership and work as Chairman of the Permanent Subcommittee on Investigations. Senator Coleman has helped expose our vulnerabilities and has worked to develop solutions. I also want to thank our Ranking Member, Senator Lieberman for his leadership and support, and I want to commend our cosponsors – Senators Feinstein, Snowe, and DeWine. We're also seeing tremendous progress on the House side with the SAFE Port Act, and I want to thank Representatives Dan Lungren and Jane Harman for their leadership.

Today We Have a Choice

Today, we have a choice in how we deal with the cargo security challenges facing us. But if we wait for a disaster, our choices will be starker. Let's make the changes now, on our terms, before there's a deadly incident. Let's not wait until a terrorist incident strikes again to protect our people and our economy. Two months ago, the American people woke up and spoke out when they heard that a foreign, government-owned company could be running our ports. That sparked a critical debate. Now we need to set up a security regime that will actually make us safer. Until we do so, none of us should sleep well at night. A terrible image like a burning container ship, with a dirty bomb, in one of America's harbors could be on our TV screens tomorrow, so this Committee and this Congress must act today.

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[i] *"The Economic Impact of Nuclear Terrorist Attacks on Freight Transport Systems in an Age of Seaport Vulnerability," ABT Associates, executive summary, April 30, 2003, p. 7, http://www.abtassociates.com/reports/ES-Economic_Impact_of_Nuclear_Terrorist_Attacks.pdf.*

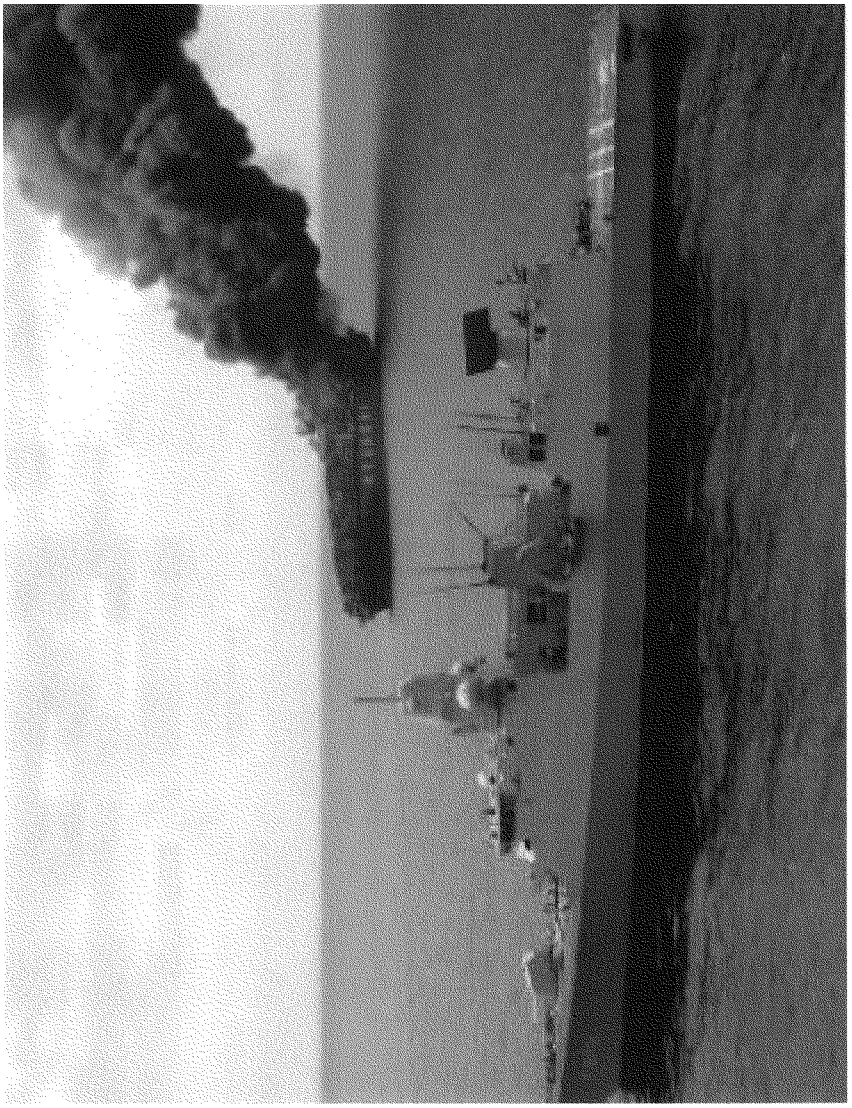
[ii] *"Examining cargo in tens of thousands of trucks, trains, and ships to ensure it poses no threat would have devastating economic consequences. When containers stop moving, assembly plants go idle, retail shelves go bare, and workers end up in unemployment lines. A three-week shutdown could well spawn a global recession." Stephen E. Flynn, "The Neglected Home Front"Foreign Affairs, September/October 2004*

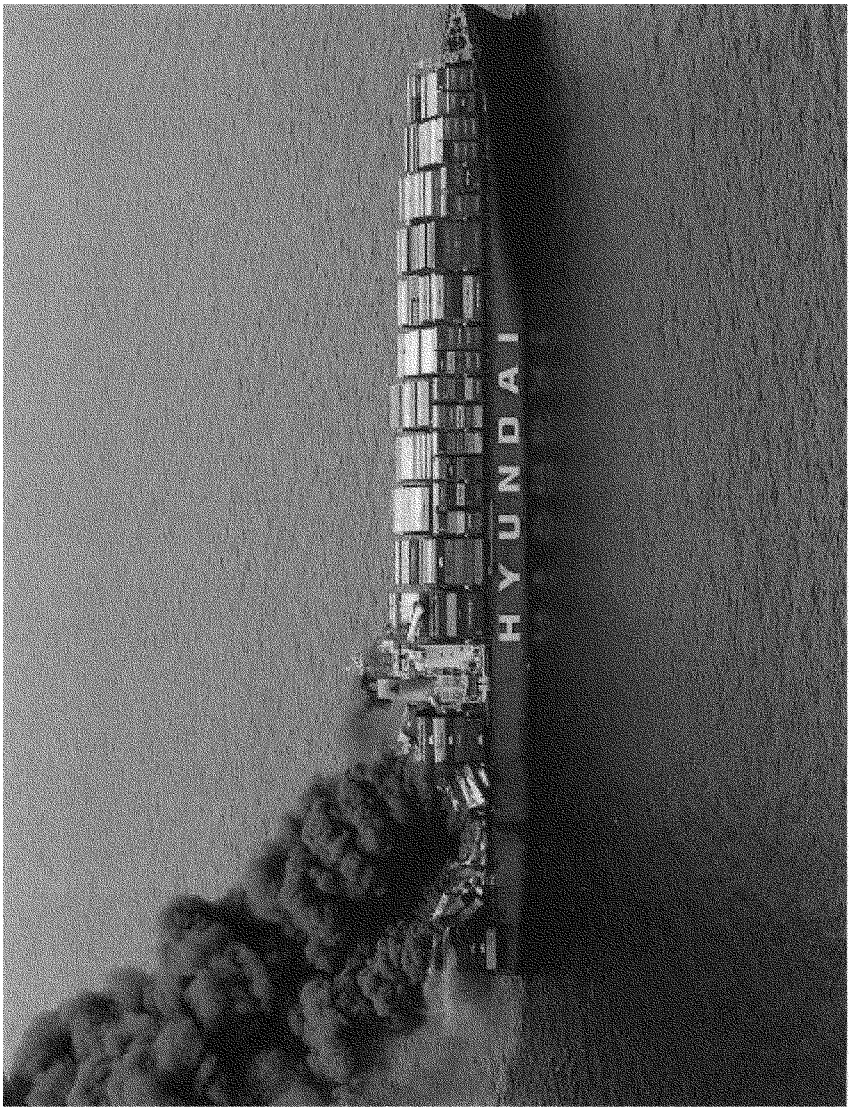
[iii] *Report of an Independent Task Force Sponsored by the Council on Foreign Relations, "America Still Unprepared — America Still in Danger," October 2002, p. 23.*

[iv] *"Port Security War Game: Implications for U.S. Supply Chains," Booz, Allen, Hamilton, October 2002. page 3 http://www.boozallen.de/content/downloads/port_security.pdf*

[v] *Captain William Schubert, former Maritime Administrator, U.S. Department of Transportation, at a Senate hearing, February 26, 2002.*

To receive GreenLane Updates by email: http://murray.senate.gov/greenlane#updates

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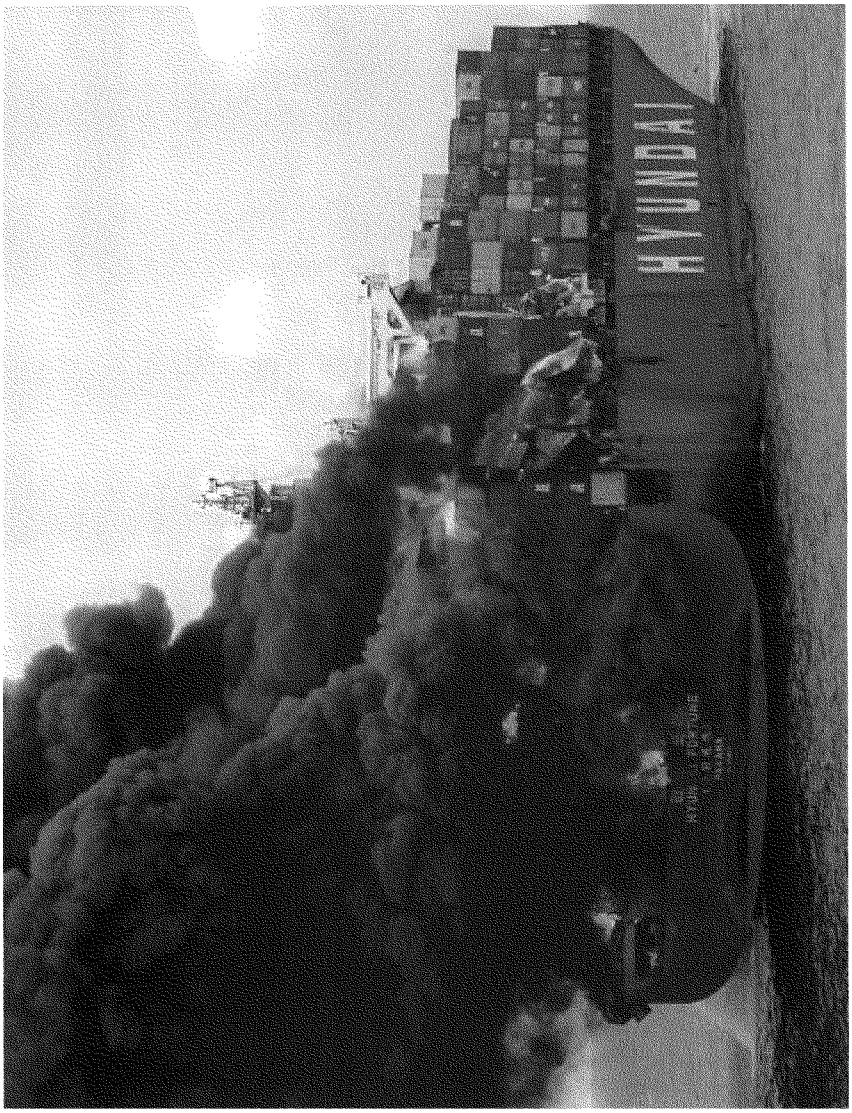
HYUNDAI

Statement of Chairman Dan Lungren

Subcommittee on Economic Security, Infrastructure Protection & Cybersecurity of the House Committee on Homeland Security

Before Senate Committee on Homeland Security and Government Affairs

April 5, 2006

Thank you Chairman Collins and Ranking Member Lieberman, for inviting me to testify before you today. After 16 years away from Congress, it is refreshing to return to an environment in which important issues such as port security are approached in a bipartisan *and* bicameral fashion. The cooperative manner in which the House and the Senate are moving companion legislation on this issue is a testament not only to your leadership here in the Senate, and that of Chairman King in the House, but also evidence of the urgent nature of our task.

On October 18, 2001, Italian port authorities noticed unusual movement coming from a container waiting for the next leg of its transshipment to Canada. Inside the container, a man was attempting to widen ventilation holes for what had become his temporary residence. The container boasted superior amenities to those found in many homes around the globe – a bed, a heater, toilet facilities and water, a lap-top computer and a satellite phone all accompanied the man for his trip. Also inside the container were airport security passes, an airline mechanic's certificate valid for New York's JFK, Newark, L.A. International and O'Hare airports.[1] After the man was temporarily apprehended, he disappeared – his intent and whereabouts to this day remain unknown.

This event, occurring only one month after the tragic events of September 11th, is in part the product of an increasingly liberal global trade system. Only fifty years ago, before the advent of cargo "containers," cargo had to be individually loaded, offloaded, transported to a warehouse, inspected by Customs officers, and then reloaded on to their

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[1] Organisation for Economic Co-operation and Development. "Security in Maritime Transport: Risk Factors and Economic Impact." July 2003. Page 8

respective vessels. Although this system ensured transparency, it was a barrier to trade. Cargo containers are able to accommodate the transport of large volumes of goods without manual intervention by dock workers, making global trade more efficient and more profitable.

Today we must ensure that the efficiency of our intermodal transportation system does not compromise American security. I believe that the "Greenlane Maritime Cargo Security Act," which we are here today to discuss, does this by enhancing supply chain visibility and accountability. By involving everyone in the supply chain, including importers, freight forwarders, shippers, terminal operators, longshoreman, truck drivers and port employees, the GreenLane Act ensures accountability from the factory floor overseas to seaports here in the United States.

Let me pause here and take a moment to recognize the nature of this endeavor by Senators Collins and Murray. I think it is important to note that neither this effort in the Senate, nor the companion effort in the House with the "Security and Accountability For Every Port Act," is an afterthought to the recent Dubai Port World controversy. Senator Collins, Senator Murray and Senator Lieberman began work on this bill months before the now defunct acquisition of U.S. port operations by a United Arab Emirates-owned company made headlines around the country. Similarly, we had begun work in the House. Rather, I believe that the hullabaloo surrounding the DPW deal injected a sense of urgency in to the need for important port security reform.

The GreenLane Act authorizes important programs such as the Container Security Initiative, the Customs-Trade Partnership Against Terrorism, or C-TPAT, program, creates a third tier of C-TPAT known as the "GreenLane," directs the Secretary of Homeland Security to create baseline container security standards and procedures and importantly, creates a dedicated Port Security Grant Program.

The Customs-Trade Partnership Against Terrorism (C-TPAT) program, which is authorized for the first time in the GreenLane Act, incentivizes the private sector to share

the responsibility of protecting our homeland from terrorist attack with government. Entities participating in the international supply chain, from importers to land carriers, are encouraged to enter in to a partnership with the Department of Homeland Security. By allowing companies to volunteer to submit additional information regarding their business operating procedures, manifest data and container contents, they will become eligible for expedited processing once their shipment reaches the United States.

This program lies at the heart of future homeland security business approaches. It serves a dual purpose by protecting Americans from those that would do us harm, but also by creating more efficient and profitable business operations for companies that choose to participate.

One company, Toymaker Hasbro, has seen a five-to-one return rate since becoming a C-TPAT member in 2002. This company spent approximately $200,000 in upfront costs becoming compliant to C-TPAT, and about $112,500 each year thereafter maintaining compliance. After becoming a member, its inspections dropped from 7.6% in 2001 to .66% in 2003. Given that Toymaker Hasbro imported 8,000 containers in to the United States in 2003, and that the port authorities charge $1,000 per inspection, they are saving over half a million dollars a year in inspection costs alone.

The GreenLane Act allows the Department of Homeland Security to focus a greater percentage of its resources on those threats that pose the greatest risk. It makes little sense to spend 99% of our resources hardening 99% of what will never become a target.

That is why I am here today to commend your efforts - your legislation is reflective of a common-sense approach to port security. As you know, Jane Harman, Ranking Member of the House Intelligence Committee, and I have developed House companion legislation to the "GreenLane Maritime Cargo Security Act." Our bill, the "Security and Accountability For Every Port Act," or the "SAFE Port Act," is somewhat different from the Senate legislation before us, but is based upon the common principle of pushing our shores out as far as possible through layered defenses.

The "SAFE Port" Act is a comprehensive proposal to strengthen the maritime transportation system through a multi-layered security strategy that builds on existing initiatives to secure the supply chain from the point of origin to delivery in the United States. This legislation focuses on improving security, both at home and abroad, by expanding capabilities, maximizing available resources, and pushing our borders outward.

The legislation has three key ideas:

1. Enhancing Security at U.S. Ports by establishing a risk-based Port Security Grant Program with dedicated funding from Customs Duties, and requiring the implementation of the Transportation Worker Identification Credential.

2. Preventing Threats from Reaching the U.S. by authorizing and improving two Customs and Border Protection cornerstone security programs – the Container Security Initiative (CSI) and the Customs-Trade Partnership Against Terrorism (C-TPAT), similar to the Senate bill.

3. Tracking and Protecting Containers En Route to the U.S. by improving our ability to detect high-risk containers through strengthening the Automated Targeting System by requiring entry data, establishing container security standards, and supporting additional cargo security research and development, including reviving Operation Safe Commerce.

We held a legislative hearing on the SAFE Port Act on March 16, followed by a markup on March 30. During the markup, in the form of an Amendment in the Nature of a Substitute, we added two key provisions to the base bill. First, we established the

Directorate for Policy, Planning and International Affairs in the Department. Within this Directorate we created the position of Director of Cargo Security.

Also importantly, I worked with Chairman John Linder of the Subcommittee on Prevention of Nuclear and Biological Attack to establish the Domestic Nuclear Detection Office (DNDO). DNDO will work to establish relationships across Departments and levels of government in order to develop a global nuclear detection architecture. Its role in the acquisition, support and deployment of radiological and nuclear detection systems is instrumental in our efforts to secure our ports.

The full Committee met yesterday to hold a legislative hearing on this piece of legislation and a full Committee markup is scheduled for the end of April. As you can see, we believe this must become law sooner rather than later.

Again, I want to thank you for having me before your Committee today. I look forward to continuing to work with you on these important issues.

TESTIMONY OF
CONGRESSWOMAN JANE HARMAN
BEFORE THE
SENATE COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
APRIL 5, 2006

It's a pleasure to be here this morning to talk about maritime security.

Chairwoman Collins – my Senate Security Sister – has been to the Port of Los Angeles twice in the last year-and-a-half to assess best practices and observe how various agencies and levels of government cooperate and coordinate.

She even buckled up in a Coast Guard helicopter to see the complex from the air. Now if I could only get her to go for a run on the beach…

But it was during our work on the intelligence reform bill in 2004 that Senator Collins, Senator Lieberman and I really bonded. It's great to be working with you again, and on an issue of such importance to homeland security.

If there is a silver lining to the recent Dubai Ports World debacle, it is that it roused Congress from a deep security slumber. Congress and the American people are now focused on the huge vulnerability of our seaports.

I applaud your leadership and initiative on this issue. You, and your partners Senators Patty Murray and Norm Coleman, have a terrific bill in the GreenLane Maritime Cargo Security Act.

My friend Dan Lungren and I used many of the ideas in your legislation in crafting our SAFE Port Act.

Let me share with you my worst port security nightmare – the one that really keeps me up at night.

Imagine for a moment an ordinary shipping container, labeled as furniture, which is loaded onto a freighter at the Port of Jakarta in Indonesia. Instantly, it joins thousands of other weathered cargo boxes bound for a West Coast destination. But tucked in among the hand carved tables and chairs is a small box, no larger than a carry-on suitcase. In it is a dirty bomb, undetectable in its lead shield.

Imagine that, three weeks later, this same container is off-loaded onto a dock at the Port of Los Angeles, the bomb is placed on a truck and detonated in downtown LA, rendering it uninhabitable for 30 years.

This is no hypothetical, no worst-case scenario. This is a real threat that Congress and the White House must address.

Last year, at the Port of Los Angeles, we had a glimpse of what's possible. On two occasions, sharp-eyed dockworkers spotted people emerging from cargo containers labeled "clothing."

As it turned out, these 51 stowaways – more than twice the number of terrorists who attacked us on 9/11 – were immigrants from China seeking a better life. But they could have been members of a terrorist cell intent on doing serious harm.

Why did these incidents happen despite the steps taken by the Homeland Security Department to improve supply chain security?

First, as others have said, we still do not really know what's in the box.

Second, the system used to determine whether or not a container poses a threat is flawed.

Third, many ports do not have the technology in place to screen containers for contraband or weapons of mass destruction.

And fourth, CBP and the Coast Guard do not have adequate personnel to examine containers and conduct inspections throughout the worldwide supply-chain and at US ports.

The legislation we are discussing today is strategic, comprehensive and badly needed. I am proud to be a part of this bipartisan, bicameral effort.

Port security must be layered and strategically structured to enhance safety without disrupting the flow of trade. Terrorists will seek asymmetries in our security network and look to strike where we are weakest.

It is impossible to hand search every container entering the country. Our bill would push out our borders and help prevent bad actors and hazardous materials from reaching American soil in the first place.

Central to success – on port security and the war on terrorism in general – is better intelligence and better technology. These two coordinates apply as much to immigration and border points of entry as they do to port security.

Timely, accurate information and intelligence is the major lynchpin to the battle on terrorism. We can lock the front and back doors to terrorists, but we can be assured they will try to find a side door.

Higher fences are not the answer: experience shows that those intent on entering will find a way. But if we "know" the person or item to look for, we can use resources to keep them out – or find them in our midst. Better intelligence is the key to container security <u>and</u> border security.

Some good maritime security measures have been introduced in Congress since 9/11, but they have languished.

Now, I believe Congress is appropriately focused. The House Homeland Security Committee held a final hearing on our SAFE Port Act just yesterday and it will be marked up before the end of the month.

To my friends here who are familiar with the workings of the House, this timeline is nothing short of a legislative miracle.

But time is of the essence. The terrorists aren't waiting on the legislative schedule.

Thank you very much for inviting me here today.

TESTIMONY OF

DEPUTY SECRETARY MICHAEL P. JACKSON

BEFORE THE
SENATE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS

UNITED STATES SENATE

April 5, 2006

Chairman Collins, Ranking Member Lieberman, and members of the subcommittee, I am pleased to be here today to discuss S. 2459 – The GreenLane Maritime Cargo Security Act.

Maritime security has been important to the United States since its earliest days. Today we have an efficient maritime transportation system that acts as the backbone of the global economy. That transportation system can also be used to move dangerous cargo to our ports and cities. Any disruptions to that system will have immediate and lasting consequences for our economy and the world at large. The Department of Homeland Security (DHS) commends the work of this Committee in addressing the vulnerabilities of containerized cargo. Our leadership is grateful to this Committee for this hearing and your work to pass important legislation to strengthen maritime cargo security.

Since September 11, 2001 we have made transformational improvements in the extent and quality of the layered system of systems now deployed to strengthen cargo security. This year, the DHS will spend $2.5 billion on maritime security. Overall, the Federal Government is spending $2.8 billion, including the Department of Energy's Megaports program. If the President's FY 07 budget is enacted, we will have spent some $9.6 billion in this area in four years (FY04-FY07).

Today I would like to talk particularly about the path ahead to strengthen maritime cargo security from a risk perspective. We have focused above all on the Weapons of Mass Destruction (WMD) threat because of its potential impacts, but I will also touch on measures that will strengthen our ability to detect all forms of contraband and address other risks.

A Layered System of Systems Supporting a Global Network. First, a brief word about our overall approach to maritime cargo security. Our security doctrine is grounded on a commitment to deploy a strong, layered system of security systems. By deploying multiple, mutually reinforcing security layers and tools, we diminish the risk associated with failure at a single point. Some layers may have a more immediate and obvious

security function, such as the physical inspection of a container by Customs and Border Protection (CBP) field agents. Others, such as the Administration's work in global nuclear non-proliferation are complementary, aimed at making it more difficult to acquire WMD components. Security is seldom adequately delivered via a single silver bullet.

It begs the obvious, but bears noting, that we are talking about a *global supply chain* that serves an *interdependent global economy*. Thus, a second doctrinal component of our cargo security strategy has been, where possible, to push security measures out beyond our borders. Close partnerships with the private sector are essential because the private sector owns most of the assets and moves the goods. CBP's Customs-Trade Partnership Against Terrorism (C-TPAT) is an example of such a partnership program.

It strengthens our hand to partner closely with other governments, which is why bilateral and multilateral solutions to supply chain security continue to be a focus for this Administration. The Container Security Initiative (CSI) and our work with the World Customs Organization, the International Maritime Organization and the International Standards Organization have improved security.

Existing Security Architecture. The existing security architecture consists of four core components: (1) vessel security; (2) personnel security; (3) cargo security; and (4) port facility security. Some elements of each of these four components are focused abroad, others at home – thus there are essentially eight areas of activity that capture most of the programmatic focus of our supply chain security work. The draft legislation that is the focus of this hearing appropriately seeks to strengthen most of these categories.

I would like to discuss two particular areas that present significant near-term upside for improving security: (1) improvements regarding DHS's targeting of highest-risk containers and our tools used to inspect containers; and (2) deployment of the Transportation Worker Identification Card for unescorted access to U. S. ports.

Secure Freight. The Department's Secure Freight initiative has two major components: better targeting and enhanced inspection tools.

Better Targeting. CBP's Automated Targeting System (ATS), which is used by the National Targeting Center and field targeting units in the United States and overseas, profiles inbound cargo and identifies high-risk cargo entering the United States. ATS is the system through which we process advance manifest and passenger information to detect anomalies and "red flags," and determine which passengers and cargo are high risk, and therefore should be scrutinized overseas or at the port of entry.

ATS is a flexible, constantly evolving system that integrates enforcement and commercial databases. ATS analyzes electronic data related to individual shipments prior to arrival and ranks them in order of risk based on the application of algorithms and rules. The

container scores are divided into thresholds associated with further action by CBP, such as document review and inspection.

ATS is an extraordinarily powerful "first generation" tool, and a more sophisticated, next-generation tool is under development at DHS as part of the Secure Freight initiative. ATS data is derived from filings of cargo waybills and an extensive historical risk scoring algorithm derived from years of data about containers and inspections.

The next-generation tool will fuse existing data along the supply chain gathered from multiple actors who touch the box from the order, to container origin, to destination. This data aggregation would, in my view, best be fused by a third party intermediary – perhaps formed by the industry itself. The U.S. government would then receive this richer set of data about each container move in advance of lading overseas. It would then inform CBP's container risk assessments. Ideally, the U.S. government would certify one or more such qualified entities formed for this purpose, and would set standards for such data fusion. The intermediary would be rigorously audited.

This approach is the natural extension of the requirement to have better data upon which to score risk of inbound containers. It would support not only the needs of the United States better to understand and assess risk of inbound containers, but also could serve the exact same needs for other nations. This would serve to improve security in the global cargo network and in more nations. This next-generation tool will not grow overnight. But stronger container profiling is possible, and I am convinced that we can make great progress in the near term. I ask this Committee to support our efforts in this area, and would welcome an opportunity to elaborate further in response to your questions.

Enhanced Inspection Tools. Better detection systems can be deployed both abroad and at home. At home, our goal is to have 100 percent inspection of all containers that are transported by truck or rail from a U.S. port into the interior of our country. Abroad, our goal is to increase materially the number of containers inspected by radiation detection tools and by non-intrusive inspections, including large-scale X-ray devices. The Domestic Nuclear Detection Office (DNDO) recently tested new and better fixed, mobile and handheld radiation detection equipment that can be deployed to ports of departure, ports of entry and the marine environment.

In this regard, I would note that last week Secretary Chertoff was in Hong Kong and saw first-hand the Integrated Container Inspection System (ICIS) pilot program underway there. CBP is engaged in a technical exchange to evaluate how the data gathered by ICIS can be used to strengthen our inspection capabilities. After extensive discussion with industry about the ICIS pilot and its underlying technology and business concepts, I am highly optimistic that this pilot can point the way to a collaborative network that can significantly enhance CBP's capabilities physically to inspect a larger number of containers from points worldwide. I'd be happy to discuss with the Committee DHS's thought about how this might develop.

Transportation Worker Identity Card (TWIC). On Friday of last week, the Transportation Security Administration (TSA) published a "request for qualifications" seeking firms who are appropriately experienced and interested to help DHS deploy certain components of the TWIC program. The TWIC architecture, compliant with FIPS-201 technical architecture, will provide an open standard and ensure interoperability and real-time exchange for supply chain security cooperation between the Department and the private sector. This is the first step toward operational deployment of the TWIC program for unescorted access to all U.S. ports. This day has been too long in coming.

This deployment includes accelerated and parallel rulemakings by both TSA and Coast Guard. And it includes a procurement needed to help launch the operational program. Secretary Chertoff has given his team instructions to get this done as quickly as possible. Further details will be forthcoming as part of the rulemaking and procurement actions. This tool will add another valuable layer of security to domestic port operations and will strengthen overall supply chain security.

S. 2459 – The GreenLane Maritime Cargo Security Act. The Department is committed to moving forward on all eight areas of activity regarding cargo security. We believe that this proposed legislation reflects a great deal of solid agreement with DHS, and we will continue to work with the Committee as you continue to work on this legislation. At this point I would like to offer comments on a few specific sections of the GreenLane Maritime Cargo Security Act.

Next Generation ATS. Your legislation calls for improvements in CBP's ATS capability. As my previous discussion of the Department's Secure Freight Initiative shows, we agree that this already powerful tool should be made stronger. We very much look forward to working with Congress on operational details of a second-generation system.

The Movement of Radiological Material. The capacity to detect and identify the illicit movement of radioactive materials across our borders in the commercial supply chain is a critical concern of the Administration. DNDO is working closely with CBP to develop a new deployment strategy that will provide an optimized mix of current and next-generation systems to balance capability, coverage and cost. That deployment strategy will result in screening 98 percent of all containerized cargo crossing the southern border by fiscal year 2006 and at seaports by fiscal year 2007.

The GreenLane Concept. DHS agrees with the concept that we should provide incentives to encourage adoption of security practices that go beyond those mandated by law and regulation, such as practices already adopted by third-tier C-TPAT members. Indeed, vessels that carry cargo that have followed more rigorous security practices throughout the supply chain will tend to be lower risk. This fact should help us triage risk following a maritime incident to resume the flow of commerce.

However, the ability for the DHS to maintain flexibility in allocating benefits and responding to changes in threat is key. As a minimum, a GreenLane program should consider several factors, especially in reestablishing the flow of commerce following an incident. The first factor is the specific nature of the incident. If the incident involved attacks by small boats or other factors not related to the security of the vessel and its cargo, recovery operations would focus less on threats presented by the supply chain. Tactical intelligence could also form a basis for considering certain vessels higher-risk, but the ability to require all containers on a vessel to be GreenLane eligible is not logistically feasible at this point in time. National priorities connected to public health and safety, or support for military logistics, are other factors that should influence the decision on reestablishing the flow of commerce following an incident. The infrastructure of the port along with the ownership and operation of specific terminals also must be considered.

Under Secretary for Policy. We strongly agree with the Committee's proposal to establish an Under Secretary for Policy in the Department as called for in our 2SR recommendation. The legislation also calls for the establishment of a Director of Cargo Security Policy, who will report to the Under Secretary of Policy, to coordinate Department-wide cargo security policies and programs with other executive agencies relating to cargo security. We are moving ahead to implement this recommendation by actively recruiting a well-qualified individual to lead this effort.

Port Security Grants. While the legislation does not specify whether the port security grant program authorized is part of the Administration's proposed Targeted Infrastructure Protection Program (TIPP), I would like to take this opportunity to reiterate that the Administration supports the creation of the TIPP to enable increased funding for protecting infrastructure on the basis of risk that may, if warranted, increase funding for ports. Under the President's FY07 budget request, $600 million is requested for the TIPP grants, which would allow additional resources to flow to port security needs based upon the most up-to-date threat risk assessment.

Technology Investments. The DHS fully supports the concept of investing in research and development to improve our maritime cargo security. The DHS is engaged in a substantial amount of research and development on maritime cargo security solutions, which includes bringing to bear the innovation and market forces of the private sector. While we differ in our method and timing on container standards, we agree in the need to launch a six-sided container intrusion detection system. The DHS is participating in a number of development efforts regarding container standards. We must ensure that any standards are based on the right technology, lest the rush to endorse a standard could result in operational practices that do not appreciably enhance security and may unintentionally impede international trade.

Conclusion. The Department is working closely with other government departments and agencies, with industry, and the international community to establish workable solutions to improve supply chain security. We recognize the challenges that face our programs

and the importance of protecting our nation from terrorist threats to our vital economic engine. We are making significant progress. I would like to thank the Senate Committee on Homeland Security and Government Affairs again for this opportunity to discuss our efforts and comment on this legislation which is so important to the Department and the nation.

This completes my prepared statement. I would be happy to answer to any questions you may have.

"Public Ports and Cargo Security"

Written Testimony before

a hearing of the

U.S. Senate Committee on Homeland Security and Government Affairs

On

"The Future of Port Security: The Greenlane Maritime Cargo Security Act"

by

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Room 342
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Washington, D.C.

10:00 a.m.
April 5, 2006

Chairman Collins, Ranking Member Lieberman and distinguished members of the Senate Committee on Homeland Security and Government Affairs. My name is Captain Jeffrey Monroe, Director of the Department of Ports and Transportation for the City of Portland, Maine. I am also currently serving as Chairman of the U.S. Coast Guard Navigation and Safety Committee, a member of the Maritime Security Advisory Council and as President of the North American Ports Association, which has 135 members located from Port Canaveral, Florida to Sydney, Canada.

Thank you for inviting me this morning to discuss the Greenlane Maritime Cargo Security Act. I believe that this bill comes at a critical time in port security and transportation logistics planning. My testimony highlights areas of the bill that are of particular importance to us.

We support Senate Bill 2459, The Greenlane Maritime Cargo Security Act and its companion legislation H.R. 4954, the SAFE Port Act. We believe that these bills will greatly improve the security of passengers and cargo and are essential as a framework for the future of port security.

We support the concept of joint operations centers, but note that as often as possible, these centers should be part of existing emergency operations centers and not created from scratch. In Portland for example, we have already established a center that could easily be expanded. Separating facilities results in greater costs and communications difficulties as witnessed during Hurricane Katrina. Duplication of efforts is a waste of resources.

We support the expansion of the Port Security Grants program and commend Senators Collins and Murray on expansion of the program to the $400 million per year level. We would like to see funding for operations and training included. This is of particular importance to municipally or state-owned ports with minimal revenues. In a regional center, such as Portland, Maine, we would be unable to comply with the Maritime Transportation Security Act (MTSA) without grant support. We have been very fortunate that, to date, the risks to our port and region have been recognized and we have received grant awards totaling $3.5 million.

Our port security grants have provided us with surveillance and screening equipment, interoperable communications, back-up power, and systems integration capabilities that allow us

to share resources and provide for a layered security plan incorporating stakeholders and federal, state and local agencies. None of those things could have been funded locally.

In concept, we believe that an Office of Cargo Security Policy will be of value, as it lays the groundwork for the merging of separate cargo security responsibilities that have evolved since 9/11.

We continue to believe that our best chance of finding problem cargo is, as it is loaded and will continue to support efforts for screening at foreign ports. We support the third tier of the Customs Trade Partnership Against Terrorism (C-TPAT) (Greenlane) that offers additional benefits to validated C-TPAT participants.

We fully support the Container Security Initiative. We consider this a vital part of protecting our ports, however, We believe that we should not be concentrating all of our effort on containers. WMD's do not require the so called "steel boxes" to move. We believe that in today's climate, items will be brought into the U.S. in component form. Detection of suspect components requires a greater level of sophistication and training. We do not believe that we have concentrated enough research on this effort. We are pleased that the Greenland bill addresses research.

We believe that the almost four year delay in providing Transportation Worker Identification Card standard is unnecessary and puts this nation's security at risk. To continue to operate without TWIC standards in an area of America's greatest vulnerability should no longer be tolerated. I cannot understand why we were able to do this in aviation but not in other areas of transportation.

We believe that dynamic leadership by the Coast Guard is required in each Area Maritime Security Committee that brings stakeholders together in frequent and robust discussion and exercises. Although the Coast Guard exercises its force frequently, our local teams simply do not practice enough.

We continue to see the development of Advisory Committees on any number of transportation and security issues. The reality is that most of these committees meet too seldom to be effective and are often ignored by the agencies they are to advise.

Homeland Security is not about collecting all agencies under one roof, it's about creating a system. Ports are just one link in our nation's transportation system. No part of that system can be neglected or over emphasized. The tide must raise all boats and modes equally. Moving cargo or people by air, water, rail or road must be looked at collectively. Every part of our total border system, including our land and sea ports of entry must be monitored and managed cohesively, through a comprehensive partnership. The partnership must involve everyone who gets a federal or any other type of paycheck and the standard for that partnership locally must begin here in Washington. We believe that S. 2459 is an excellent start in addressing these issues.

I am often asked if we are better off than we were on 9/11? Yes, we are more aware and better prepared than we were, and no, because much of what we have created to address our security needs has become overly bureaucratic and non-responsive.

If we really want to make homeland security effective, its time to trim our agencies to their fighting weights, and set for them clear goals and priorities that we can meet quickly. For the guy on the dock, or the bus or train platform, or at the airport, we need a level of support that I had hoped would have come a lot further than it has today. Nearly all of the legislation you have proposed has our full support, but legislation without effective implementation is ineffective. If the lessons of the last five years have taught us anything, it's that we must be far more efficient in the protection of our nation.

Thank you for your attention.

COMMENTS FOR THE RECORD BY MIC DINSMORE, CHIEF EXECUTIVE OFFICER, PORT OF SEATTLE
SENATE HOMELAND SECURITY AND GOVERNMENT AFFAIRS COMMITTEE, APRIL 4, 2006

Good morning, my name is Mic Dinsmore and I am Chief Executive Officer of the Port of Seattle.

Thank you for inviting me to testify today before your committee on the important topic of the Greenlane Maritime Cargo Security Act. Last year, The Port of Seattle was North America's fastest growing container port with a record 2,088,000 TEUs (twenty-foot equivalent units) moving through our harbor, making it the fifth largest container port in North American.

In addition, the Port has a thriving cruiseship business, grain and breakbulk terminals and owns and operates multiple recreational and commercial marinas. The Port is one of only a handful in this country located in close proximity to a major metropolitan area. We have baseball and football stadiums less than 200 feet from our terminals, a ferry system that carries 60,000 commuters per day, and thousands of Seattlites who work a stone's throw from our facilities. Seaport security is critical to the Port of Seattle and the City for obvious reasons.

Before I begin my testimony, I want to express my sincere appreciation to Chairman Susan Collins who has been a strong leader in the Senate and the nation on the issue of cargo security. She recognized the need for an innovative approach to port security that will not slow the efficient movement of cargo in the global economy. She also recognizes that we can make significant strides in port security within the boundaries of multiple activities that are already being undertaken on a daily basis. The bipartisan and measured approach taken by S. 2008, the Greenlane Maritime Cargo Security Act, is a true testament to Senator Collin's interest in ensuring that ports in our country are secure. Thank you for your leadership, Madam Chairman.

I also want to commend the senior Senator from Washington State, Patty Murray, who has been a staunch ally on this issue and many others over the years. I spoke with Senator Murray shortly after 9/11 and she was already drafting legislation to address port security. She recognized the gaping holes in port security early on and championed many initiatives to protect ports nationwide. We would not be where we are today, on the brink of making a huge impact on port security, without her leadership and dedication and I want to applaud her efforts.

As I mentioned earlier, I am the Chief Executive Officer of the Port of Seattle. I also have an understanding of how a terrorist incident might impact our economy in my role as Chair of the Board of the Federal Reserve Bank of San Francisco. I was recently elected co-chair of the National Center for APEC (Asian Pacific

Economic Cooperation). My forty years working in and with Asia is all tied to the port and maritime business. I have been CEO of the Port for the last 15 years and served as the Port's Chief Operating Officer and Director of the Seaport Division. Before joining the Port I was Vice President for Sankyo Transportation, a Japanese trucking and warehousing firm, Vice President for Burlington Northern Railroad Worldwide and Executive Vice President for Eagle Marine Services, an operating arm of American President Lines or APL Shipping Company, one of the world's largest. I began in the maritime business as port manager for Sea-Land Services, a U.S.-based shipping line and eventually moved to APL as Director of North American Operations.

The Port of Seattle is very committed to ensuring that our port and those throughout the world are as safe as possible. We recognize that any terrorist incident that might occur at our facilities would have a disastrous effect not only on our business, but on the world economy. We saw some indication of those effects a few years ago when there was a 10-day west coast port "lockout" and manufacturing plants in the Midwest began shutting down. A recent study cited a loss of $1 billion daily to the national economy as a result of the lockout.

To address some of the holes we see in port security, the Port of Seattle has partnered with the federal government and numerous private companies to do everything it can to enhance security. We began by participating in SST or Safe and Secure Trade Lanes where ocean-going containers were loaded securely, sealed and tracked on their journey from Asia to the US. We partnered with Savi Technology and Hutchinson Whampoa, the world's largest port operator, as well as the PSA (Singapore Port Authority). The Port of Seattle was also involved in the STAR/BEST pilot project in which maritime cargo containers were loaded in a secure environment, sealed and tracked through their journey from the Port of Laem Chabang, through the Ports of Taiwan and Korea and on to the Port of Seattle. The containers were tracked using a real-time Web-enabled software application developed by Savi Technology. Others involved in this project included the Oracle Company, Parsons-Brinkerhoff and Bearing Point. The National Center for APEC spearheaded the effort.

The Port has also been a leader in Operation Safe Commerce, a project designed to determine the best practices for ensuring that ocean-going containers are made safe and secure when loaded, as they are transported and reach their final destination without intrusion. While it is important to ensure that we are continually improving on the technology used to secure containers, I want to point out that there is a huge body of knowledge out there as a result of the work that the Port of Seattle and others have done in the past. We can build off of this experience and make significant progress in port security without reinventing the wheel or spending more time evaluating solutions. Whatever solution is implemented must be dynamic and changing, but there are measures we could put in place immediately that would instantly improve the security of our ports.

In addition to the Port of Seattle's involvement in various pilot projects since 9/11, we have more than tripled our staff in the security arena and used federal port security grant funds to do things at our terminals that will help better secure them. We have installed cameras, underwater detection systems, access controls for facilities, fencing and much other infrastructure. It is important to note that while we have installed some of this security equipment at container terminals, in our case, the terminals are leased by companies that are generally responsible for their own "on terminal" security with Coast Guard, Customs and Border Protection and Port oversight.

It has been almost five years since the attacks of 9/11 and I must say that I still do not sleep well knowing all the vulnerabilities in our port security system. While some progress has been made, it is not enough. The rate at which containers are screened is abysmal and the controls we have for allowing persons to get onto our marine terminals are almost embarrassing. While the hardworking men and women of the Coast Guard and Customs and Border Protection are to be commended for their work to date, we need to significantly upgrade our efforts at seaports nationwide.

I was alarmed to read recently that five years after 9/11, we still cannot intercept containers carrying significant radioactive material as they enter our country. The recent announcement that the borders were "tested" and sufficient quantities of radioactive material needed to make a dirty bomb easily made it across them is disturbing. I am encouraged by the fact that the tests were conducted by the federal government and it clearly shows a willingness for it to correct problems in the system. The same devices used at the borders are the radiation portals we use at ports. While the trucks in the test were stopped, they were eventually "waved" through after what was to be a careful evaluation of their manifest. The technology worked in identifying the radiation, but the techniques and procedures need some changes. Continual testing and refinement of the system will be critical as we move forward. Operation Safe Commerce has been valuable in this regard and I am pleased to see that the Greenlane bill includes a section to help us continue to refine port security activities.

We must have adequate container security, but we also must not impede the flow of goods. The Port industry is a very good one for the US and creates hundreds of thousands of high-paying jobs and substantial business and tax revenue. This business relies on speed and the ability to get import and export goods to market as quickly as possible. We would be doing a disservice to the many communities and US workers who rely on this business for their well-being if we imposed security systems that slowed the movement of goods in the worldwide trade economy.

The port maritime business is global in nature and we must understand that it will be impossible to keep entities affiliated with other countries out of the US, as

investors or operators of some infrastructure. At the Port of Seattle terminals, which are similar to terminals throughout the US, we have one solely foreign firm operating a terminal, one joint venture terminal operation between a So. Korean firm and a US company and two terminals that are operated by a US Stevedoring outfit -- SSA Marine. It is important to note that the only US-operated firm in the US that can handle large container terminals is Seattle-based SSA Marine.

I strongly believe that the issue of port security should not be tied up in Washington, DC politics. The well-being of this nation is linked to global trade and commerce and we cannot simply say that we will no longer deal with certain countries and continue to deal with others. We must all realize that the maritime business is complicated and global. We have steamship lines that hail from many different countries and entities operating terminals from a variety of nations and of course there is the manufacture of the goods, usually using labor from another nation and selling in retail outlets not only in our country, but in many other places in the world. We must not simply reject foreign investments because many US companies that sell overseas will be hurt as will the US economy. We must recognize that we are trying to secure a global network and that much of that network is owned and operated by private entities, many who have foreign ownership. We must be willing to work with those companies as well as their host governments to ensure the safe and efficient movement of goods in the supply chain.

The Greenlane bill includes a strong role for the State Department and calls for working through bilateral agreements with other nations in crafting our overseas port security activities. I cannot emphasize enough how important our relationships with other countries will be in providing adequate assurances that cargo is safe before it leaves their shores. We should also be prepared for the possibility of reciprocal agreements being crafted by other nations who want to ensure that US export cargo is safe to come to their countries as well.

The key element of S. 2008, the Greenlane bill, is its call for container security standards. I have indicated to you how much we have been engaged in port security at the Port of Seattle and believe that with all the pilot programs we and other ports nationwide have conducted, along with private sector partners, we can move forward with cost-effective container security standards. In creating standards, we can use existing data, technology and practices that can be adhered to by the major shippers and shipping lines. Knowing what is in the container before it gets to our shores is critical and that can only be accomplished by fine-tuning the programs we currently have in place. The CSI (Container Security Initiative) and C-TPAT (Customs Trade Partnership Against Terrorism) programs are good concepts, but we need legislation like the Greenlane bill to make them effective. I recognize that some are saying that these programs do not need to be made statutory, but without the "teeth" of statutory requirements and the subsequent funding, these programs will not

provide the sort of security for US ports that they should. The GAO reports of March and April 2005 pointed out a number of problems with the CSI and C-TPAT programs. While some say that these problems can be addressed without a statute, I believe that they will be more quickly addressed with the statute in place.

Access to marine terminals continues to be a huge problem for us. We honestly don't know who is on our terminals and the documentation we use to verify terminal workers is simply a driver's license, which is one of the easiest documents in the country to "forge." Development of a Transportation Worker Identification Card has been mandated by the Congress for some time and it is clear now that it is more difficult to implement than anyone thought. The Greenlane bill does the right thing in directing DHS to develop an access system for marine terminals. While I understand that some want the crimes that will disqualify a dockworker from obtaining a card to only relate to "terrorist activity," I prefer the crimes protocol used at airports. That system requires an FBI background check and in the case of the Port of Seattle and many other airports, we use a biometric card that ensures that whoever uses the card is the person to whom it was issued.

Lastly, it is important to discuss funding. The Greenlane bill proposes taking necessary funding for its implementation from the $22 billion in taxes, fees and duties currently paid by those engaged in the maritime transportation system and using a small fraction for this bill. Estimates are that only $5 to $7 billion of the entire $22 billion is used for maritime-related programs (agency costs, dredging, etc). The fee issue is especially difficult for the Port of Seattle. We are located very close to the Port of Vancouver, B.C. and additional fees could likely drive cargo north to Canada

For example, the Harbor Maintenance Tax, which is charged in the US and not in Canada, is currently being touted by Vancouver, BC officials as a reason for shipping lines to use the Canadian port instead of either the Ports of Seattle or Tacoma. The tax was initially imposed in 1986 and tripled in 1993. Since this tripling, the Port of Vancouver, BC has grown by leaps and bounds. In 1993 the Port handled about 1/6th the amount of cargo going through Seattle. Currently, the Vancouver Port Authority handles almost as many containers as the Port of Seattle and eclipsed our totals in 2004. The sad thing about the impact of these fees and additional requirements is that they hurt US workers and move jobs across the border. The truck drivers, longshore workers and others affiliated with the Canadian ports are mostly Canadian citizens. We can compete if the playing field is level. The irony is that if additional fees are imposed for security and the US-bound cargo goes through Canada first, we would potentially be reducing the secure nature of those goods because it will be unclear as to whether the same requirements imposed here in the US would be carried out in Canada, yet the product would still transit over the US land border.

Without money to hire the right number of Customs and Border Protection staff to handle the CSI activities in foreign countries the system will not work and the bill's mandates regarding CSI will not be fulfilled. Validation for C-TPAT compliance will also be compromised without adequate staffing. Port security grants are also important and adequate funding must be provided for that program. I want to applaud all the efforts to provide monies in the budget resolution to achieve the objectives of the Greenlane bill and I want to especially thank Senator Collins for her successful inclusion of $300 million for port security grants.

I'd like to end by offering the assistance of the Port of Seattle as you move forward in efforts to pass this bill and strengthen port security overall. As I mentioned before, the Port has been involved in many different projects to further port security. I want to reconfirm our commitment to be a part of the solution. I urge you to call on me and my institution in the future in the interest of improving port security nationwide.

Testimony of

Andrew Howell, Vice President for Homeland Security Policy
United States Chamber of Commerce

"The Future of Port Security: The GreenLane Maritime Cargo Security Act"

Before the

Senate Committee on Homeland Security & Government Affairs

April 5, 2006

Introduction

I would like to thank Senator Collins, Senator Lieberman, and all the Members of this Committee for giving me the opportunity to testify before you today.

My name is Andrew Howell, Vice President for Homeland Security Policy at the United States Chamber of Commerce. The U.S. Chamber of Commerce ("the Chamber") is the world's largest business federation, representing more than 3 million businesses through our federation, which includes direct corporate members of all types and sizes; trade and professional associations; state and local chambers throughout the United States; and 104 American Chambers of Commerce abroad (AmChams) in 91 countries.

On behalf of the Chamber, I would like to express our appreciation to the Committee for having this opportunity to comment on the GreenLane Maritime Cargo Security Act. We applaud the Committee's continued efforts to bring attention to the important issue of supply chain security so that we can better defend our nation from future terrorist attacks while maintaining the vitality of the American economy. The Chamber believes that ensuring the security of our citizens should be America's first priority. We look forward to continuing to work with members of this Committee as you address this important matter.

GreenLane Cargo Security Act

We commend Chairwoman Collins and Senator Murray for taking a leadership role in addressing the very important issue of ensuring the security of the international maritime supply chain. The GreenLane Maritime Cargo Security Act by and large represents a

reasoned approach to maritime and cargo security. At the same time, we are hopeful that, working with Members of this Committee and staff, we can address some significant issues we have with this bill. However, we are most enthusiastic about your attempt through this legislation to provide incentives for businesses to adopt security practices with tangible benefits such as the expedited release of cargo and drastically reduced inspections.

This approach is consistent with the multi-layered, risk-based policy of the U.S. Department of Homeland Security ("DHS") in addressing supply chain and maritime security. The legislation builds upon the strength of successful programs already established by U.S. Customs and Border Protection ("CBP"), including the Customs Trade Partnership Against Terrorism ("C-TPAT").

CBP should be commended for engaging the trade community and foreign governments to develop and implement these programs that improve supply chain security without disrupting the flow of trade and damaging the U.S. economy.

Since shortly after 9/11 the trade community and the Federal Government have worked closely together to strengthen border security and improve the flow of low-risk cargo across U.S. borders. U.S. companies engaged in international trade have spent a great deal of time, effort, and money on improving the security of their supply chains. Congress should recognize that companies have taken, and continue to take, voluntary measures to address key security concerns at their own expense.

The Government has also actively engaged foreign nations in discussions that have allowed for the implementation programs such as the Container Security Initiative ("CSI"), which places U.S. Customs officials at foreign seaports. Moreover, the U.S. has played a key role in negotiating the World Customs Organization's Security Framework. The common element in all of these programs is that they are based on partnerships and input by all affected parties to gain successful outcomes.

Although the programs mentioned above do have room for improvement, many believe that they have individually helped improve supply chain security. When taken in aggregate, they form effective layers of improved supply chain security.

At the same time, Congress should be careful and avoid being overly prescriptive in its approach to this issue. There is no "one-size fits all" solution for improving supply chain security. Because of differences between and among industries and modes of transportation, what works for one sector or company will not work for others. The supply chain is global in nature, and we must therefore work together to find solutions that will work internationally. It is also essential that security programs remain flexible to adapt to meet not only evolving threats, but also evolving industry practices in global goods movement.

Areas of Concern

While we support the basic goals of the GreenLane Cargo Security Act, there are several key provisions of the legislation that we believe merit additional discussion and modification. In general, the legislation places too great an emphasis on C-TPAT along with GreenLane as panaceas for addressing supply chain security. It is important to remember that C-TPAT and individual programs are not the sole solution to supply chain security. These programs are part of a collection of DHS programs that, taken together, comprise a multi-layered strategy to improve supply chain security.

In particular, we disagree strongly with provisions in sections 9 and 10 of the legislation that would require the Secretary of Homeland Security to promulgate regulations that describe the minimum requirements, program tiers, and program benefits of C-TPAT and "GreenLane" respectively. We are greatly concerned that regulation will damage the cooperative nature of these programs and would actually limit their ability to evolve in an ever-changing security, economic, and technology environment.

The practical effect of requiring such rulemakings would be to convert a flexible, voluntary initiative into a regulated program. C-TPAT has worked well, and indeed continues to work well, as a voluntary partnership between government and the business community. Since its inception, the program has served as an exemplary model of how the business community can work cooperatively with government to improve security while facilitating trade. We strongly oppose any attempt to regulate C-TPAT.

Second, the legislation would authorize the government to collect information about business operations and security procedures. The legislation, in its current form, does not contain sufficient safeguards against the unwarranted distribution of information and/or data.

Third, any new security mandates placed upon the trade community will pose a unique burden upon small and medium-sized businesses, which are the job-creating machines of our economy. In particular, the legislation as written does not adequately address the regulatory compliance costs that would be imposed upon these businesses.

Finally, we question the wisdom of using private third-party entities to validate supply chain security practices of C-TPAT participants. The use of third party validators raises issues of cost, confidentiality, and practicality. Instead, we believe Congress should give CBP the necessary resources to conduct the needed validations.

Customs Trade Partnership Against Terrorism (C-TPAT)

C-TPAT continues to be effective precisely because it is a voluntary partnership, and not a regulated program. By working in a voluntary and collaborative environment, the Government and the trade community bring together experts who can openly discuss actions that add real value to supply chain security, without negatively impacting the economy.

As we have seen, government and industry develop effective guidelines that recognize the global and unique nature of supply chains (*e.g.* lanes of supply from China are inherently different from those from Africa or South America) and the differences in commodities and industries (suppliers of automotive parts vs. textile products). The nature of the program allows CBP and industry to work together to respond more quickly to future security, economic, and technological changes.

In contrast, regulation may have the unintended consequence of stifling creativity and discouraging participation in the program. For example, government, the trade community, and technology vendors have been working together to develop technological solutions that would increase cargo security. All parties have put their needs, capabilities, and possible solutions on the table. Regulations that mandate certain technological solutions could stifle such collaborative efforts to create new and better technological solutions and put C-TPAT participants at a cost disadvantage relative to non-participants.

Additionally, the government and the trade community are working together to determine what trade data will actually improve risk assessments and targeting of shipments for examination. All parties are at the table and are robustly discussing potential solutions. Regulations that mandate the content of that data may impede ongoing efforts to determine what additional data elements are needed to enhance our targeting capabilities.

On another note, C-TPAT works precisely because the U.S. government cannot effectively regulate the security practices of private companies in foreign countries. However, participating C-TPAT firms do have the ability to work with these overseas suppliers to implement secure business practices, by conditioning their business relationships upon the implementation and verification of supply chain security procedures.

Furthermore, some proponents of regulating C-TPAT wrongly contend that there are currently no baseline requirements for C-TPAT participants. On March 13, 2006, the U.S. Customs and Border Protection published minimum security criteria for C-TPAT highway carriers. Similar criteria for importers were published in March of 2005. In neither instance were these criteria the subject of federal rulemaking. C-TPAT remains a voluntary public-private partnership, albeit with specific program requirements that must be adhered to by

companies in order to receive tangible benefits. Rulemaking is simply not necessary to establish baseline criteria, and in fact, allows for effective, flexible and customized security plans based on an individual member company's business model.

GreenLane Designation

The legislation proposes to authorize the creation of a third tier of C-TPAT known as "GreenLane" that would confer additional benefits to validated C-TPAT participants that have demonstrated the highest levels of security practices. As noted earlier, the Chamber strongly supports the concept of greenlanes. Providing tiered benefits to companies that have voluntarily undertaken measures to improve their supply chain security is a fundamentally sound idea. In fact, CBP has already adopted a tiered benefits approach to C-TPAT.

However, we question the wisdom of prescribing the requirements and benefits for the GreenLane program in legislation, or even in regulation. Both the business participation and the operational success of the C-TPAT program have been premised upon the notion of flexibility. GreenLane should not deviate from this approach. To the extent that Congress seeks to establish baseline criteria for participation in GreenLane, this would best be accomplished by working cooperatively with the private sector. For example, late in 2005, the Commercial Advisory Operations Committee ("COAC") issued a report recommending tangible benefits that Customs should provide to GreenLane participants.

We would candidly prefer that CBP, using existing authority, aggressively move to make decisions on its vision of a greenlane. However, to the extent that the proposed legislation is an expression of frustration with DHS not making this decision, we agree. Firms have invested millions in enhanced security practices anticipating a future benefit from a greenlane program that has yet to materialize.

Container Security Devices

In describing the GreenLane concept last year, former Customs and Border Protection Commissioner Robert Bonner laid out the basic requirements that C-TPAT participants must undergo in order to achieve true green lane status, that is "no inspection upon arrival—immediate release." Most critical among these requirements is the use of smart box technology that can detect and record whether tampering has occurred with a container seal after being affixed at the point of origin.

This smart box technology, referenced in section 10 of legislation as "Container Security Devices" ("CSD") is a critical element to making the GreenLane concept a reality. The concept of a CSD can be an integral part of the security screening strategy. CBP's

original plan in December 2003 for a CSD communicated this: "While there will still be spot checks of shipments that raise no red flags, the device serves as a 'sorter,' placing containers into stop-and-go lanes and freeing inspectors to focus on containers that may pose a higher risk."

CSDs hold the promise of providing CBP with information on whether the container was breached between the times it was stuffed and loaded on to a U.S. bound ship. Some CSDs could provide additional data, such as:

- Point of stuffing location
- Identity of person who armed the CSD
- Time that CSD was armed
- Container route information, including transshipment information, as the CSD passes fixed readers

Over the past year, DHS has conducted tests on multiple technologies, from multiple vendors that would be capable of tracking, monitoring, and securing containers against compromise. The Department has been very clear that before incorporating these devices into any government sponsored programs (such as C-TPAT or GreenLane) that the devices must meet a strict 1% false positive threshold. We agree with this requirement. Moreover, policymakers must be careful not to mandate any one technology solution, but rather outline broad requirements of the problem we are trying to solve with CSDs. Technology neutrality is central to fostering competition, innovation, and effective solutions.

Additionally, before incorporating CSDs into the GreenLane, DHS must set standards or issue guidance on the protection of information obtained through these devices. There must also be a cost benefit analysis conducted to ensure that there will be a return on investment, and that these devices will not be cost-prohibitive. Finally, policy and operational requirements for CSDs must be established for these devices so that they can have the confidence of the trade community. Again, to the extent that this legislation focuses DHS to finally make a decision in this critical area, we applaud the Committee's efforts.

Impact on Small and Medium-Sized Businesses

Many existing DHS supply chain security programs are, perhaps unintentionally, designed for large companies that have the economies of scale, internal efficiencies and marketplace leverage to meet demanding requirements. Such large companies employ a "just in time" approach to bringing goods from overseas sources to retail shelves, reducing inventory and costs, while also meeting the demands of consumers. These companies are

therefore both equipped and predisposed to taking the steps necessary to transit the border expeditiously and securely. This then translates into a competitive advantage.

Small and medium-sized companies compete, at a smaller scale, with large companies. They do not, however, enjoy the resources to take costly steps in meeting security requirements. They also do not have the leverage in their buying practices to demand that their supply chain comply with new or extraordinary security measures.

Additionally, small and medium-sized companies employ transportation and other logistics practices that reduce cost, often by pooling those arrangements. An example is their use of non-vessel operating common carriers ("NVOs") to consolidate shipments. These pooled arrangements require different security measures than those utilized by firms shipping in large volumes using full container loads. These small and medium-sized companies are also more likely to use an outside professional, usually a customs broker or freight forwarder, to meet the complexities of moving cargo.

These unique characteristics require that DHS take a more flexible and discrete look at the requirements of small business in the marketplace. DHS needs to acknowledge the differences within the shipping community and permit companies of all sizes to compete on a level playing field.

Moreover, the additional costs that would be imposed by the regulatory compliance framework envisioned in this bill, especially for small businesses, would be steep. Creating more regulatory hurdles for small businesses—such as mandatory "one-size-fits-all" compliance programs—would further obstruct their ability to compete. Congress should bear in mind the staggering cost of additional regulations on small businesses before laying on a heavy yoke of new regulatory requirements:

> *The annual cost of federal regulations in the United States increased to more than $1.1 trillion in 2004. Had every household received a bill for an equal share, each would have owed $10,172, an amount that exceeds what the average American household spent on health care in 2004 (slightly under $9,000). While all citizens and businesses of course pay some portion of these costs, the distribution of the burden of regulations is quite uneven. The portion of regulatory costs that falls initially on businesses was $5,633 per employee in 2004, a 4.1 percent cost increase since 2000 after adjusting for inflation. Small businesses, defined as firms employing fewer than 20 employees, bear the largest burden of federal regulations, as they did in the mid-1990s and in 2000. Small businesses face an annual regulatory cost of $7,647 per employee, which is 45 percent higher than the regulatory cost facing large firms (defined as firms with 500 or more employees)."*

- The Impact of Regulatory Costs on Small Firms by Mark Crain, September 2005.

Third Party Validations

The Chamber opposes the use of third-party validations for C-TPAT members, as both unwise and unnecessary. While we concede that there is a backlog of validations, we believe that the problem has been overstated. According to CBP's own estimates, 66% of all 5,777 certified C-TPAT members are scheduled to be validated by the end of 2006, with validation of 100% of certified members anticipated by the end of 2007. In addition to the 88 supply chain security specialists currently employed to conduct validations, an additional 41 specialists will be employed by the end of summer. We take CBP at its word that these additional resources will allow them to meet their goals. At the same time, we would not object to Congress stepping in and providing additional resources so that CBP can effectively speed the validation process.

In our view, the use of third-party validators differs substantially from simply outsourcing of a government function, which the Chamber typically supports. Such a proposed program, as we understand it, would be tantamount to subjecting companies to external audits. Currently, CBP assigns a supply chain security specialist to each C-TPAT member. These specialists work with the companies directly, gaining a high degree of familiarity with that company's business operations. Moreover, additional questions are raised as to the confidentiality of information collected by potential third parties about business operations and security measures undertaken by C-TPAT companies. We have such concerns about several DHS programs that utilize outside reviews, and to the extent that this legislation highlights this issue, we hope that DHS will take steps to effectively protect such information.

However, if Congress determines that third-parties should be used to conduct validations of C-TPAT members, several issues must first be addressed. First, Congress should require that there is no formal relationship between C-TPAT members and third-party validators. This is necessary to ensure the integrity of the validation process. Second, Congress should recognize that supply chain security validations are unlike other external audits, for the simple reason that supply chain security measures are individually tailored to the needs of each company.

Finally, Congress should answer the fundamental question of who would pay for these audits. Would C-TPAT member companies or the Federal Government bear the cost of conducting these validations? If companies are required to pay for validations, firms may be drawn out of the C-TPAT program. That would, of course, be undesirable.

Office of Cargo Security Policy

Section 5 of the legislation authorizes the creation of an Office of Cargo Security Policy within DHS, headed by a Director. Conceptually, we support the idea of a central point within the Department to coordinate all policy activities related to cargo security. However, we do not see the need for the creation of a new Office of Cargo Security Policy headed by a Director.

We recognize, however, that there is a need for further integration and coordination between all the agencies involved in cargo security. We have long been frustrated by the lack of a central point of contact on cargo security, and have made this point repeatedly to DHS. To the extent that this legislation raises this point more effectively than we have, we appreciate the Committee's support in communicating that message.

Conclusion

In conclusion, the U.S. Chamber of Commerce and our member companies fully support the goal of ensuring the security of maritime supply chains. To the extent that this legislation reinvigorates the policy debate and helps DHS to make long overdue decisions on greenlanes, we congratulate you. However, we remain concerned with a number of provisions in this legislation, especially the regulation of C-TPAT. We would hope that any legislation that originates from this Committee would address the points we have raised with you today.

We look forward to engaging with both the Department and with this Committee to continue effective government programs that further this goal without unduly impairing the flow of commerce. Thank you for providing us with the opportunity to share our views with the Committee on this very important issue. We stand ready to assist the Members of this Committee as you move forward in this effort.

Statement
Of
James P. Hoffa
General President
International Brotherhood of Teamsters

Before the

Committee on Homeland Security and Governmental Affairs

United States Senate

April 5, 2006

"The Future of Port Security: The GreenLane Maritime Cargo Security Act"

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Madame Chairman and Members of the Committee:

My name is Jim Hoffa, and I am the General President of the International Brotherhood of Teamsters. Thank you for the invitation to testify here today on behalf of our 1.4 million members concerning such important issues – cargo and port security. I commend you, Madame Chairwoman and Senator Murray for introducing S. 2008, the GreenLane Maritime Cargo Security Act and for holding this hearing today, so that these important issues can receive the public airing that they deserve.

The GreenLane Maritime Security Act goes a long way in applying additional security layers in the movement of intermodal containers from foreign ports to their final destination in the United States and addressing many of our current vulnerabilities. Improving the Automated Targeting System for identifying high-risk containers and establishing an Office of Cargo Security Policy within the Department of Homeland Security to coordinate policies and programs relating to cargo security are necessary steps that should be taken to safeguard our supply chain. Establishing minimum standards for securing containers in transit is also an important goal outlined in the legislation that should be met. The Container Security Initiative would also help to reduce the risk of terrorism through the shipment of containers by conducting a security assessment at foreign ports.

In assessing the security at foreign ports, I think it is important to also consider what measures have been implemented to screen workers in those ports. If we are subjecting our port workers to rigorous background checks, then we should demand nothing less from foreign ports that are seeking to participate in the Container Security Initiative, the Customs-Trade Partnership Against Terrorism Program or the GreenLane Program.

While all of these additional security protocols will enhance cargo and port security in the future, I am concerned with the present and what steps can be taken more immediately to improve security today. For example, the provisions in Section 7 of this bill would require all containers entering the United States to be examined for radiation. Obviously, that should be done. But the fact of the matter is that many of our ports have radiation detection devices. However, those screening devices are positioned at the exit of the port, and are not in use until a container leaves a port, potentially letting a Weapon of Mass Destruction (WMD) sit in a container yard for days or weeks until it is ready to be transported to its final destination. There should be a process in place to have the container screened for radiation, immediately after being off-loaded from the ship, before it is taken to the container yard. In addition, ports rarely check containers that are returned. For example, the Port of Seattle for years had longshoremen check containers declared as "empties" as they were returned to the port. But for economic reasons, that practice was stopped. It is an issue that needs to be revisited at all the ports, since empty containers don't go through radiation screening. So a WMD could easily be brought into the port and detonated – shutting down commerce at the facility.

This legislation outlines numerous security protocols for containers during their movement through the supply chain. As I see it, those movements also involve a labor force that touches those containers at various points along the way. So cargo and port security are very dependent on a reliable, honest, trustworthy workforce. When a container comes off a ship, for example, there is a longshoreman there to move the container by truck within the port to the container yard. There it waits for another very different type of worker, a port truck driver, who enters the port, gets a chassis and waits for the container to be loaded onto it. From there, it leaves the port and goes onto its final destination.

It is interesting to contrast the differences in the port workforce. A longshoreman reports to the union hiring hall. In most cases a work order is processed through a computer, where by seniority, union members' names and sometimes photographs appear for those who will fill the order. This indicates a stable, reliable workforce where familiarity is the rule rather than the exception.

Unfortunately, such is not the case with port truck drivers. For a workforce that outnumbers all other workers in the ports, there is no chain of control or responsibility. The security and the control chain are broken. Ports need to be free to experiment with different models of employment in order to make sure there is some security accountability for the ever-changing makeup of these drivers whose faces change daily.

In Congressional hearings, newspaper editorials and television exposes, there has been intense focus on funding infrastructure improvements to protect our maritime ports. And well there should be. In fact, this legislation before us authorizes a grant program to help implement Area Maritime Security plans. But no matter how high we build the fences, how many coast guard cutters we have patrolling the harbors, or how many Blackhawk helicopters circle overhead, our ports remain vulnerable when the gates are left wide open. And that is the situation at U.S. ports today.

Former Coast Guard officer Stephen Flynn, in his February report for the Council on Foreign Relations, "Port Security is Still a House of Cards", said that the drivers who haul the containers in and out of America's ports are the weak link of port security. An unpublished Department of Homeland Security study cited by ABC News four weeks ago found that over half of the 9,000 truck drivers registered with the SeaLink registry at the Port of New York and New Jersey have criminal records including drug sales and smuggling, and over 500 were

driving without valid commercial drivers licenses. If I had brought that testimony to this committee six months ago you probably wouldn't have believed me. But in this post Dubai Debacle period, the American public demands that this problem be taken seriously.

On that note, I am here today to tell you what we reported to Stephen Flynn after his study was published. The situation is much worse than even he was aware of. There has been a systematic effort by the key stakeholders operating in America's ports to foster and maintain an underground economy in the road transportation sector of our global trade operations. This is a situation that is not just prevalent in the United States. It's worldwide and jeopardizes not just U.S. port security, but security at ports around the world. So when this Committee is looking to implement security protocols at foreign ports, it would be wise to keep in mind the situation in the U.S., as it is duplicated around the world.

In an effort to ratchet down the rates paid to the truck drivers who haul the container, the industry has accepted—even promoted—a system using container-hauling companies (drayage companies) contracting with a large numbers of drivers who are:

- impoverished;
- operate with old, polluting trucks;
- haul overweight containers on steamship-owned trailers that are not properly maintained or inspected;
- operate without valid licenses or
- with licenses with too many violations
- have no valid insurance;
- have no valid medical certificates
- have no hazmat certificates;
- and who are regularly forced to work long hours in violation of Federal Hours of Service regulations.

This is the dirty little secret of the maritime import/export business. You may not have known; the public and the press may not have known; but the port authorities and the terminal operators and the shippers and the motor carriers all know. And they know that the annual

turnover rate for these drivers is over 138%--compared to 2 or 3% for unionized truck drivers in America. And they know that the majority of these drivers are struggling for survival while the steamship lines have posted profit increases of between 100% and 400% for the period covering the last four years.

It is a travesty that this expanding, booming, profitable industry has gotten away with maintaining a plantation system where the truck drivers are treated like sharecroppers on wheels—the drivers shoulder the burden of any downturn, any spike in fuel costs, any delay due to port congestion or inadequate staffing of port positions. But it is more than a human rights abuse of these drivers.

There can be no port security when the majority of container drivers are operating in or on the thin edge of bankruptcy. There can be no port security when the industry is promoting a system where so many motor carriers are operating as pirate companies employing drivers who could not find work in any legitimate sector of road transportation…all in the name of providing "low cost" trucking services.

The industry uses the excuse that these drivers are not their employees, they claim the drivers are contractors for the container hauling companies and sub-contractors for the foreign-owned steamship lines. But the port authorities in Southern California had to know that something was critically wrong when dozens of trucks were abandoned, effectively shutting down their terminals whenever the INS came to check drivers' immigrant status.

The port authority in Miami-Dade County had to know something was wrong when drivers boycotted the port for two weeks in 2000 and again four years later protesting the industry practice of charging them for insurance but failing to purchase actual policies.

The Port Authority in Savannah has to know that the reason up to a third of the drivers enter their gates with daily passes is that they can't pass background checks required for permanent credentials. Ports on the East Coast and West Coast that operate terminals eighteen to twenty-four hours a day have an easy way to monitor hours of service violations, but choose not to.

Why are all these issues a concern for national security? Because the drivers are ruled by fear. Those drivers operating illegally in our ports, operating in or near bankruptcy, are vulnerable to blackmail, desperate for cash, and, if approached by the "bad guys" with an offer to carry contraband into the port, they are going to be reluctant to report to any police or port officials for fear of exposing their own systematic violations of local, state and Federal laws and regulations.

Ever since 9/11, the shipping industry has sought ways to delay the implementation of the Transportation Worker Identification Credential or TWIC cards, to limit the degree of background checks, to limit the areas of the ports that are considered secure areas, using the excuse that close scrutiny of the underground port transportation economy will further exacerbate the current and growing shortage of drivers. That excuse echoes the claim that the industry made during the Dubai debacle; there are no domestic companies bidding on the terminals; now the industry is saying there are no legitimate drivers who want the port container hauling jobs. But as soon as Dubai Ports World said they will split the U.S. terminals they bought from the rest of the old P&O Ports world-wide holdings and put them up for auction separately, U.S. terminal operators and U.S. investors announced their interest.

Congress needs to authorize the ports to set guidelines that would eliminate the pirate motor carriers who operate as an anticompetitive underground economy with unqualified,

uninsured drivers and paying no FICA taxes, no unemployment taxes, no workers compensation taxes and undercutting the possibility of legitimate motor carriers competing in this business. As soon as that happens you will see thousands of drivers who can pass scrutiny lining up for jobs that will have to pay market rates. Legitimate transportation companies have these obligations. Why not these – especially when it involves security of our homeland. These drivers will then be able to afford state-of-the-art, non-polluting trucks. They will take care of their families with company medical benefits instead of through publicly funded charity medical services. Most importantly, the American public will be able to sleep better knowing that our ports are safer.

There are other issues that must be addressed in the context of port security. As a general matter, the Teamsters Union recognizes that in the post 9/11 world, there is clearly the need to strengthen security in the United States and in particular in the nation's transportation system. We have accepted that criminal background checks are part of the government's efforts to make the nation more secure. We recognize that conducting security threat assessments across the transportation network is part of the Federal Government's responsibility, and we are therefore making every effort to ensure that the system balances the needs of a safe and secure industry with the rights of workers in the ports to hold good jobs. We know that the Transportation Security Administration will soon release long overdue regulations for the Transportation Worker Identification Credential – the TWIC.

In that same context however, we do have concerns that designations of secure areas within the ports would allow an overall breach of port security. There is no port security without the entire port being secure. Port truck drivers not only enter the an area of the port to pick up a chassis and then a container, but many times visit a maintenance and repair facility to have the chassis repaired; go to special Coast Guard or Customs areas or to Department of Agriculture

screening areas. But if areas within the port continue to be accessed by individuals without the TWIC, then we can see a scenario that would allow port truck drivers access to an area of the port to pick up their container without having to enter a secure area. This would permit the continued exploitation of these drivers, because an unchecked workforce would continue to be at the mercy of low wages, would continue to operate without valid licenses and other required credentials, and in some cases without insurance.

Finally, there is another area that needs the Committee's attention. The Port Security Grant Program in Section 13 specifies the use of funds for grants awarded under the program. One of the uses outlined is to "conduct port-wide exercises to strengthen emergency preparedness of Federal, State and local officials responsible for port security…". I am concerned that not enough attention is being paid to security awareness training of workers at the port. These workers are the eyes and ears of the front-line in our war against terrorism, and for the most part, they have not received sufficient information or instruction about what to look for and to whom they should report suspicious behavior. Neither have they been given sufficient information about what to do if there is an attack or whether and how to evacuate the area. Security training funds for port workers should be a part of this program.

The Teamsters Union appreciates the opportunity to testify here today concerning the future of port security. We hope that we can continue to work with the Committee as this legislation moves forward to address some of the issues I have raised here today. I would be happy to answer any questions you may have.

Business Roundtable

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April 5, 2006

The Honorable Susan M. Collins, Chairman
The Honorable Joseph I. Lieberman, Ranking Member
Senate Committee on Homeland Security and Governmental Affairs
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Henry A. McKinnell, Jr.
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Dear Chairman Collins and Senator Lieberman:

I am writing on behalf of Business Roundtable. We fully support the goals set forth in the GreenLane Maritime Cargo Security Act (S.2459) as a needed step to protect our nation's ports, and to make our supply chain more resilient and secure. We are committed to working with you to enhance the public-private coordination in port security.

Background

Business Roundtable is an association of chief executive officers of leading U.S. companies with over $4.5 trillion in annual revenues and more than 10 million employees. Member companies comprise nearly a third of the total value of the U.S. stock market and represent nearly a third of all corporate income taxes paid to the federal government. Collectively, they returned more than $98 billion in dividends to shareholders and the economy in 2004.

Following the September 11 terrorist attacks, Business Roundtable created a Security Task Force to address ways that the private sector could improve the security of our nation. The business community is ready and willing to partner with the government in disaster preparedness, response and recovery in new and significant ways. For example, following the September 11 attacks, companies from New York and across the country responded with respirators, boots and other materials for our first responders. The private sector also helped restore phone service and power, and helped get institutions such as the New York Stock Exchange ready to reopen.

Securing our Nation's Ports and Supply Chain - Notification and Coordination

Port and supply chain security and resiliency is one of the three priorities of the Security Task Force, and we believe that it is an example where the best solutions will require collaboration and coordination between the public and private sectors. In the event of a terrorist attack or other transportation security incident involving our ports, government leaders and top business executives will need to exchange strategic information. Such coordination would include a national perspective on the status and viability of infrastructure at our critical ports as well as restoration of other key infrastructure services. We also believe that this dialogue, such as with senior Coast Guard/Department of Homeland Security (DHS) officials, should cover large-scale

mitigation strategies, risk communications and information sharing on macroeconomic impacts.

Currently, there are no formal processes that provide for strategic communications between private-sector owners of the U.S. supply chain and their counterparts in the Coast Guard and DHS. While Hurricane Katrina did not involve a transportation security incident, national and regional-level exchanges that would have helped with mitigation, response and restoration did not take place. We believe that the national response could have been improved with discussions between senior executives outside of the port and marine community on matters such as port closures and timetables for resumption of trade.

The Security Task Force encourages passage of S.2459, which requires development of strategic-level plans, protocols for resumption of trade and a joint operating center. However, our CEOs remain especially concerned that the bill does not adequately account for companies that support the U.S. supply chain.

We are committed to working with you and your staff to address the following three issues:

> **First, and most importantly, there is no national process for coordinating with owners of the U.S. supply chain (that is, companies outside of the marine and port community) in the event of transportation security incidents.**

The Security Task Force remains apprehensive that U.S. supply chain companies are not part of national or regional coordination strategies in the event of a terrorist attack on a major port.

Such coordination is essential for the public's health and welfare, as well as homeland and economic security. During the response to Hurricane Katrina, U.S. rail companies hauled water, fuel and other relief supplies. U.S. energy suppliers, freight and cargo carriers, and retail companies similarly were instrumental in shepherding essential material to and from ports and surrounding areas.

However, U.S. supply chain businesses are not part of the traditional port and marine community; as a result, DHS and the Coast Guard do not sufficiently integrate these private-sector companies into port security and reconstitution strategies. Currently the legislation is too narrowly tailored to account for the port and marine community, and we believe it should be expanded to include supply chain owners directly affected by an attack on a port or port closure.

We congratulate the Coast Guard for its innovative and proactive deployment of Homeport – a secure web portal for notifying corporate security officers and others in charge of port assets. The Coast Guard is considering how best to expand Homeport to include a national audience. We believe that S.2459 should be amended to support Homeport.

The Roundtable also encourages you to consider ways to promote executive-level communication between DHS/the Coast Guard and senior corporate officers who are authorized to commit resources on behalf of their companies and are accountable to shareholders and their boards of directors for decisions made during emergencies.

Second, lawmakers should consider creating a new office within the Coast Guard to focus specifically on coordination with U.S. supply chain companies.

Business Roundtable encourages you to examine alternative means to expand coordination by the Coast Guard with U.S. supply chain companies. One method is the creation and authorization of an office within the Coast Guard to manage senior, executive-level relationships with supply chain companies. Such relationships are essential during and after a transportation security incident for coordinating decisions on port security, including resumption of trade priorities, which we discuss in greater detail below.

Third, resumption of trade protocol should fully integrate U.S. supply chain companies.

Business Roundtable remains highly concerned about the lack of formal protocol for resumption of trade decisions that have a significant effect on the U.S. supply chain. We congratulate the Coast Guard for developing a National Response Operations Matrix (NROM), which directs internal Coast Guard strategic-level coordination in the event of a terrorist attack. This program is essential for considering trade and economic impact beyond the marine and port community.

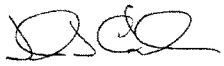
Here, too, we invite you to consider amendments to S.2459 that require DHS and Coast Guard to develop procedures to assess resumption of trade decisions and how they impact the U.S. supply chain and our nation's economy.

Let me be clear about our intentions. The CEOs of Business Roundtable recognize that the federal government has the primary responsibility for homeland security and for response and recovery. However, we know that the private sector has an important role to play as well. We can provide information and insights that can be helpful in responding quickly and reconstituting port and supply chain operations. Our goal is not to get in the way of the federal government, but to supplement traditional marine and port security activity.

* * *

Business Roundtable appreciates this opportunity to offer this written testimony on S.2459. If you require additional information, please call Thomas J. Lehner or me directly at 202-872-1260.

Sincerely,



John J. Castellani
President, Business Roundtable

cc: Frederick W. Smith, Chairman, President and CEO, FedEx Corp.
Michael T. Dan, President and CEO, The Brink's Company
Thomas Lehner, Director of Public Policy, Business Roundtable

Post-Hearing Question for the Record
Submitted to M. R. Dinsmore
From Senator Susan M. Collins

"The Future of Port Security: The GreenLane Maritime Cargo Security Act"

April 5, 2006

1. I am interested in your perspective on the C-TPAT program moving forward. Mr. Howell testified that C-TPAT should not be regulated and that its success lies in its flexibility. You note that statutory language gives the program more teeth and will result in more quickly addressing security concerns. Our legislation does include C-TPAT, though the intent is to maintain the voluntary nature of the program. Can you elaborate on your reasons and your response to Mr. Howell's position?

RESPONSE:

I believe C-TPAT is a successful program and should be regulated, but if it is on a voluntary basis it will still add significant value and should be continued.

2. You are likely familiar with the Integrated Container Inspection System (ICIS) that is operational at two terminals in the Port of Hong Kong. It has been promoted by some as the answer to maritime security concerns – the ability to inspect all containers before they reach our shores. Others take a measured view, noting the potential for security enhancements of incorporating such a program into the layered system currently in place. How do you think DHS should use this project? Should it be expanded dramatically to cover all foreign ports and even be deployed domestically?

RESPONSE:

I believe the ICIS approach has the potential of adding real value, but only if:

a) a "reasonable" amount of containers are inspected;
b) the data captured is satellited to CBP in the USA and compared with an electronic manifest in a timely manner, and becomes an intrical part of our system;
c) CSI continues to be active, and expanded offshore;
d) CBP has the appropriate amount of resources (financial and human) to effectively manage this new integrated program;

e) By all means it should be part of a layered approach.

In summary, there is no single application which would be effective, but a layered, more integrated, holistic system seems to move a long way toward making our Nation more safe and secure.

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

ANDREW P. HOWELL
VICE PRESIDENT
HOMELAND SECURITY

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June 21, 2006

Honorable Susan M. Collins
Chairman, Committee on Homeland Security & Governmental Affairs
United States Senate
Washington, DC 20510

Dear Chairman Collins:

I write to you in response to questions you submitted following my testimony at the April 5, 2006 hearing: "The Future of Port Security: The GreenLane Maritime Cargo Security Act." I apologize profusely for the delay in getting back to you.

Question 1: The Chamber's Concerns regarding the Regulation of C-TPAT

The Customs Trade Partnership Against Terrorism (C-TPAT) represents an effective element of a multi-layered approach to cargo security. The United States Chamber of Commerce (Chamber) fully supports authorizing the Secretary to continue this program in statute. However, we object to provisions of the GreenLane Cargo Security Act which would regulate the program.

You noted in your question a legislative intent to maintain the voluntary nature of the program. The Chamber concedes that nothing in the legislation would obligate companies to participate in the C-TPAT program. In this limited sense, the program would remain voluntary. However, the legislation clearly requires the Secretary to promulgate regulations on minimum requirements for program participants. It would also require similar rulemakings to define both the benefits and requirements for the third tier of C-TPAT, referenced in the legislation as the "GreenLane." Hence, regardless of the legislative intent, the text of the legislation would clearly subject the C-TPAT program to regulations.

Specifically, the Chamber opposes the requirement in Section 12(a) that the Secretary "promulgate regulations that describe minimum requirements for program

tiers, and program benefits of C-TPAT." Likewise, we object to a similar provision in Section 13 (f) requiring the Secretary to carry out rulemakings to establish requirements and benefits associated with the GreenLane program in Section 13 (f).

You asked us to comment on Mr. Dinsmore's assertion that "statutory language gives the program more teeth and will result in more quickly addressing security concerns." If, by this statement, Mr. Dinsmore is endorsing either a regulatory approach to C-TPAT or is recommending defining minimum requirements and/or benefits in statutory language, then we would strongly disagree with Mr. Dinsemore's position.

Since its inception, the C-TPAT program has worked well precisely because it was designed as a voluntary, flexible partnership between government and businesses, and has not been subject to federal rulemaking procedures. Under the current system, U.S. Customs and Border Protection (CBP) assigns a Supply Chain Security Specialist to each participant in order to understand the unique aspects of that company's business operations. This specialist works cooperatively with the participating company to ensure that it meets the minimum security criteria established by CBP. Importantly, these criteria include a degree of flexibility necessary to accommodate differences in supply chains of individual companies of varying size and operation.

The prescription of C-TPAT benefits and requirements in sections 12 and 13 of the bill would, we believe, hinder execution of the program. Issuing new regulations or altering existing regulations is cumbersome and time-consuming. In our view, CBP's mission to secure the international supply chain demands nimbleness and flexibility. Notice and Comment periods required by the Administrative Procedures Act would only hinder the agency's ability to make timely changes that reflect evolving trade conditions and security concerns. Furthermore, staff would spend time on administrative matters instead of dedicating limited resources to program implementation.

A preferable approach would be to authorize the Secretary to publish "minimum criteria" to which C-TPAT participants would adhere. This sensible alternative would provide the needed baseline standards for program requirements, while avoiding the heavy burden of regulations.

Since 2004, CBP has worked cooperatively with the business community to establish minimum criteria for importers and carriers and has minimum security criteria for C-TPAT participants. By publishing these criteria on its website, CBP has provided baseline standards that program participants must meet, while also retaining

the flexibility to collaborate with individual companies to improve the program as needed— all without the burden of regulation.

In conclusion, C-TPAT works precisely because it is a flexible, voluntary partnership between government and businesses, and it is not a one-size-fits-all, regulated program.

Question 2: The use of third-parties to conduct validations of C-TPAT participants

You have asked whether Deputy Secretary Michael Jackson's testimony adequately addressed the Chamber's concerns with the use of third parties to conduct validations of the supply chain security practices of C-TPAT participants.

Without commenting directly on the Deputy Secretary's testimony, we understand that CBP has begun to retain retired CBP officers to conduct validations. We fully support this action, as we would also endorse the outsourcing of C-TPAT validations to private sector contractors working under the direction of CBP and paid for with government funds. However, Section 12 (f) of the bill authorizes the use of "third-parties to conduct validations," which we would interpret as something quite different.

In our view, the use of third party entities to validate C-TPAT participants would be tantamount to the creation of an independent auditing system similar to that created under the Sarbanes Oxley Act of 2002. Unlike validations conducted by CBP, third-party validations authorized by your legislation would force participating companies to bear the costs of these audits, likely imposing significant expense and compliance burdens on the business community.

If Congress were to authorize third-party validations, financed entirely by participating companies, then there would be little incentive for CBP to invest in hiring additional Supply Chain Security Specialists. Companies electing to have their validations conducted by CBP could be forced to wait months, if not years. Thus, the "option" of using third party validators would quickly devolve into an obligation.

A second area of concern is ensuring the confidentiality of information collected by these third-party auditors. Currently, validation reports are not subject to Freedom of Information Act (FOIA) requests. In reviewing the legislation, it is unclear whether similar protections would be afforded to validations conducted by third parties. Regardless, we would like to see explicit protections written into the bill.

Information supplied by a company pertaining to supply chain security practices is very sensitive.

Additionally, this shift in the business model would essentially remove the trade-CBP partnership in cargo security. By not having an active role in helping firms to enhance their supply chain security, CBP has less of a stake in the program's success— a major strategic mistake, in our view. If anything, legislation should seek to make CBP an even more helpful partner for industry.

Finally, rules would need to be in place to ensure validations would not be compromised by conflicts-of-interest. Firms certified to conduct third party validations would need to be subject to strict policies that address conflicts of interest.

Until these questions are resolved, no third party validation system should be authorized. We would strongly support providing CBP with the necessary resources to either a) hire additional supply chain security specialists or b) contract out services of a private contractor working under the direction of CBP.

Question 3: the Chamber's Perspective on the Integrated Container Inspection System (ICIS)

ICIS is a pilot program demonstrated by SAIC and Hutchison Port Holdings at two terminals in the port of Hong Kong. While the concepts and technologies demonstrated by the ICIS pilot may indeed offer great promise, we believe that the capabilities of the system have been overstated.

First and foremost, demonstrating the ability to scan 100% of containers within two terminals of one port differs considerably from scanning the over 12 million containers that are annually loaded on vessels bound for the United States. The scalability— or lack thereof— is an absolutely critical issue.

Moreover, the very idea of 100% scanning of containerized cargo is in direct contradiction to a risk-based approach to cargo security. We support the practical application of this strategy through the threat-based screening of cargo using the Automated Targeting System. Limiting the universe of cargo that is actually inspected to potentially-high-risk cargo is the most effective approach to allocating our scarce homeland security resources.

At the same time, long-term investments in advanced scanning technologies are an essential and integral part of a multi-layered supply chain security strategy. We

fully support additional research and development in this area, as well as additional demonstration projects. At the same time, we hope that future pilot programs would be designed by vendors, users, and owner/operators— all stakeholders involved.

I would be happy to answer any additional questions you or your staff might have. I can be reached at (202) 463-3100.

Sincerely,

Andrew P. Howell
Vice President, Homeland Security Policy

POST-HEARING QUESTIONS FROM "THE FUTURE OF PORT SECURITY: THE GREENLANE MARTIME CARGO SECURITY ACT" HEARING ON APRIL 5, 2006

RESPONSE OF JAMES P. HOFFA, GENERAL PRESIDENT INTERNATIONAL BROTHERHOOD OF TEAMSTERS

BEFORE THE UNITED STATES SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS

QUESTION

1. You are likely familiar with the Integrated Container Inspection System (ICIS) that is operational at two terminals in the Port of Hong Kong. It has been promoted by some as the answer to maritime security concerns – the ability to inspect all containers before they reach our shores. Others take a measured view, noting the potential for security enhancements of incorporating such a program into the layered system currently in place. How do you think DHS should use this project? Should it be expanded dramatically to cover all foreign ports and even be deployed domestically?

RESPONSE

Whether ICIS is a panacea remains a point of debate, one that the Teamsters Union is taking a cautious approach to at this time. It is interesting to note that the ICIS is American technology, but has not been deployed at any U.S. ports. Currently in use in Hong Kong, ICIS, like similar cutting-edge scanning technologies, remains in its infancy with regard to broad, industry-wide practical applications. Little data and analyses exist as to how such scanning technology would reflect both industry and labor needs and concerns if it were incorporated into domestic ports. In fact, the U.S. Government has received 20,000 ICIS sample images from the ICIS pilot program in Hong Kong to evaluate the value of the data collected. Perhaps monitoring ICIS implementation and use at other foreign ports, along with careful evaluation of the technology's effectiveness, is the best avenue for DHS to pursue at this time, especially since other U.S. technology companies have recently entered this market.

Of course, inspecting cargo at foreign ports before shipping to the U.S. is an important goal to meet, but one that needs to be viewed with some caution. It is just as important to examine the companies operating the technology as the technology itself. For example, Hutchison Port Holdings (HPH), whose flagship facility is the Hong Kong International Terminal, is the port-operating subsidiary of Hutchison Whampoa Ltd. (HWL). A primary shareholder in HWL is Li Ka-shing. American national security authorities have previously examined HWL, its subsidiaries and Li Ka-shing in a number of commercial transactions, including the 1997 Panama Canal Operations contract and a 2003 acquisition of Global Crossing assets. In the Global Crossing case, a Hutchison subsidiary was blocked from buying part of the telecommunications company on national security grounds. It has also been reported that Li Ka-shing has close ties to the Chinese government and its military. These intertwined relationships raise serious questions about who ends up manning the radiation screening equipment.

The recent no-bid contract awarded to Hutchison Whampoa Ltd. by the U.S. Energy Department's National Nuclear Security Administration in the Bahamas to screen cargo destined for the United States rightly set off alarms in Washington, including strong criticism by several Members of Congress. In the case of the Bahamas contract, there is no official U.S. presence at the point of inspection whatsoever. The assignment of U.S. Customs personnel to monitor the operation of scanning devices in foreign ports is an added layer of security that must be an integral part of any security plan for cargo containers destined for the United States.

Employing scanning technology at domestic ports, assuming such technology is viable, would also be a key layer in cargo inspection. But notwithstanding emerging scanning technologies, other measures should be implemented in the meantime that can greatly improve our security efforts. For example, containers should be screened immediately when off-loaded at a domestic port, instead of sitting for days or weeks and then screened at the port exit when the container finally leaves the port at a later date. At many ports, containers are moved by truck to the container storage area. Radiation detectors should be placed in a position in the port facility so that containers can be screened on their way to the storage yard. A bomb or other danger could lurk in the port for days before radiation and/or like screening takes place. As ports expand to meet greater volumes of commerce, port design must meet the emerging needs of greater security and screening procedures.

In addition, security protocols must be developed to address the screening of empty containers being returned to the ports. It is conceivable for the port itself to be a target of a terrorist act. Containers travel great distances and sit unattended for long periods of time, giving ample opportunity to have an explosive device placed in an empty container and returned to the port.

Post-Hearing Questions for the Record
Submitted to Captain Jeffrey W. Monroe
From Senator Susan M. Collins

"The Future of Port Security: The GreenLane Maritime Cargo Security Act"

April 5, 2006

1. You are likely familiar with the Integrated Container Inspection System (ICIS) that is operational at two terminals in the Port of Hong Kong. It has been promoted by some as the answer to maritime security concerns - the ability to inspect all containers before they reach our shores. Others take a measured view, noting the potential for security enhancements of incorporating such a program into the layered system currently in place. How do you think DHS should use this project? Should it be expanded dramatically to cover all foreign ports and even be deployed domestically?

Response:

The ICIS has shown itself to be useful and there is no question that such a system can be deployed in terminals that process cargo inbound into the United States. The issue might be the operational control unless it is intentioned that DHS personnel would operate the deployed system, which is by far the best case scenario.

The technology should also be improved to make it mobile and cost effective so that several units can be utilized at each port so processing time is not increased for the containers.

The most critical aspect is making sure that by whatever means necessary, the borders of the US are pushed out in regard to screening of containers. Any system that checks the containers before loading would be more effective than what we do now, check the units when they arrive at the US terminal. By then it would be too late.

There is also no question in our opinion that it should be part of a layered approach, being one of multiple checks and balances that are put in place.

DHS needs to move forward with a more comprehensive approach to cargo security. For the most part, it remains on a secondary tier in policy making.

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