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HOMELAND SECURITY: FINDING THE NUCLEAR NEEDLE IN THE CARGO CONTAINER HAYSTACK

HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL SECURITY, VETERANS AFFAIRS AND INTERNATIONAL RELATIONS

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

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HOMELAND SECURITY: FINDING THE NUCLEAR NEEDLE IN THE CARGO CONTAINER HAYSTACK

MONDAY, NOVEMBER 18, 2002

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL SECURITY, VETERANS AFFAIRS AND INTERNATIONAL RELATIONS,
COMMITTEE ON GOVERNMENT REFORM,
New York, NY.

The subcommittee met, pursuant to notice, at 11 a.m., at American Restaurant, Battery Park, New York, NY, Hon. Christopher Shays (chairman of the subcommittee) presiding.

Present: Representatives Shays, Souder, Maloney, Tierney, Allen, and Nadler.

Staff present: Lawrence Halloran, staff director/counsel; Chris Donesa, staff director; R. Nicholas Palarino, senior policy advisor; Grace Washbourne and Nicholas Coleman, professional staff members; Jason Chung, clerk; and Mackenzie Eaglen, fellow.

Mr. SHAYS. The quorum being present is the Subcommittee on National Security, Veterans Affairs and International Relations hearing entitled Homeland Security, Finding the Nuclear Needle in the Cargo Container Haystack is called to order.

The Government Reform Subcommittee on National Security comes to the Port of New York/New Jersey today for a firsthand look at multi-agency efforts to enhance security at critical seaports.

We thank our hosts and welcome our guests.

The volume of containerized cargo and the openness of massive, complex port areas represent inviting vulnerabilities that must be mitigated.

The recent report of an independent task force sponsored by the Council on Foreign Relations called for a new emphasis on global trade security.

According to the report, the system for moving goods affordably and reliably around the world is ripe for exploitation and vulnerable to mass disruption by terrorists.

Ubiquitous cargo containers are of particular concern. An estimated 11 million containers worldwide are each loaded and unloaded 10 times per year. 21,000 containers arrive at U.S. ports each day. Each trip by a cargo container represents a potential vector of stealth attack. No security standards govern container transport.

A recent event at this port complex underscored the peril posed by containerized nuclear cargo. 15 pounds of depleted uranium arrived here undetected.

At a previous hearing, we learned enough fissile material to construct a nuclear device could just as easily slip by even the most sophisticated screening today because weapons grade plutonium and highly enriched uranium do not emit that much active radiation.

In the aftermath of September 11th attacks, tightened security at ports and borders stalled the movement of parts and equipment essential to economic activity and growth.

We learned from the dock strikes on the west cost a disrupted port means a disrupted economy.

A qualitative, not a quantitative approach is required to improve port security. The general accounting office concludes programs already in place at U.S. ports for detecting illegal fissile material or nuclear weapons are limited, focusing n screening only a small portion of total cargo.

Various estimates about the tiny fraction of imports actually inspected could be reassuring, not frightening, if we could be sure the right ships and warehouse were being inspected, those posing the most risk.

Knowing that is a matter of intelligence at ports of origin, of diligence in the search for anomalies in a sea of routine trade data, and of vigilance in engaging high-risk cargos before they reach the dockside.

As the subcommittee toured the New York/New Jersey port this morning, we gained a better appreciation of the enormity of the task before us, finding that nuclear needle in the cargo container haystack. Only a coordinator and sophisticated security program one, with an intense focus and international reach, will keep terror out of cargo containers.

All our witnesses today understand the tension between tighter security and robust commerce and they are trying to strike a balance that will result in safer and more productive ports.

As evidenced by our lengthy witness list, it is a complex job involving numerous governmental and private entities. We appreciate their willingness to join us today and look forward to their testimony. We look forward to their patience and waiting to testify and we request, given the number of speakers, that we be closer to the 5-minute rule rather than the 10.

At this time, I recognize Mr. Allen who joins us from Maine and has obviously very real concerns about this issue coming from an important seaport State.

STATEMENT OF HON. THOMAS H. ALLEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MAINE

Mr. ALLEN. Thank you, Mr. Chairman, for holding this hearing, and I would like to thank Jerry Nadler.

As many of you know well, Chairman Shays has been working on the problem of terrorism for years, long before September 11, 2001. He has been a tireless advocate for increased attention to terrorism preparedness.

This is just one of many hearings that he has held in an attempt to get at our Nation's vulnerability and to call attention to vital security needs.

I commend him for his hard work and dedication to making America safer.

The issue of nuclear safety is one that desperately needs to be addressed. Even a small amount of nuclear material in the hands of terrorists could cause a great loss of life and property damage.

It is imperative that terrorists not be able to smuggle nuclear material into this country. I look forward to today's testimony on port security conditions with respect to nuclear material and for our panelist suggestions for improvement.

I also believe that many of the first responders who would have to deal with the nuclear or hazardous material incident at a port are not yet adequately prepared to handle such an incident. This is a problem of national scope. And it is appropriate and necessary to provide first responders with Federal assistance.

I'm also concerned about the lines of communication between Federal, State and local governments as well as with port authorities.

I hope our panelists will discuss this topic and touch on the problems that inevitably arise because of a lack of unified electronic communication system.

Port security in general is a great concern to me. In my home city of Portland, Maine, we have a very active commercial port operation. In fact, the port of Portland is the second largest oil port on the east cost next to Philadelphia, taking in more than 30 million tons of crude and refined oil last year, much of it destined for Canada.

Most of the oil used in the Canadian maritime for northern New England comes through Portland. Portland is also the largest international passenger port of New England, moving more than 200,000 passengers annually.

Last year, Portland put through more tonnage than any other port in New England.

Because we have such an active port and because of the glaring holes in port security, I take great issue in this issue and look forward to today's testimony and I hope it can shed some light on the possible solutions to the problem of port security.

Thank you again, Mr. Chairman, for holding the hearing.

Mr. SHAYS. Thank you, Congressman Allen. I appreciate very much your activity on this committee because you've been at the forefront of everything we've done.

Also we're going to introduce another member of the subcommittee who also chairs on the subcommittee on Government Reform that's involved in our whole effort to combat drugs, and this time I appreciate your presence and work on the committee, Mr. Souder.

STATEMENT OF HON. MARK E. SOUDER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

Mr. SOUDER. Thank you very much. It's good to be here and it's good to see each of our witnesses. I work with you on a number of issues that clearly, in addition to the question of catastrophic terrorism, they face a daily challenge of narcotics, Customs and

Coast Guard, immigration, trade, and trying to look for this balance of how we can protect the American citizens and at the same time not wreck our economy and it's been one of the biggest challenges in funding and resource employment.

We've held hearings in my subcommittee in Los Angeles Long Beach Harbor, looking at similar problems in New York and I wanted to come here today, my first visit here, looking at the problems facing New York in particular, where we see this interdependency of illegal activities that we need to address.

We need to make sure while we're addressing one, we're simultaneously looking at that cross-correlation as we see the number and people and weapons of mass destruction, all interconnected in the same network.

We look forward to hearing your testimony today and looking for creative ways of how we can best employ limited resources.

Mr. SHAYS. Thank you, gentlemen.

When the committee tours different parts of the country, we always are appreciative when the member of the district we're in attends the hearing, but we're particularly appreciative having Jerry Nadler here today because he is such an outstanding Member of Congress and also a very active member of the fiduciary committee, and this issue is right up his alley and we're grateful that you're our host Congress person.

STATEMENT OF HON. JERROLD NADLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. NADLER. Thank you very much. Let me start by expressing my appreciation to Congressman Shays for conducting this hearing and for the interest and initiative, especially in issues he has shown over the last several years in this important area of port security.

My district includes most of the waterfront of the west side of Manhattan and Brooklyn, which has port facilities, some of which you toured today, and I've been interested in this issue.

Probably the most likely nuclear threat to the United States is not that someone will shoot a missile at us or a nuclear warhead, but that someone, rather a rogue State or a terrorist group will get a hold of a nuclear weapon and put it in a container or a ship.

If we're willing to spend a lot of money on anti-missile, we should be willing to put comparable resources into what I believe the greater threat lies, which is nuclear threat to an American port.

I am gratified that the Port Security Bill that Congress has considered, it takes steps in the right direction.

I simply want to mention a bill that I introduced a few months ago, that probably goes further than anything else I've seen, and maybe someone can comment on the practicality of it or lack as they see it.

The bill essentially would require two things. It would require that every container bound for an American port be inspected in the foreign port by an American security team, and sealed and certified as having been inspected by the American team in the foreign port, and then no container be admitted anywhere near the American port that isn't inspected by the American team of the foreign port.

Second, that the Coast Guard inspect every ship step to stern bound for an American port, at least 200 miles offshore. It seems to me there's little sense of looking for nuclear bombs in the port of Newark or the port of Los Angeles. There, it's too late. You don't want to find it on the ship and have it blow up as you're finding it.

I would appreciate any comment on that, as well as the adequacy of the Port Security Bill that Congress just considered and anything else.

I look forward to this hearing and I thank you for your initiative.

Mr. SHAYS. Thank you, gentleman.

We'll be joined shortly by two Members in Massachusetts, but we will at this time recognize our witnesses and then I'll ask them to stand and be sworn in.

We have Ms. JayEtta Hecker, director of physical infrastructure team, general accounting office.

I believe, Ms. Hecker, you participated in our hearing in Tampa and we appreciate you being here.

We have Rear Admiral Larry Hereth, director Port Security, U.S. Coast Guard. We appreciate the courtesy that your office has shown us.

We have Mr. Jayson Ahern, Assistant Commissioner, Office of Field Operations, U.S. Customs Service, and we also have Rear Admiral Richard Bennis, Associate Undersecretary for Maritime and Land Security, Transportation Security Administration.

At this time, I would request that you stand and we'll swear you in. We swear in all our witnesses.

[Witnesses sworn.]

Mr. SHAYS. I note for the record all our witnesses responded in the affirmative. Thank you for that.

We'll start with you, Ms. Hecker.

STATEMENT OF JAYETTA Z. HECKER, DIRECTOR, PHYSICAL INFRASTRUCTURE TEAM, GENERAL ACCOUNTING OFFICE

Ms. HECKER. Thank you, Mr. Chairman. It's a real pleasure to be here before you, the other member of the subcommittee and Mr. Nadler. We're here to discuss the major initiatives underway, to respond to what is really a grave threat and that is the potential smuggling of nuclear materials in 1 of the 6 million containers that come into this country every year.

I have to remark that this is such a moving setting. The symbols of the openness of this country right before us and the symbols really that have become targets and it's a very fitting environment for us to look at that balance of openness and the balance of protecting what have become such vulnerable targets.

What we're talking about really used be unthinkable. It clearly is now before us to address some of these serious problems, and I'm able to comment on a broad range of GAO work that's addressed some of these issues.

We have worked on nuclear smuggling, on Customs operations, on information systems, the proposal to reform homeland security and others, really a broad range of work across GAO to give the overview remarks that I think the scope of this hearing requires.

Basically it covers three specific areas. The first is to review the current initiatives underway specifically to prevent nuclear smuggling. Then I'll talk about some of the newer initiatives that are being developed to go beyond the border, and finally I'll talk about some of the significant challenges representing moving forward in these areas.

In essence, in the first area, our work shows that the current initiatives as you said are really limited. They're limited by the technology. They're limited by the vast volume of traffic coming before our ports. They're limited by the incomplete information that's available on what is in these containers.

Most of all, I think several of you have noted, they're limited by the fact that screening at the ports for nuclear weapons and nuclear materials is too late. That is not the time you want to be finding out there is nuclear material about to go off or perhaps going off before you're even able to detect it.

So this whole area of nuclear detection at the port, and we have a summary in our statement of the kinds of equipment, the kinds of concerns we have about the equipment, the kinds of limitations that are already there.

We also have an interesting overview of the efforts overseas. As you know, there is a lot of effort overseas to the stop the nuclear material from even getting out of Russia, where it's stored.

In fact, there are portals, more portals than we have in this country for detecting nuclear materials overseas. We have a report out on that. There's six different agencies doing that. We haven't been well-coordinated. The material is not—the equipment is not often turned on. There was one that was delayed for 2 years to be turned on because there was a dispute over who was going to pay for the electricity.

There are really some complications in the whole array of getting detention underway, not only here but overseas.

That brings me to the second point, which is the new initiatives, and what is important about the new initiatives is that they represent a fundamental ship away from interdiction at the port to prevention and securing the supply chain in the movement of goods and creating a chain of custody.

The initiatives that are listed in the report are important. There's a lot of administration attention to them, but underlying these efforts, we have to look at the fact that there are no standards for loading containers. There are no standards for the sealing of containers.

There are no standards for the transferring of containers between loads. There are no standards for the documentation of the contents of containers. There are no standards for credentialing of cargo handlers.

There are no standards for foreign ports, although there is an important new coverage in the new legislation for the Coast Guard do play a role in getting oversight and review of the vulnerability and the improvements in security at foreign ports.

Most of all again, there is no accountability for the shipper to really know what the contents of their containers are and what they're shipping.

As I said, there are multiple initiatives to try to deal with this. These are not new problems. The witnesses we will hear from today, most of them are working on different initiatives that I talked about. The two are the Customs, the inspection places overseas and to work in the partnership with firms to secure the supply chain.

There is interesting leadership on the part of the private sector. We talked about the private sector resisting here. There is leadership before Federal money is even available, testing the secured, securing of the containers and testing new equipment.

Legislation was passed in supplemental to make money available, but it hasn't—the rules haven't been finalized so the process couldn't really begin, but firms have gone ahead and are actually testing in this port, in Seattle and L.A./Long Beach, efforts are already underway.

There is a real acknowledgment of how critical moving forward in this area is.

Unfortunately, though, this is not an easy answer. There are at least four international organizations, if not five, where agreement is needed to make the progress of getting these standards. Note only is the international maritime organization a key getting security at the ports, porter handlers, the world customs organization, the international standards organization, the international labor organization, all of these international organizations are party and we have representation, moving in each of them.

Luckily, there has been leadership by the GA and in the APEC, there has been debate about these issues, so it's elevated to an extremely high level of national leaders, but these organizations still have several processes and challenges are ahead to actually reach agreement, implement the agreement, oversee the agreement.

Finally, the conclusions are that we clearly have major vulnerability. The vulnerability is vast. The risk is real, and the strategies and solutions to address these problems has to be sustained, systematic and global. It requires an orchestration of a complexity similar to the lunar landing.

This is a focused, and attention of a commitment that really is requiring a major focus, a sustained focus and unfortunately, unlike the lunar landing, it's not going to have a day when we know we've reached it. This requires a sustained preventive effort for many, many years to come.

That concludes my statement.

[The prepared statement of Ms. Hecker follows:]

United States General Accounting Office

GAO

Testimony

Before the Subcommittee on National Security, Veterans Affairs, and International Relations, House Committee on Government Reform

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CONTAINER SECURITY

Current Efforts to Detect Nuclear Materials, New Initiatives, and Challenges

Statement of JayEtta Z. Hecker
Director, Physical Infrastructure Issues

GAO-03-297T

November 2002

GAO Accountability·Integrity·Reliability

Highlights

Highlights of GAO-03-297T, a testimony before the Subcommittee on National Security, Veterans Affairs, and International Relations, House Committee on Government Reform

CONTAINER SECURITY

Current Efforts to Detect Nuclear Materials, New Initiatives, and Challenges

Why GAO Did This Study

After the attacks of September 11th, 2001, concerns intensified over the vulnerability of U.S. ports to acts of terrorism. One particular concern involves the possibility that terrorists would attempt to smuggle illegal fissile material or a tactical nuclear weapon into the country through a cargo container shipped from overseas. This testimony discusses the programs already in place to counter such attempts, new initiatives now under way to enhance the nation's security against such attempts, and the key challenges faced in implementing these various efforts.

www.gao.gov/cgi-bin/getrpt?GAO-03-297T.

To view the full report, including the scope and methodology, click on the link above. For more information, contact JayEtta Hecker at (202) 512-2834 or heckerj@gao.gov.

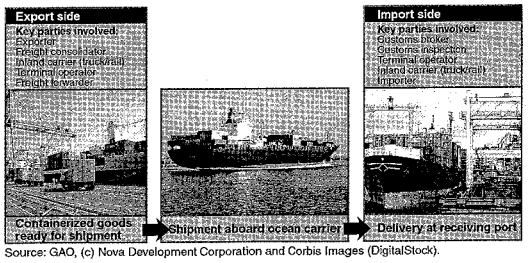
What GAO Found

U.S. ports have programs in place to detect illegal fissile material or nuclear weapons, but these programs are limited in several respects. They focus on screening a small portion of total cargo as it enters the country, and they are carried out without the use of adequate detection aids, such as equipment that can scan entire containers for radiation. Efforts to target cargo for screening are hampered by the quality of information regarding which cargo poses the greatest risk.

New initiatives are under way to supplement these programs. The predominant focus of these initiatives has been to establish additional lines of security in the supply chain of international commerce. In essence, this means moving part of the security effort overseas, where goods are prepared for shipment into this country. These initiatives include such efforts as establishing international standards for ports, carriers, and maritime workers; stationing Customs personnel overseas; reducing security vulnerabilities all the way back to points of manufacture; and using new technology to monitor the contents and movement of containers from their point of origin.

The nation faces three key challenges to implementing efforts to improve the security of ports and containers: creating and enforcing a set of security standards, ensuring the cooperation of diverse groups with competing interests when it comes to the specifics of how things are to be done, and paying the increased security bill. Such challenges exist both for strengthening domestic efforts and for developing new initiatives that expand security on an international basis. GAO is currently reviewing several aspects of port and container security, and will report as those efforts are completed.

Overview of Supply Chain for Cargo Containers



Source: GAO, (c) Nova Development Corporation and Corbis Images (DigitalStock).

United States General Accounting Office

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to be here in New York City to discuss our work on efforts to address security risks related to U.S. ports. These risks are clearly serious ones that pose national security concerns. We have issued several reports and testimony statements related to nuclear smuggling and port security in general.

My testimony focuses on (1) the programs in place to prevent illegal fissile material or a tactical nuclear weapon from being smuggled into the United States through our ports; (2) new efforts under way to counter such smuggling, both domestically and abroad; and (3) the key challenges faced in implementing these various efforts. We have excluded information on these topics that has been deemed law-enforcement sensitive by the U.S. Customs Service (Customs), which precludes us from discussing it in an open hearing such as this. My remarks are based on completed GAO work on Customs efforts to detect hazardous materials at U.S. ports and federal efforts to secure U.S. seaports, as well as challenges involved in implementing these initiatives.[1] We are also presenting information based on ongoing work regarding new initiatives that address overseas supply chain security. See the appendix for a more detailed explanation of our scope and methodology.

In summary:

- The programs already in place at U.S. ports for detecting illegal fissile material or nuclear weapons are limited in a number of respects. They focus on screening a small portion of total cargo as it enters U.S. ports, and they are carried out without the use of adequate detection aids, such as radiation-detection equipment that can scan the entire contents of cargo containers. Instead, Customs personnel rely on small, handheld radiation pagers that have a limited range and capability. Other screening programs designed more broadly to identify any illegal or hazardous cargoes could potentially help identify such nuclear material as well, but these programs

[1]Previous GAO reports and testimony statements on these issues include *Nuclear Proliferation: U.S. Efforts to Combat Nuclear Smuggling Need Strengthened Coordination and Planning*, GAO-02-426 (Washington, D.C.: May 16, 2002); *Nuclear Proliferation: U.S. Efforts to Combat Nuclear Smuggling*, GAO-02-989T (Washington, D.C.: July 30, 2002); *Port Security: Nation Faces Formidable Challenges in Making New Initiatives Successful*, GAO-02-993T (Tampa, FL: August 5, 2002); and *Customs Service: Acquisition and Deployment of Radiation Detection Equipment*, GAO-03-235T (Washington, D.C.: October 17, 2002).

rely heavily on the availability of quality information for targeting those cargoes posing the greatest risk. The Customs Service acknowledges that the accuracy of such information still needs improvement.

- The predominant focus of most new initiatives has been to establish additional lines of security in the supply chain of international commerce. In essence, this means moving part of the effort overseas, where goods are prepared for shipment into this country. These initiatives include such efforts as establishing international standards for ports, carriers, and maritime workers; stationing Customs personnel overseas to identify high-risk containers before inspection in foreign ports; reducing security vulnerabilities along the overseas portion of the supply chain; and using new technology to monitor the contents and movement of containers from their points of origin. Because the United States functions in a global economy where international organizations are addressing similar issues, current U.S.-led efforts are evolving within that context.

- The United States faces considerable challenges to successfully implement these existing and new efforts, both at home and abroad. Our reviews of port security programs have shown that even on the domestic front, the federal government faces challenges in creating and enforcing a set of security standards, ensuring the cooperation of diverse groups with competing interests when it comes to the specifics of how things are to be done, and paying the increased security bill. Our preliminary work indicates that these same challenges are likely to exist in efforts to extend strong measures of security elsewhere. To make its programs work, the United States is participating in and seeking to achieve consensus through a variety of international organizations, across many countries.

Background

Seaports are critical gateways for the movement of international commerce. More than 95 percent of our non–North American foreign trade arrives by ship. In 2001, approximately 5,400 ships carrying multinational crews and cargoes from around the globe made more than 60,000 U.S. port calls. More than 6 million containers (suitable for truck-trailers) enter the country annually. Particularly with "just-in-time" deliveries of goods, the expeditious flow of commerce through these ports is so essential that the Coast Guard Commandant stated after September 11th, "even slowing the

flow long enough to inspect either all or a statistically significant random selection of imports would be economically intolerable."[2]

As indispensable as the rapid flow of commerce is, the terrorist attacks of September 11th have served to heighten awareness about the supply system's vulnerability to terrorist actions. Drugs and illegal aliens are routinely smuggled into this country, not only in small boats but also hidden among otherwise legitimate cargoes on large commercial ships. These same pathways are available for exploitation by a terrorist organization or any nation or person wishing to attack us surreptitiously. The Brookings Institution reported in 2002 that a weapon of mass destruction shipped by container or mail could cause damage and disruption costing the economy as much as $1 trillion.[3] Port vulnerabilities stem from inadequate security measures as well as from the challenge of monitoring the vast and rapidly increasing volume of cargo, persons, and vessels passing through the ports. Against this backdrop, it is not surprising that various assessments of national security have concluded that the nation's ports are far more vulnerable to terrorist attacks than the nation's aviation system, where most of the nation's efforts and resources have been placed since September 11th.[4]

Guarding against the introduction of nuclear or other dangerous cargo into the United States involves having effective security measures at numerous points along the supply chain. Transporting a shipping container from its international point of origin to its final destination is a complex process that involves many different participants and many points of transfer. Many of these participants carry out their roles in the exporting country (see fig. 1). The actual materials in a container can potentially be affected not just by the manufacturer or supplier of the material being shipped, but also by carriers who are responsible for getting the material to a port and by personnel who load containers onto the ships. Others who interact with the cargo or have access to the records of the goods being shipped include exporters who make arrangements for shipping and loading, freight

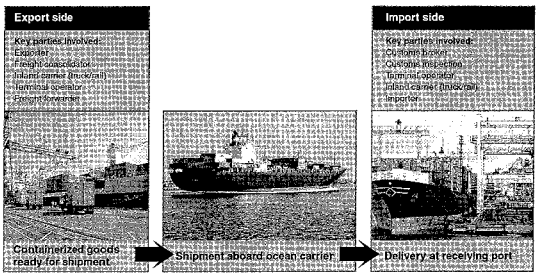
[2]Admiral James M. Loy and Captain Robert G. Ross, U.S. Coast Guard, *Global Trade: America's Achilles' Heel* (February 2002); and *Meeting the Homeland Security Challenge: A Principled Strategy for a Balanced and Practical Response* (September 2001).

[3]Michael E. O'Hanlon et al., *Protecting the American Homeland: A Preliminary Analysis*, Washington, D.C.: Brookings Institution Press, 2002.

[4]Independent Task Force Sponsored by the Council on Foreign Relations, *America Still Unprepared—America Still in Danger*, October 2002.

consolidators who package disparate shipments into containers, and forwarders who manage and process the information about what is being loaded onto the ship. Review by the Customs Service, which traditionally comes once the ship arrives at its destination, is likewise just one step in the transportation chain on the domestic side.

Figure 1: Overview of Supply Chain for Cargo Containers



Source: GAO, (c) Nova Development Corporation and Corbis Images (DigitalStock).

Detecting smuggled fissile material that could be used to make a nuclear weapon is a difficult task not just because it is a potential needle in this vast haystack of international trade. It is also difficult because one of the materials that is of greatest concern—highly enriched uranium—has a relatively low level of radioactivity and is therefore very difficult to find with radiation-detection equipment. By contrast, radioactive materials that could be used in conjunction with conventional explosives to create a so-called dirty bomb are somewhat easier to detect, because they have much higher levels of radioactivity. Because of the complexity of detecting nuclear material, the Customs officers or border guards who are responsible for operating the equipment must also be trained in using handheld radiation detectors to pinpoint the source of an alarm, identifying false alarms, and responding to cases of illicit nuclear smuggling.

Existing Programs for Countering Nuclear Smuggling at Domestic and International Ports Are Limited

Existing programs for detecting the smuggling of nuclear materials are spearheaded by the Customs Service and are directed mainly at the import side of the transportation chain. Some of these efforts focus specifically on detecting nuclear materials, while others are directed at the wider range of hazardous and illegal shipments. In addition, several other federal agencies have efforts under way that are directed at the export side of the transportation chain—that is, at detecting and stopping shipments of nuclear materials before they leave the country of origin. We and others have pointed out that these programs lack many components, such as the best detection technology, for providing a more effective deterrent.

Efforts Aimed Specifically at Detecting Nuclear Cargo Entering U.S. Ports

The Customs Service currently has some equipment in place for detecting radioactive or nuclear materials in the nation's ports and has begun training its agents to recognize and respond to radioactive materials. However, this equipment has limited effectiveness, and the agency's training programs, among other things, have not been integrated into a comprehensive plan.[5]

Customs' current screening program is based on several types of radiation-screening technology, only some of which are up and running:

- **Radiation-detection pagers**. Customs acquired radiation-detection pagers, which are worn on a belt, have limited range, and were not designed to detect weapons-usable radioactive material. Customs has deployed about 4,200 pagers among its 7,500 inspectors and expects every inspector to have a pager by September 2003. According to experts with whom we have spoken, these pagers are more effectively used in conjunction with other detection equipment rather than as a primary means of detection.
- **X-ray–compatible detectors**. These radiation detectors are installed on X-ray machines that screen small packages. Customs has installed about 200 such detectors nationwide at border crossings and ports of entry. These detectors are not large enough to screen entire containers or other large cargo, however.

[5] *Customs Service: Acquisition and Deployment of Radiation Detection Equipment*, GAO-03-235T (Washington, D.C.: Oct. 17, 2002). We are continuing to conduct work on this issue.

- **Portal monitors**. These detectors, which are not yet in place in ports or other points of entry, are larger than those on X-ray machines and are capable of screening the entire contents of containers, cars, or trucks. Customs is now completing a pilot test of such a monitor at one border crossing, and Customs officials told us that they plan to purchase up to 400 portal monitors by the end of fiscal year 2003.

According to Customs, about 5,000 of its approximately 7,500 inspectors have been trained to identify materials and components associated with the development and deployment of nuclear weapons. Customs also plans to give specialized training in the detection of nuclear material to as many as 140 of its inspectors, in cooperation with the Department of Energy's national laboratories. However, Customs has not yet developed an overall plan that coordinates equipment purchases and personnel training. Such a plan would also address such things as vulnerabilities and risks; identify the complement of radiation-detection equipment that should be used at each type of border entry point—air, rail, land, and sea—and determine whether equipment could be immediately deployed; identify longer-term radiation-detection needs; and develop measures to ensure that the equipment is adequately maintained.

Efforts Focused More Broadly on Detecting All Hazardous Cargoes in U.S. Ports

Customs has methods and machines that, although directed more broadly at various types of hazardous or illegal cargoes, can be useful in finding radioactive and nuclear materials. These efforts are based largely on an approach of targeting a small percentage of containers for in-depth screening. With more than 6 million containers a year entering U.S. ports, examining them all has not been possible. Instead, Customs has acknowledged that its approach relies on reviewing shipping manifests, invoices and other commercial documents, and intelligence leads to target approximately 2 percent of the containers that enter the country nationwide for physical inspection, though the actual percentage varies from port to port. To better address terrorist threats, Customs is modifying its targeting approach, which was originally designed for counter-narcotics efforts. Customs officials told us that one of their greatest needs was for better information to more accurately target shipments. In a separate effort, GAO is conducting a review of Customs' processing of sea-borne containerized, bulk, and break-bulk cargo bound for the United States,[6]

[6]Bulk and break-bulk cargoes include liquid bulk (such as petroleum), dry bulk (such as grain), and iron ore or steel.

focusing on targeting criteria, procedures, and the use of screening technology. On the basis of our preliminary work, GAO has identified a number of challenges related to the implementation and effectiveness of Customs' initiatives to ensure the security of cargo entering U.S. seaports. Customs has deemed the information we are collecting about that work as law-enforcement sensitive, which precludes our discussing it in an open hearing such as this.

To inspect the containers they target for closer scrutiny, Customs inspectors use gamma ray and X-ray machines that are capable of scanning the interior of a 40-foot container in less than a minute. The Port of Newark has four such machines, called VACIS machines.[7] Starting in the summer of 2002, Customs began deploying an additional 20 mobile gamma ray imaging devices at U.S. ports to help inspectors examine the contents of cargo containers and vehicles.[8] If necessary, containers can also be opened and unloaded for a lengthy, more thorough item-by-item inspection.

Efforts in Nation's Ports Remain a Key Line of Defense

Aside from Customs' efforts, the Coast Guard and other agencies are undertaking a number of other fundamental actions domestically to improve our line of defense. For example:

- The Coast Guard has its own screening process for identifying and boarding vessels of special interest or concern. Shortly after the September 11th terrorist attacks, the Coast Guard modified its ship arrival notification requirement. The modification requires all vessels over 300 gross tons to contact the Coast Guard 96 hours—up from 24 hours—before they are scheduled to arrive at a U.S. port. Each vessel must provide information on its destination, its scheduled arrival, the cargo it is carrying, and a roster of its crew members. The information, which is processed and reviewed by the Coast Guard's National Vessel Movement Center, is used in conjunction with data from various intelligence agencies to identify "high-interest" vessels. Decisions on appropriate actions to be

[7]VACIS is a gamma ray imaging system that uses radiographic images to help inspectors examine the contents of trucks, containers, cargo, and passenger vehicles for hidden contraband. Gamraa ray systems are regarded as state-of-the-art for such applications.

[8]Major ports are scheduled to receive additional VACIS systems, Mobile Truck Gamma Systems, Mobile Truck X-ray systems, High Energy Sea Container X-ray systems, and Pallet Inspections Systems. Additional deployments of equipment are planned over the next several years.

taken with respect to such vessels, such as whether to board, escort, or deny entry to them, are made based on established criteria and procedures.

- Coast Guard officials are continuing to conduct vulnerability assessments of the nation's ports. These assessments help identify where local ports are most susceptible to security weaknesses and provide a blueprint of actions that need to be taken to make the ports more secure.

- Individual ports are taking a number of actions, often using newly provided federal funding to help pay for them. Three Department of Transportation (DOT) agencies—the Maritime Administration, the Coast Guard, and the Transportation Security Administration (TSA)—recently awarded grants to 51 U.S. ports for security enhancements and assessments. For example, in 2002, the Port Authority of New York and New Jersey received $3.5 million for such activities as developing devices for scanning containerized cargo for radioactivity, conducting preparedness training, and installing camera surveillance systems.[9]

But actions such as these and the systems now in place at local ports to effectively identify, intercept, examine, and deal with ships and cargoes that arouse suspicion, or otherwise do not meet established standards, remain a work in progress. The recent incidents at the Port of New York and New Jersey involving the *Palermo Senator* and the *Mayview Maersk* illustrate that basic questions remain about how actions should be carried out at domestic ports. In both cases, the Coast Guard had concerns about the vessels but allowed them to enter the port. In the case of the *Palermo Senator*, the ship remained at the dock for 18 hours after testing showed high levels of radioactivity.[10] For the *Mayview Maersk*, the ship remained at the dock for 6 hours while the Coast Guard checked for explosives.[11] These incidents illustrate the need for clearer definitions of responsibility and procedure. Port Authority of New York and New Jersey officials, for

[9]More recently, Congress passed legislation authorizing an additional $125 million for port security grants, including $20 million for port incident training and exercises. According to a Maritime Administration official, the grant application process has not begun, but he expects that grant awards will be made in the April 2003 time frame.

[10]The ship was subsequently towed to a security zone 6 miles offshore, where inspectors found that the radiation was natural radiation emanating from the ceramic cargo.

[11]The inspection showed that containers had previously held explosive cargo, but no explosives were found aboard the ship.

example, cited a need for clearer guidance on the conditions under which ships can be denied entry into U.S. ports and the protocols for where and how to examine and unload ships suspected of carrying explosives or weapons of mass destruction.

Efforts Aimed at Intercepting Shipments before They Leave the Export Country

Finally, turning to efforts outside U.S. borders, our ongoing work indicates that U.S. agencies have taken steps to address nuclear smuggling by attempting to ensure that nuclear materials do not leave some other countries, especially the former Soviet Union. Under its Second Line of Defense program, the U.S. Department of Energy (DOE) has installed 70 portal monitors at 8 border crossings in Russia since fiscal year 1997. These 8 crossings are the first of about 60 sites in Russia where DOE plans to install such portal monitors. According to DOE officials, the monitors provided to Russia have resulted in more than 275 cases involving radioactive material, including contaminated scrap metal, irradiated cargo, and other materials. The State Department and Department of Defense (DOD) have also provided detection equipment and other assistance primarily to former Soviet countries.

In our July 2002 report, we noted a lack of effective coordination among the overseas assistance programs.[12] That is, DOE, DOD, and the State Department have pursued separate approaches to installing radiation detection at border crossings, leaving some crossings more vulnerable than others to nuclear smuggling. Moreover, according to agency officials, U.S. assistance has sometimes lacked effective follow-up to ensure that the equipment delivered was properly maintained and used. Some equipment has sat idle for months or years for want of final agreements, reliable power supplies, or appropriate placement. For example, some equipment given to Estonia sat in an embassy garage for 7 months while an agreement governing its release was finalized; portal monitors sat in the U.S. embassy in Lithuania for 2 years because officials disagreed about whether a new $12,600 power supply was needed to run them; and one portal monitor delivered to Bulgaria was installed on an unused road. In many cases, countries that have received U.S. radiation-detection equipment were not systematically providing information to U.S. agencies about the nuclear materials they detect, making it difficult to determine the equipment's impact and effectiveness. DOE and other agencies

[12] *Nuclear Nonproliferation: U.S. Efforts to Combat Nuclear Smuggling*, GAO-02-989T (Washington, D.C.: July 30, 2002).

providing the equipment have identified these and other problems and are taking actions to address them.

New Efforts Are Under Way to Address the Entire Supply Chain

In responding to the ongoing challenges of preventing radioactive and nuclear materials from entering the United States, the federal government has recognized that it must take a multi-pronged approach, including changes on the domestic as well as the international front. Concentrating on a small percentage of all containers, even with efforts to target high-risk cargoes, may not provide sufficient coverage. To widen coverage without bringing international commerce to a virtual halt, federal agencies are beginning to address those parts of the overseas supply chain that have received relatively limited attention, including country of origin. The main thrust of several new initiatives has been to create multiple lines of defense by pushing security beyond U.S. docks to include points of departure and, ultimately, places of manufacture. This is a fundamental change that involves viewing cargo security as an international effort rather than a national effort. Recognizing the important role that international organizations play in setting standards and procedures to facilitate international trade and enhance the security of the global supply chain, the United States is participating in these forums to help achieve these dual goals. To develop such international efforts, part of the federal government's effort must be on the diplomatic front as it seeks to forge security-related agreements in international forums, such as the International Maritime Organization (IMO). As the federal government is engaged in this new approach, it is also attempting to improve the lines of defense inside our nation's ports. Although various efforts to do so are under way, these efforts are in their preliminary stages. Currently, we are conducting a separate review for the Senate Committee on Finance and the House Committee on Ways and Means of Customs' Container Security Initiative (CSI) and Customs Trade Partnership Against Terrorism (C-TPAT) programs, focusing on their efforts to address concerns about the vulnerabilities of the international supply chain without impeding global commerce. We have obtained data from Customs' headquarters and have begun foreign fieldwork.

New Initiatives Focus on Enhancing Security of Overseas Supply Chain

The fundamental shift in the approach to cargo security means that a program must be developed to put in place the additional checkpoints and procedures needed in the supply chain. The Customs Commissioner has emphasized the importance of such an effort in testing for the cargoes, stating, "If a cargo container has been used to smuggle a weapon of mass

destruction set to go off upon arrival in the United States, it may be too late to save American lives and the infrastructure of a great seaport. Accordingly, we must change our focus and alter our practice to the new reality."

On this front, three primary initiatives are under way. Although all three initiatives focus on activities that affect the overseas supply chain, they differ somewhat in their focus and application.[13]

- The Container Security Initiative (CSI) focuses on placing U.S. Customs inspectors at the ports of embarkation to target containers for inspection.
- The Customs Trade Partnership Against Terrorism (C-TPAT) focuses on efforts by importers and others to enhance security procedures along their supply chains.
- The Operation Safe Commerce (OSC) focuses more heavily on using new technology, such as container seals, to help shippers ensure the integrity of the cargo included in containers being sent to the United States.

CSI Places U.S. Customs Personnel in Foreign Ports

The CSI program that was announced in January 2002 is a new initiative intended to detect and deter terrorists from smuggling weapons of mass destruction via containers on ocean-going vessels before they reach the United States. The United States is attempting to enter into bilateral agreements with foreign governments to place U.S. Customs personnel at key foreign seaports where, based on U.S. and foreign data, they will work with their foreign counterparts to target and inspect high-risk containers bound for the United States. By working at foreign ports with local

[13]An additional effort, the outcome of which is classified as law-enforcement sensitive, is an interagency Container Working Group established by the Secretary of Transportation to address the security issues surrounding the movement of marine cargo containers through the international and intermodal transportation system. This effort is co-chaired by the Departments of Transportation and of the Treasury. According to DOT officials, the Container Working Group's activities are focused on information technology, security, business practices, and international affairs. On February 1, 2002, the group made recommendations to the Office of Homeland Security on ensuring the security of cargo container transportation. The recommendations addressed improving the coordination of government and business container security activities, enhancing cargo data collection, and improving the physical security of containers. The recommendations also support international container security efforts and the increased use of advanced technologies to improve the profiling of containers. In August 2002, a status report was forwarded to the Office of Homeland Security that detailed the progress on the twenty-four action items that were recommended in the original report.

customs, this program is designed to facilitate the early detection and examination of containers that are considered high-risk. Other key elements of CSI include developing criteria intended to enable Customs inspectors to better target high-risk containers suspected of transporting weapons of mass destruction, using technology to quickly screen high-risk containers at foreign ports, and developing and using smart and secure containers.

Customs is currently working to put such agreements in place. Customs has placed inspectors at 3 ports in Canada (Vancouver, Montreal, and Halifax) and is now focusing on efforts to cover the 20 ports with the highest volume of containers arriving into the United States. To date, eight governments, representing 13 of the top 20 ports, have entered into CSI agreements,[14] and Customs has placed inspectors in the Netherlands.[15] Agreements are currently under negotiation with six other governments, representing the remaining 7 ports. Customs also plans to expand the program to other ports deemed to be strategically important.

C-TPAT Seeks to Improve Security Measures along the International Supply Chain

Another Customs initiative is the C-TPAT program, a partnership between the business community and Customs designed to enhance the security of international supply chains. Through this initiative, which began in April 2002, importing businesses, freight forwarders, carriers, and other logistics providers enter into agreements with Customs to voluntarily undertake measures that will reduce security vulnerabilities. Companies participating in the program must complete a self-assessment of their supply chain and submit to Customs a profile that describes their current security practices. Customs then reviews these profiles, certifies applicants, and provides them with feedback about security-related issues that need to be resolved. Once they are certified, C-TPAT members must still address Customs concerns on these issues. Customs plans to work jointly with companies to track their progress in making security improvements along their supply chains, but the emphasis is on self-policing rather than Customs

[14]These ports are: Rotterdam in the Netherlands; Antwerp in Belgium; Le Havre in France; Bremerhaven and Hamburg in Germany; La Spezia and Genoa in Italy; Singapore; and Hong Kong. Japan has sealed the declaration of principles to participate in CSI by stationing, on a pilot basis, U.S. Customs officers at the ports of Tokyo, Nagoya, Kobe, and Yokohama. In addition, the Customs Service announced on October 25, 2002, that China is joining CSI, in principle.

[15]In December 2001, the Canadian Deputy Prime Minister and the U.S. Homeland Security Director signed the "Smart Border Declaration."

verifications. Overall, Customs views the C-TPAT program as an incremental means to strengthen the international supply chain.

According to Customs, by participating in C-TPAT, certified importers and their supply chain partners could benefit from a reduced likelihood that Customs officials looking for weapons of mass destruction will delay the movement of their containers for inspection. Furthermore, in the event of an incident, C-TPAT members would likely be among the first allowed to resume their import operations.

As of early November 2002, approximately 1,100 companies had agreed to participate in C-TPAT, and Customs had certified 197 importers, 16 brokers, and 22 carriers. C-TPAT is currently open to all importers, brokers, freight forwarders, and non-vessel–owning common carriers, as well as most other types of carriers.[16] Customs, in consultation with private-sector partners, plans to expand the program to port authorities, terminal operators, warehouse operators, and foreign manufacturers.

OSC Applies New Technology to Provide Greater Assurance That Cargoes Are Safe

OSC was initiated by the private sector as an attempt to make the supply chain more secure. OSC is administered by TSA within DOT and is funded by $28 million appropriated by the Congress in July 2002. Like the two Customs initiatives, OSC seeks to move the primary reliance away from control systems at U.S. ports of entry and toward improved controls at points of origin and along the way. OSC relies on using new technology such as electronic container seals to strengthen the security of cargo as it moves along the international supply chain. Efforts center on the following:

- ensuring that containers are loaded in a secure environment at the point of product origin, with 100 percent verification of their contents;
- using such technology as pressure, light, or temperature sensors to continually monitor containers throughout their overseas voyage to the point of distribution in the United States; and

[16] C-TPAT is open to carriers involved in air, rail, and sea transportation as well as to U.S.-Canadian border highway carriers.

- using cargo-tracking technology to keep accurate track of containers at all points in the supply chain, including distribution to their ultimate destinations.

The nation's three largest container port regions (Los Angeles/Long Beach, New York/New Jersey, and Seattle/Tacoma) are involved in the OSC pilot project, which will address the security vulnerabilities posed by containers entering these U.S. port regions. According to the port officials, they are working together with federal agencies to determine which procedures and technologies constitute the best practices in supply chain security. According to TSA, the OSC final grant award criteria will be contained in the Request for Applications, which is expected to be released in December 2002.[17]

International Approach Requires Consensus-Building Efforts

According to the Associate Deputy Secretary of DOT, who serves as the principal policy adviser to the Secretary of Transportation as well as co-chair of the Operation Safe Commerce Executive Steering Committee, meaningful improvement in global transportation security will involve actions of many international organizations and governments. The Administration, including various federal agencies, is working with regional and global leaders and international organizations to further this critically important transportation security agenda. Key initiatives are being pursued in the International Maritime Organization, the World Customs Organization, the International Organization for Standardization, the International Labor Organization, and the United Nations Sub-Committee of Experts on the Transportation of Dangerous Goods.

Seeking Consensus with Regional and Global Leaders

To encourage the broadest possible international consensus regarding the importance of enhancing transportation security on a global basis, the Administration has promoted a transport security agenda both at the most recent G8 Summit in Canada (June 2002)[18] and the recent meeting of Asia

[17]Separately from the OSC effort, the world's three largest seaport operators, representing 70 percent of the world's container traffic, are collaborating to demonstrate and deploy automated tracking detection and security technology for containers entering U.S. ports. Driven and initially funded by industry, this initiative, called Smart and Secure Tradelanes, is focused on container security and tracking and will be built on existing infrastructure and technologies that are proven, available for immediate deployment, and adaptable to emerging new technologies.

[18]The G8 includes representatives from the governments of Canada, France, Germany, Italy, Japan, Russia, the United Kingdom, the United States, and the European Union.

Pacific Economic Cooperation leaders in Los Cabos, Mexico (October 2002). DOT officials report that in both forums, participants endorsed the importance of adopting aggressive measures to combat the terrorist threat to transportation on a global basis—notably, through the work of international organizations—and to accelerate, where possible, the deadlines for implementation of important new requirements.

Forming New Security Consensus through the International Maritime Organization

The International Maritime Organization is responsible for improving maritime safety, including combating acts of violence or crime at sea. The Coast Guard and DOT spearhead U.S. involvement in the IMO. Ninety-eight percent of the world's international shipping fleet operates under the agreements it promulgates. Following the September 11th attacks, IMO started determining new regulations needed to enhance ship and port security and to prevent shipping from becoming a target of international terrorism. Consideration of these new regulations is expected at a diplomatic conference scheduled for December of this year. According to Coast Guard officials, the new regulations will contain mandatory requirements for ships engaged in international voyages and for port facilities that serve such ships. The structure of the measures includes a family of plans. Port facilities and ships will assess their vulnerabilities and then develop security plans to address those vulnerabilities at specified threat levels. Port facilities and ships will also assign personnel as security officers to ensure development and implementation of these security plans.

According to a Coast Guard official participating in the IMO negotiations, IMO's work is central to much of the international strategy propounded by the administration and the Congress. For example, the Port and Maritime Security Act of 2001,[19] which is being finalized in conference committee action, calls for the Secretary of Transportation to assess the acceptability of foreign port security "based on the standards for port security and recommended practices of the IMO and other appropriate international organizations."

Establishing Stronger Customs Procedures through the World Customs Organization

The World Customs Organization (WCO) is an independent intergovernmental body whose mission is to enhance the effectiveness and efficiency of customs administrations. Among other things, WCO

[19]S. 1214, a bill introduced by Senator Ernest F. Hollings, was aimed at amending the Merchant Marine Act of 1936 to establish a program to ensure greater security for U.S. seaports; it passed in the Senate on December 20, 2001. The House version of S. 1214, the Maritime Antiterrorism Act of 2002, does not contain a similar requirement.

establishes and maintains international instruments to make customs procedures more uniform. In September 2002, WCO organized a task force that is expected to be the first step in developing new guidelines for supply chain security. The task force, which plans to complete its work by June 2003, will examine numerous security-related topics, including enhancement of import, export, and in-transit controls; improvement of technology; and development of better data and techniques for selecting which cargoes to inspect. The Customs Service is a participant on this task force.

Developing New Security-Related Standards through the International Organization for Standardization

Although much of the framework for port security is established by these first two agencies, the International Organization for Standardization (ISO) is another important international body involved in improving international supply-chain security. ISO, a worldwide nongovernmental federation of national standards bodies from more than 140 countries, attempts to standardize various activities and products with a view toward facilitating the international exchange of goods and services. In this role, ISO would be responsible for developing standards for devices such as electronic container seals. ISO is currently participating in a pilot project dealing with these electronic seals.

International Labor Organization Sets Requirements for Persons Working Aboard Ships

The International Labor Organization (ILO), a United Nations agency, is the agency that determines the requirements to be included in identification documents for seafarers. Still another aspect of the expanded security system involves checking on the background of crew members aboard ships transporting cargo destined for the United States. ILO and IMO have been working on the issue of seafarer documents since February 2002. Also, ILO may consider standards for port worker identification documentation.

U.N. Sub-Committee of Experts on Transportation of Dangerous Materials

A senior DOT official reports that based on the G8 consensus of June 2002, the United Nations Sub-Committee of Experts on the Transport of Dangerous Goods (U.N. Sub-Committee) considered steps it could take to enhance security through international regulations on the transport of dangerous goods (hazardous materials). At its July 2002 meeting, the U.N. Sub-Committee agreed to consider specific measures for inclusion in the United Nations Recommendations on the Transport of Dangerous Goods at its meeting in early December 2002. In preparation for the December meeting, the DOT Research and Special Programs Administration, which leads the U.S. delegation to the U.N. Sub-Committee, worked collaboratively with other governments to gain consensus on security requirements that could be accepted at the December meeting. These

proposed amendments have now been formally proposed to the U.N. Sub-Committee through a United Kingdom submission.

The proposed amendments call for hazardous-materials employees to be trained in security at a level commensurate with their responsibilities, and it requires shippers and carriers of high-hazard materials to assess their security vulnerabilities and develop a security plan to address vulnerabilities identified. These requirements mirror those proposed by the Research and Special Programs Administration for inclusion in U.S. DOT Hazardous Materials Transportation Regulations, which are expected to be finalized later this year.

Key Challenges Include Creating and Implementing Standards, Ensuring Cooperation of Diverse Groups, and Securing Resources

In our August 2002 testimony on security actions being taken to improve security within domestic ports, we found indications that there could be considerable challenges.[20] These include implementation of standards defining what safeguards should be in place and how they should operate, difficulties in establishing effective coordination among the many entities that have a stake in port security, and availability of sufficient funding to carry out the full range of actions that may be needed. The attempts to improve existing nuclear-detection programs and to implement the new initiatives now under way could face challenges domestically and internationally in these three areas as well. The United States is working through a variety of international organizations, each with a certain set of responsibilities, to establish consensus and to encourage compliance on security issues.

Implementing Security Standards Could Prove Difficult

Adequate standards, consistently applied, are important because lax security at even a handful of ports could make them attractive targets for terrorists interested in smuggling dangerous cargo, damaging port infrastructure, or otherwise disrupting the flow of goods. On the domestic front, development of a set of national standards that would apply to all ports and all public and private facilities is well under way. The Coast Guard, through a contractor, has been developing a set of standards since May 2002 as part of its efforts to conduct vulnerability assessments at 55 major U.S. ports. The standards will cover such things as preventing unauthorized persons from accessing sensitive areas, detecting and

[20] *Port Security: Nation Faces Formidable Challenges in Making New Initiatives Successful*, GAO-02-993T (Washington, D.C.: Aug. 5, 2002)

intercepting intrusions, checking backgrounds of those whose jobs require access to port facilities, and screening travelers and other visitors to port facilities. In the past, the level of security has largely been a local issue, and practices have varied greatly. The standards are to be performance-based, meaning that they describe the desired outcome and leave the ports considerable discretion in how to accomplish the task.

In our earlier work, we reported that effectively implementing such standards in U.S. ports, even with the authority of the federal government behind them, poses challenges. For example, at the Port of Tampa some major employers, such as ship repair companies, hire hundreds of workers for short-term projects as needs arise. Historically, according to port authority officials, these workers have included people with criminal records. However, new state requirements for background checks, as part of the credentialing process, could deny such persons access to restricted areas of the port.[21] From a security standpoint, excluding such persons may be advisable; but from an economic standpoint, a company may have difficulty filling jobs if it cannot include such people in the labor pool. Around the country, ports will face many such issues, ranging from these credentialing questions to deciding where employees and visitors may park their cars. To the degree that stakeholders disagree on specific methods, or believe that specific security actions are unnecessary or conflict with other goals and interests, achieving consensus about what to do will be difficult.

Developing and implementing standards across international lines is likely to present a formidable challenge as well, but doing so is essential to protecting the integrity of the international supply chain. Efforts to develop international standards are under way on several fronts, but much still remains to do. For example, security procedures for loading and sealing a container at the manufacturer's or consolidator's warehouse, or for transferring cargo from one mode of conveyance to another, are still under development. Likewise, international standards covering documentation on the contents of cargo containers and the credentialing

[21]The House-passed version of S. 1214, the Maritime Transportation Antiterrorism Act, contains a provision that requires transportation security cards for entry to any secure area of a vessel or facility. The bill requires the Secretary of Transportation to issue a card to an individual who applies for one unless, after a background check, it is found that this individual poses a terrorism security risk. The Senate-passed version of this bill does not contain a similar provision, and it is unclear how the conference committee will decide this issue.

of cargo handlers and port workers are still being discussed. Because of the number and diversity of nations and stakeholders involved in the international supply chain, achieving consensus on these and other standards could be difficult and time consuming.

Shared Responsibilities Place a Premium on Effective Cooperation

Effective cooperation is essential—and not ensured—even at the domestic level. As we have reported, one challenge to achieving national preparedness and response goals hinges on the federal government's ability to form effective partnerships among many entities.[22] If such partnerships are not in place—and equally important, if they do not work effectively—those who are ultimately in charge cannot gain the resources, expertise, and cooperation of the people who must implement security measures.

Our reviews of domestic seaports have found that such partnerships can break down even when procedures are supposedly in place. For example, at the Port of Honolulu, a security plan exists that calls for notifying the Coast Guard and local law enforcement authorities about serious incidents. One such incident took place in April 2002 when, as cargo was being loaded onto a cruise ship, specially trained dogs reacted to possible explosives in one of the loads, and the identified pallet was set aside. Despite the notification policy, personnel working for the shipping agent and the private company providing security at the dock failed to notify either local law enforcement officials or the Coast Guard about the incident. A few hours after the incident took place, Coast Guard officials conducting a foot patrol found the pallet, and, when told about the dogs' reaction, immediately notified local emergency response agencies. Once again, however, the procedure was less than successful because the various organizations were all using radios that operated on different frequencies, making coordination between agencies much more difficult. Fortunately, the Honolulu incident did not result in any injuries or loss.

Just as efforts to enhance port security in the domestic environment require the collaboration of many public and private parties, the challenges internationally require cooperation and collaboration by a wide array of stakeholders. Clearly, there are important initiatives moving

[22]U.S. General Accounting Office, *Homeland Security: Intergovernmental Coordination and Partnership Will Be Critical to Success*, GAO-02-899T (Washington D.C.: July 1, 2002); GAO-02-900T (Washington D.C.: July 2, 2002); and GAO-02-901T (Washington D.C.: July 3, 2002).

forward in the four major international institutions outlined above—on port and carrier standards in the IMO, on customs procedures in the WCO, on seafarer and port worker documentation in the ILO, and on standards for electronic container seals in the ISO. Each organization is made up of individual nations contributing different levels of development, maritime activity, and economic capacity. Admiral James M. Loy, former Commandant of the Coast Guard and current Acting Director of TSA, has emphasized that reaching global agreements is critical, noting that "international and domestic cooperation, both civil and military, is essential...because we can't hope to ensure our security by working alone or by waiting until the threats have already crossed the thresholds of our ports."[23] Although many cooperative efforts are under way to address supply chain security, achieving consensus among the diverse parties on a number of matters in this area and forging comprehensive agreements to address them will be challenging.

Funding Issues Are Pivotal

Many of the planned security improvements at seaports will require costly outlays for infrastructure, technology, and personnel. Even before September 11th, the Interagency Commission on Crime and Security in U.S. Seaports[24] estimated that the costs for upgrading security infrastructure at U.S. ports will range from $10 million to $50 million per port.[25] Officials at the Port of New York and New Jersey estimate their capital costs for bringing the port's security into compliance with the port's vulnerability assessment at $73 million. The federal government has already stepped in with additional funding for port security, but demand has far outstripped the additional amounts made available.

International ports also may face funding challenges similar to those faced by ports in the United States. Recently, at an Asia Pacific Economic Cooperation conference, Secretary of Transportation Norman Y. Mineta echoed this sentiment, saying that implementation of security measures to ensure safety of passengers and goods may challenge the resources of

[23]"The Unique Challenges of Maritime Security," speech by Admiral James M. Loy, Propeller Club of the United States, Washington, D.C., October 31, 2001.

[24]On April 27, 1999, the President established the Interagency Commission on Crime and Security in U.S. Seaports. The Commission issued its report on August 28, 2000.

[25]Estimated range varies on the basis of port size and cost of the technology component of the security upgrade.

foreign economies. However, the extent of any fiscal challenges faced by specific foreign ports is unknown at this point.

In summary, Mr. Chairman, the nation's approach to dealing with nuclear smuggling is both to develop entirely new lines of defense overseas and to shore up those defenses that are already in place in the nation's ports. The challenges domestically are well known and well chronicled: ports remain susceptible to weapons of mass destruction, with neither our best technology nor a set of clear standards and procedures in place. The challenges overseas could be much the same. Just as inconsistent standards and security vulnerabilities among domestic ports could lead terrorists to seek the path of least resistance, overseas ports that do not adopt strong security standards may attract the attention of those hoping to inflict harm on America. At the domestic level, the challenges faced can be mitigated somewhat by the fact that stakeholders ultimately share the same goals of national security. Although all countries involved in international commerce may share the basic goal of secure trade and may share commitment, foreign countries may vary greatly in their understanding of, vulnerabilities to, and capabilities to address the threats involved.

Mr. Chairman, this completes my prepared statement. I would be pleased to respond to any questions you or other Members of the Subcommittee may have.

Contacts and Acknowledgments

For information about this testimony, please contact JayEtta Z. Hecker, Director, Physical Infrastructure Issues, at (202) 512-2834. Individuals making key contributions to this testimony include Gene Aloise, Jonathan Bachman, Seto Bagdoyan, Christine Broderick, Steven Calvo, Howard Cott, Laurie E. Ekstrand, Etana Finkler, Gary Jones, Stan Stenersen, Eric Wenner, Randy Williamson, and Loren Yager.

Scope and Methodology

To determine the programs in place to prevent illegal fissile material or a tactical nuclear weapon from being smuggled into the United States through our ports, we relied on issues raised in a number of GAO-issued products, as indicated in footnote 1.

To determine new efforts under way to improve port and container security, both domestically and abroad, we talked with senior DOT, TSA, and Coast Guard officials, including the Coast Guard representative to the

IMO on international initiatives, a senior TSA official regarding the status of rulemaking to govern the Operation Safe Commerce pilot program, and the Deputy Undersecretary of DOT who co-chairs the Container Security Group on international initiatives to advance U.S. recommendations for enhancing port and container security. We also met with representatives from the Ports of Los Angeles, New York and New Jersey, and Seattle—the three ports that are participating in the Operation Safe Commerce pilot program—and discussed the new international and domestic initiatives. We also obtained key documents and "white papers" on initiatives from Coast Guard and DOT officials and from the Coast Guard, Customs, IMO, WCO, ILO, and ISO Internet Web sites.

To determine the key challenges to implementing these initiatives and efforts, we met with senior DOT, TSA, and Coast Guard officials, including the Coast Guard representative to the IMO on international initiatives and the Deputy Undersecretary of DOT who co-chairs the Container Security Group on international initiatives to advance U.S. recommendations for enhancing port and container security. We also met with representatives from the Ports of Los Angeles, New York and New Jersey, and Seattle and discussed the new international and domestic initiatives. We obtained key documents and "white papers" on initiatives from Coast Guard and DOT officials and from the Coast Guard, Customs, IMO, WCO, ILO, and ISO Internet Web sites. We also relied on our previously issued product on port security, GAO-02-993T, August 5, 2002.

Mr. SHAYS. A wonderful way to get it started. Thank you very much.

Admiral.

STATEMENT OF REAR ADMIRAL LARRY HERETH, DIRECTOR, PORT SECURITY, U.S. COAST GUARD

Admiral HERETH. Good morning, Mr. Chairman and distinguished members of the committee, Mr. Nadler.

As the Director of Port Security for the Office of Marine Safety, Security and Environmental Protection at Coast Guard Headquarters, I want to thank you for the opportunity to appear before you today on behalf of the Commandant, Admiral Collins.

As the President is on the verge of signing American Transportation Security Act, I would first like to thank Congress for passing this monumental piece of legislation.

This is an important step for the Coast Guard for the security of our Nation's marine transportation system, as it introduces a systematic approach for addressing vulnerability of our seaports through critical activities such as port security assessments, requirements for security clearance for vessels and facilities.

The comprehensive container security program involves an emphasis on the prevention and pre-emption of incidents, but also must stress the preparedness to respond to any problems that crop up.

The prevention of container security incidents can be broken down into two parts.

The intrinsic security of containers, which might include cargo identification, verification, sealing a container, and also intransit security, which gives more with the secure movement of containers through the marine transportation system.

Both Customs and TSA have the challenge of improving container security from the point of origin to the point of destination. Coast Guard actively supports both Customs and TSA on a variety of initiatives that you will hear about from those representatives.

I would, however, like to point out at least two Coast Guard initiatives contribute to security. First of all, our maritime domain awareness program. The key element of any protection program is situation awareness. Or in this context, maritime domain awareness.

MDA seeks to have a full understanding of people, cargo and vessels involved in transmitting cargo to the United States.

Under our MDA program, we spearheaded a variety of initiatives and interagency partnership to improve our information gathering and analysis capability. This includes a 96-hour advance notice of arrival requirement for all seaborne vessels over 300 gross tons.

This also includes requirements for vessels to provide Customs manifest information 96 hours in advantage of arrival in the United States.

We believe this is a major step forward.

Additionally, Coast Guard has taken the lead in international narcotics maritime organization. They developed worldwide standards for maritime security.

We expect IMO will adopt these measures in just a couple of weeks. It will enhance the security of vessels in their international

service, as well as the port facilities that service them, both foreign and domestic.

Any security programs also needs a response capability to deal with any potential or actual threat that might crop up. It involves several working groups to address the response protocols.

Unfortunately, the maritime environment provides unique challenges to impact the performance of radiation detector sensors.

Coast Guard has been working with the Department of Energy and others to identify appropriate detection capabilities and protocols.

In addition, measures, policy changes are being evaluated by an interagency work group led by the Office of Homeland Security.

There's been significant progress in terms of clarifying roles and responsibilities, in defining how an organization comes together and deals with potential problems that crop up.

In summary, the Coast Guard is the Nation's maritime homeland security leader and will continue to partner with other Federal, State and local agencies, maritime stakeholders and international organizations to improve security of our ports and containerized cargo.

[The prepared statement of Admiral Hereth follows:]

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DEPARTMENT OF TRANSPORTATION

UNITED STATES COAST GUARD

STATEMENT OF

REAR ADMIRAL LARRY HERETH

ON THE

HOMELAND SECURITY: FINDING THE NUCLEAR NEEDLE IN THE CARGO CONTAINER HAYSTACK HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL SECURITY, VETERANS AFFAIRS, AND INTERNATIONAL RELATIONS

COMMITTEE ON GOVERNMENT REFORM

U.S. HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2002

DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD
STATEMENT OF REAR ADMIRAL LARRY HERETH
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AND INTERNATIONAL RELATIONS
COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES
NOVEMBER 18, 2002

Good afternoon Mr. Chairman and distinguished members of the Committee. As the Director of Port Security for the Office of Marine Safety, Security, and Environmental Protection at Coast Guard Headquarters, I want to thank you for the opportunity to appear before you today on behalf of the Commandant, Admiral Collins, to discuss the Coast Guard's strategy and interagency relationships with respect to container cargo security.

As we all know, terrorist organizations pose an immediate and substantial threat to global trade. With over 95 percent of our country's overseas trade carried through U.S. seaports, and maritime industries contributing over one trillion dollars to the Gross Domestic Product of the United States, we cannot afford to bring the maritime dimension of our economy to a standstill. The recent 10-day labor management dispute at ports on the West Coast is a prime example of the significant economic impact that a shut down of our major ports can have. The vital role that our Marine Transportation System (MTS) plays in our Nation's overall economic picture will continue to grow. The movement of goods into and out of our country is expected to nearly double over the next twenty years. Globalization, and the advent of just-in-time delivery, has put an incredible premium on rapid, reliable cargo transportation. Intermodal containerized cargo has made today's just-in-time delivery business model possible. Each year, approximately six million cargo containers enter U.S. seaports.

Although containers have revolutionized international commerce, they are also a vulnerable link in the chain of global trade. Containers provide terrorists with a potential vehicle to smuggle nuclear, chemical, biological, or other deadly weapons into this country. Also, U.S. seaports are an attractive target because they have the infrastructure that facilitates international trade. Our seaport security challenge then, is to maintain the free flow of legitimate cargo and people through our ports, while simultaneously implementing security measures that protect us from those who seek to do harm by exploiting the potential vulnerabilities inherent in a system designed to maximize the flow of goods and people. The Coast Guard is uniquely positioned to address this challenge by virtue of our multi-mission nature, which combines a distinctive blend of military, humanitarian, intelligence, and unparalleled maritime law-enforcement capabilities.

While we have long been involved in all aspects of port security, the Coast Guard plays a supporting role to the U.S. Customs Service and the Transportation Security Administration (TSA) in the formidable challenge of improving container security. The

Coast Guard continues to work closely with these agencies and our industry partners to develop a unified approach for container security worldwide. One important facet of our approach to container security has been to emphasize the ability to detect Weapons of Mass Destruction (WMD) before they enter a U.S. port. Our approach places a premium on identifying and intercepting threats well before they reach the U.S. through improved Maritime Domain Awareness (MDA).

MDA is one of our five core Maritime Homeland Security strategies. Simply put, MDA is a comprehensive awareness of the vulnerabilities, threats, and activities that are occurring in the maritime environment. Sorting the legitimate from the illegitimate can be particularly difficult in the maritime environment. To detect, intercept, and interdict potential threats, as far out to sea as possible, we must acquire information that is increasingly comprehensive and specific as activities and potential threats move closer to the U.S. A variety of initiatives and interagency partnerships have improved our information gathering and analysis capability. One example is a new requirement that all seagoing vessels over 300 gross tons are required to provide a notice of arrival to our National Vessel Movement Center (NVMC) 96-hours prior to entering a port or place in the United States. The previous requirement was only 24-hours advance notice. Our intelligence components evaluate the information provided on the vessel, its cargo, crew nationality, flag of registry, and previous ports of call. Based on this information, we determine whether the vessel should be considered a High Interest Vessel (HIV) requiring additional security measures.

Additional security measures include establishing positive control over HIV movements. One means of establishing positive control is to board and inspect vessels that may pose a substantial security risk prior to their arrival in a U.S. port. However, the unique design of container ships and container stowage severely limits access to containers at sea. Therefore, the Coast Guard relies heavily on pre-arrival intelligence to ascertain the vessel's threat level while working to improve our boarding teams' detection capability.

Being able to effectively detect the presence of a radiological device during a boarding is essential. The maritime environment provides unique challenges that severely impact the performance of radiation detectors and sensors. Accordingly, the U.S. Coast Guard Research and Development Center has been in partnership with the Department of Energy (DOE) to identify the appropriate detection capabilities, provide the necessary training, establish logistical support, and create interagency protocols to ensure a measured and appropriate response to the detection of radiological materials aboard ship. In addition, based on lessons learned from the recent boarding of the PALERMO SENATOR and MAYVIEW MAERSK, additional measures and policy changes are being evaluated by an interagency working group in an effort to enhance overall boarding procedures on vessels suspected of carrying WMD.

The Coast Guard has also invested in the training and equipment of its three National Strike Teams, located on the East, West and Gulf Coasts of the United States. Although traditionally focused on oil and hazardous materials spill response, based on their expertise and expanded equipment capability, has enabled them to be designated as the Coast Guard's primary responders to future Chemical, Biological and Radiological (CBR) events.

As the Coast Guard moves forward in the WMD and cargo container security arena, we continue to work closely with, and have been strong supporters of the U.S. Customs Service. We're actively engaged with them in several initiatives, including the Container Security Initiative (CSI) and Customs-Trade Partnership Against Terrorism (C-TPAT) Program. The premise of these important programs is to address the WMD threat by pushing the zone of security outward, so ports of entry in the United States are the last line of defense, not the first line of defense against this threat. Other interagency partnerships we're involved in include the Interagency Container Working Group, co-chaired by TSA, Maritime Administration (MARAD) and the U.S. Customs. The Container Working Group, a unique partnership consisting of 150 representatives from both government and private industry, continues to make significant progress towards long-term solutions and advances in information technology, security technology, business practices, and international regulations for secure container operations.

The Coast Guard has also been actively engaged in an ongoing container security initiative known as Operation Safe Commerce (OSC). OSC is an innovative public-private partnership dedicated to enhancing security throughout the international supply chain, while facilitating the efficient cross-border movement of legitimate commerce. Effective international trade supply chain security must rest on a foundation of credible risk management; it requires a regime that can reliably identify the people, goods, and conveyances that are legitimate and facilitate their movement. An Executive Steering Committee (ESC) has been chartered by DOT/TSA to provide oversight, guidance, and support to OSC projects so they can integrate with broader governmental objectives and best inform governmental efforts to address container security and efficiency.

International outreach is another element of our maritime security strategy. We have taken the lead internationally through the International Maritime Organization (IMO) in developing a worldwide standard for maritime security. The progress of the IMO in developing international security standards for vessels and ports has been extraordinary. This December, we expect the IMO to adopt new measures to enhance the security of vessels in international service as well as the port facilities that service them. Among other things, these new measures will require ships and port facilities to (1) conduct a security assessment, (2) develop a security plan, (3) designate security officers, (4) perform training and drills, and (5) identify potential security threats and establish preventive measures to mitigate security breaches. All major maritime security elements proposed by the United States have been adopted or retained and will play a key role in improving maritime security internationally.

In summary, the Coast Guard, as the Nation's Maritime Homeland Security leader, clearly recognizes the critical importance our Marine Transportation System has to our Nation's economic security. We will continue to partner with other government agencies, maritime stakeholders, and international organizations to improve the security of our ports and containerized cargo. I'm confident that we can meet the daunting maritime security challenges that lay ahead. I'll be pleased to answer any questions you may have.

Mr. SHAYS. Thank you very much, Admiral, and there's no question that the homeland security role of the Coast Guard will be far more prominent, as I think most member skills should be.

Mr. Ahern.

STATEMENT OF JAYSON AHERN, ASSISTANT COMMISSIONER, OFFICE OF FIELD OPERATIONS, U.S. CUSTOMS SERVICE

Mr. AHERN. Preventing the smuggling of nuclear weapons and radiological materials is the highest priority of the U.S. Customs Service. Customs has developed and implemented a multi-layered defense in-depth strategy designed to prevent nuclear weapons and radiological materials from entering the United States.

An important part of that strategy is pushing our zone of security outward, so that American borders are the last line of defense, not the first line of defense against such a threat. Two U.S. Customs initiatives that help extend our zone of security against the threat of nuclear terrorism are the Container Security Initiative, also known as CSI, and the Customs-Trade Partnership Against Terrorism, also known as C-TPAT.

The purpose of CSI is to prevent terrorists from using cargo containers to conceal nuclear weapons or radiological materials. With CSI, U.S. Customs partners with foreign governments to target and screen high-risk containers at the earliest point in the supply chain.

The Customs-Trade Partnership Against Terrorism or C-TPAT initiative taps the resources of the trade community to further reduce the risk that terrorist weapons, including nuclear or radiological materials, could be concealed in cargo shipped to the United States.

By partnering with U.S. importers, customs brokers, carriers and others, we can better protect the entire supply chain against potential exploitation by terrorists. The goal of C-TPAT is to provide increased security from foreign loading docks all the way to the U.S. border. To date, over 1,000 companies have agreed to participate in C-TPAT.

Under the direction of Commissioner Bonner, the Office of Border Targeting and Analysis, also known as BTA, was established. BTA is responsible for developing targeting criteria to identify high-risk containers and respond to the shifting and evolving terrorist threat. These targeting rules are applied by Customs sophisticated Automated Targeting System, also known as ATS, which processes commercial information regarding cargo and containers and assigns risk-based scores to focus the Customs screening process.

The effectiveness of ATS and the success of initiatives such as CSI and C-TPAT are directly proportional to the timeliness and accuracy of cargo information submitted to U.S. Customs.

Therefore, Customs proposed a regulation requiring the presentation of accurate, complete manifest information 24 hours prior to lading at the foreign port, and eliminating vague descriptions of cargo, such as FAK, freight of all kinds. This advance information will enable U.S. Customs to evaluate the terrorist of cargo containers before they are shipped to the United States.

In addition to the C-TPAT and CSI as well as regulatory initiatives, Customs deploys multiple technologies to support our layered targeting and detection process.

All cargo identified as posing a threat is screened for security purposes. To date, Customs has deployed 101 large-scale x-ray and gamma ray systems that assist inspectors in screening cargo containers and conveyances for potential terrorist weapons, including nuclear weapon and radiological materials.

Customs also has issued over 5,000 personal radiation detectors to provide coverage at every port of entry into the United States. We have ordered, and will be taking delivery of, over 4,000 additional personal radiation detectors.

To further augment our detection capabilities, we are adding an additional layer to the screening process. U.S. Customs is working closely with the Department of Energy, DOE, the Transportation Security Administration, TSA, and other concerned agencies, to deploy portal radiation detectors, which are passive, non-intrusive systems used to screen containers and other conveyances for the presence of nuclear and radiological materials.

We are also in the process of deploying radiation isotope identifiers for the purpose of further identifying the type of radiation present after primary radiation detection screening.

This work will be integrated into the new Department of Homeland Security as proposed by President Bush to detect and prevent the transport of nuclear weapons or their components into the United States.

U.S. Customs also recognizes the importance of ensuring that U.S. technology and hardware do not become part of the arsenal of international terrorist groups.

Therefore, Customs agents are working under Project Shield America, to monitor strategic weapon components and sensitive materials being exported from the United States.

U.S. Customs, in conjunction with its Federal counterparts, is also addressing the issue of enhancing seaport security.

To meet the challenges of the seaport environment, U.S. Customs is working with the Department of Transportation to develop Operation Safe Commerce, a national seaport security initiative designed to test a common set of standard security practices governing the loading and movement of cargo throughout the international and domestic supply chains. The purpose of Operation Safe Commerce is to test innovative technology solutions to enhance and maintain the security of worldwide supply chains.

In addition, Customs is also engaged with the Department of Transportation in the container working group, an initiative in partnership with the private sector carriers, shippers and importers focusing on improving sea container security.

Last, in support of their high interest vessel program. U.S. Customs is working with the U.S. Coast Guard to identify high-risk cargo, passengers or crew on board vessels coming to the United States.

Thank you again for this opportunity to testify. I will be happy to answer any questions you may have.

[The prepared statement of Mr. Ahern follows:]

STATEMENT BY
JAYSON P. AHERN
HEARING ON "HOMELAND SECURITY: FINDING THE NUCLEAR NEEDLE IN THE CARGO CONTAINER HAYSTACK"
THE HOUSE SUBCOMMITTEE ON NATIONAL SECURITY, VETERANS AFFAIRS, AND INTERNATIONAL RELATIONS

NOVEMBER 18, 2002

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The effectiveness of ATS and the success of initiatives such as CSI and C-TPAT are directly proportional to the timeliness and accuracy of cargo information submitted to U.S. Customs. Therefore, Customs proposed a regulation requiring the presentation of accurate, complete manifest information 24 hours prior to lading at the foreign port, and eliminating vague descriptions of cargo, such as "FAK" (Freight of All Kinds). This advance information will enable U.S. Customs to evaluate the terrorist risk of cargo containers before they are shipped to the U.S.

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Lastly, in support of their High Interest Vessel Program, U.S. Customs is working with the U.S. Coast Guard to identify high-risk cargo, passengers or crew on board vessels coming to the U.S.

Thank you again, Chairman Shays, and the members of the Subcommittee, for this opportunity to testify. I would be happy to answer any questions you may have.

Mr. SHAYS. Thank you very much. We appreciate the work of the U.S. Customs Service. It's clear that your task has increased manyfold and I know that you're going to need cooperation from Congress to do your job.

Admiral Bennis, good morning.

STATEMENT OF REAR ADMIRAL RICHARD BENNIS, ASSOCIATE UNDERSECRETARY FOR MARITIME AND LAND SECURITY, TRANSPORTATION SECURITY ADMINISTRATION

Admiral BENNIS. Good morning, Mr. Chairman, Congressman Allen and members of the subcommittee, Congressman Nadler.

Since this is sworn testimony, I have to tell you how absolutely pleased I am to be home here in New York and it's good to be here today.

Before discussing our specific efforts to secure cargo, I would first like to briefly mention that on September 11th I had the privilege to be stationed here in New York City and my position was acting commander of Coast Guard activity in New York and in that capacity, I was proud and honored to be part of the team, this tremendous team that came forth, the maritime community, Port Authority, Customs, all city agencies, NYPD, NYFD and organized the orderly evacuation of hundreds of thousands of estranged people in lower Manhattan.

It is entirely fitting to return to New York City today to hold this hearing, just a short distance from Ground Zero which will forever be one of the most important reminders of our need to protect our homeland from all enemies.

TSA is not only the Nation's leading administration charged with securing aviation security. We celebrate our 1-year anniversary tomorrow, in the United States, but it is charged with the security of passengers, cargo, infrastructure and our Nation's service transportation systems encompassing maritime, rail, highway, mass transit and pipelines.

You asked us to come here today to talk about efforts to screen cargo containers entering U.S. seaports and the effect of these efforts on the free trade. In particular, you asked about efforts to prevent weapons of mass destruction, specifically nuclear bombs and radiological or dirty bombs from being smuggled into and used against the United States.

This was first raised in a letter from Albert Einstein to President Roosevelt in the 1930's when he talked about nuclear weapons being smuggled on a ship before the days of containers into a port and in that letter, he said it could destroy that port and portions of any city that port resided in.

In performing our functions, we take a risk based approach. TSA will work within the umbrella of organizations brought together by the Office of Homeland Security to set national standards and criteria for transportation security, while at all times working closely with State goals.

Our goal is to not drive terrorists to the road of least resistance. We don't want the hardened aviation security to drive terrorists to the water, to the rails, to the highways.

TSA will continue to work closely within the Department of Transportation.

Immediately after September 11th, Secretary Manella mandated that the Department of Transportation work with U.S. Customs in forming a container working group charged with strengthening our container security protection efforts.

Soon after the container working group became a cooperative effort between the TSA, Coast Guard, Customs, and private sector, including the top load centers of the United States like the Port of New York and New Jersey.

Through this cooperative effort, the container working group created a program called Operation Safe Commerce. Operation Safe Commerce's goal is to design a commercially viable security system that not only detects weapons of mass destruction hidden in cargo but will also include redundant measures to ensure that at every stage of transportation terrorists are prevented from introducing weapons of mass destruction hidden in cargo.

This is otherwise known as securing the supply chain.

As you said, Mr. Chairman, we're diligently working to secure the supply chain. TSA also participated in multi-agency efforts involving radiological detection devices. This is an important program led by the Office of Homeland Security.

The majority of initiatives we are considering are already underway in New York/New Jersey and none of these initiatives are duplicative or inconsistent with integrated initiatives underway in New York and New Jersey, create a multilayer line of defense inspectors.

Other initiatives underway include container security initiative. TSA will participate pate in the sector by increasing the data, such as the Customs service and review in order to accomplish more thorough analysis of threats posed by containers shipped in commerce, consistent with our integral role of showing the Nation's transportation security.

We want to be sure the cargo moved from load to load is at a consistent level of security of origin to destination.

TSA is a corporation within the Department of Homeland Security, the closer partnership of the TSA is Coast Guard, Customs, who further strengthen our mission as set forth in the Aviation Transportation Security Act.

Another important step that TSA took in its first year was the award for security grants, working closely with the Coast Guard, the maritime administration, TSA awarded grants to 77 ports throughout the Nation, totaling $92 million.

Here in the New York metropolitan area alone, I'm pleased to note TSA will award $8.9 million to the Port Authority of New York and New Jersey.

Congress has appropriated an additional $125 million for TSA for security grants as part of the fiscal year 2002.

TSA also announced a new round of port security grants in the near future.

Even the intermodal nature of transportation address transportation of security and other modes of transportation. TSA's rail cargo security branch has identified hazardous materials initiatives, both as shipments, coordinated with other key participants in its review of the transport of hazardous material throughout the supply chain.

The analysis and the conclusions we develop will enable TSA to identify best practices, and to propose standards and performance based regulations.

We discussed earlier, which you heard, Coast Guard and Customs are working together. I think we're working together like we've never worked together before. Very closely, very well coordinated, determining who has responsibility for what and the same time assuring there's no duplication of efforts in preventing the unlawful importation of radiological weapons, other weapons of mass destruction in the United States. The challenge to secure cargo is formidable but obtainable. I strongly believe that transportation security is safer today than it was yesterday and will be safer tomorrow than it is today.

I will be pleased to answer any questions that you may have.

[The prepared statement of Admiral Bennis follows:]

Statement of RADM Richard Bennis (Ret.)
Associate Under Secretary for Maritime and Land Security
Before the
Committee on Government Reform
Subcommittee on National Security, Veterans Affairs, and International Relations
United States House of Representatives
November 18, 2002

Good Morning Mr. Chairman, Congressman Allen, and Members of the Subcommittee. I am pleased to appear before you this morning representing ADM James Loy, the Acting Under Secretary of Transportation for Security and the head of the Transportation Security Administration (TSA). Together with my fellow federal agencies that you have invited to speak here today, I will discuss the challenges we face in ensuring that Weapons of Mass Destruction (WMD) are not imported into or assembled on our soil, and our plan of action to prevent this from occurring.

My name is Richard Bennis and I am the Associate Under Secretary for Maritime and Land Security. I am responsible for executing TSA's mission to ensure the security of transportation of people and goods throughout all modes of our national transportation system with the general exclusion of the aviation passenger system.[1] It is entirely fitting that we hold this hearing here in lower Manhattan, just a short distance south of the World Trade Center – the most compelling reminder of the depths that human depravity can sink to, and a reminder of our need to be prepared. On 9/11, I was stationed in New York City in my position as Captain of the Port and Commander of Coast Guard Activities New York. While I regret that I could do nothing to prevent the attack from occurring, I am proud that I was able to participate in organizing the orderly evacuation by boat of hundreds of thousands of stranded people. It turned out to be a larger evacuation than Dunkirk. The events of 9/11 forever changed our view of the world and, following my retirement from the Coast Guard, resulted in my accepting the key position that I have with TSA.

The responsibilities that the primary federal agencies, the Coast Guard, Customs Service, and TSA have in protecting our seaports and shorelines from WMD are daunting. The United States has 350 ports at which approximately 7,500 foreign flagged vessels make about 51,000 ports of call visits each year. Many of you are familiar with the statistic that there are approximately 6 million containers that are imported into the United States

[1] The Maritime and Land Security division does have overall responsibility for management and oversight of cargo shipments by all modes, including by air. The execution of cargo security at airports is under the purview of our Aviation Operations division.

each year. These containers, and the shipping industry overall, are major facets of the United States economy and disruption in that supply chain would be devastating to our economy. When you add the land transportation responsibilities that TSA has to these figures our obligations increase exponentially. There are approximately 3.9 million miles of public roads in the United States, which account for 2.7 trillion miles of travel bay car, bus, and truck each year. There are 120,000 miles of major rail lines accounting for 700 million rail freight miles each year. Additionally, there are 2.2 million miles of pipelines in America. The nation's public transportation systems are responsible for over 9 billion commuter trips annually including bus, light rail, subway, ferry, and commuter rail. Last, but certainly not least, we have 25,000 miles of commercial navigable waterways in the United States.

TSA has an integral role to play in ensuring the nation's transportation safety. I look forward to TSA's incorporation into the Department of Homeland Security (DHS) as it will strengthen our ability to accomplish transportation security goals. A closer partnership of TSA, the Coast Guard, and the Customs Service will help us carry out our mission set forth in the Aviation and Transportation Security Act (ATSA).

During a time of national emergency, TSA has the authority to "coordinate domestic transportation, including aviation, rail, and other surface transportation, and maritime transportation (including port security)," and other similarly critical functions related to overseeing the transportation system.

In performing its functions, TSA will capitalize on existing programs in all modes of transportation, and we will make extensive use of existing infrastructure and relationships with stakeholders. A large part of our business plan involves continual coordination with the many stakeholder groups representing various modes of the transportation sector. In the maritime arena alone, TSA representatives have met with and addressed a large number of groups with interests in maritime security.[2]

With respect to our specific commitment to transportation security, TSA will work within the umbrella of organizations within DHS to set national standards and criteria for transportation security. As TSA moves to its new home in DHS it will be a core part of our mission to continue to work closely with the Department of Transportation, to coordinate our joint responsibilities for improving transportation security. As Secretary Mineta has said many times, we are confident that these ties will remain strong.

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[2] Among these groups are the following: Hutchinson Holdings; Raytheon Corporation; American Ship Building Association; President of the World Shipping Council; Representatives of Florida ports; International Ship Registries; International Longshore and Warehouse Union (ILWU); CSX; Applied Marine Technology; Space and Naval Warfare Systems Command; Minerals Management Service; Pacific Maritime Association; Nation Association of Waterfront Employers; Port of Tacoma; Port of Seattle; Baltim and International Maritime Council; U.S. Chamber of Shipping; APL Limited Shipping Line; LMI Technologies; Natural Selection Inc; Freight Desk; National Cargo Bureau Inc.; American Association of Port Authorities; Philadelphia Maritime Exchange; Society of Naval Architects and Marine Engineers; Port Authority of NY and New Jersey; Port of Long Beach and Los Angeles; National Defense Industry Association; and the Pacific Coast Council.

TSA is developing a risk-based approach to managing the security challenge. It includes setting thresholds for standards for the prevention of terrorist or other criminal attacks and the protection of transportation. We plan to engage in aggressive collection of data and comprehensive analysis to reveal vulnerabilities, and accurately describe the threat, the probability that the threat will be carried out, and its most likely consequences to the transportation sector. This will allow for targeted and layered security that will accommodate transportation volume except when the risk thresholds are crossed.

It is vitally important that in ensuring security in all modes of transportation, we do so in an economical and efficient way that does not adversely affect commerce. We are diligently working to *secure* the supply chain, not *impede* the supply chain. We must ensure the safe, secure, and efficient movement of passengers and goods, and we believe we can accomplish all three in an integrated manner.

There are other important guideposts that TSA has adopted:

- We must not drive terrorism from one mode of transportation to another one that is perceived to be more vulnerable;
- We must not make one mode's security measures economically untenable compared to others; and
- We must not make one aspect of transportation security (e.g. passengers, cargo, infrastructure, response) more secure and leave the others vulnerable.

The Office of the Secretary of Transportation, TSA, and the other modes within the Department of Transportation, together with our fellow Federal agencies have been working on two important initiatives in the critical area of maritime security. First, a multi-agency Container Working Group (CWG) was established after 9/11. The Office of the Secretary of Transportation, TSA, Coast Guard, and the Customs Service are the major participants in the CWG.[3] Its charter is to address key components of the process through which a container/truck is packed, secured, loaded and transported to the United States, ensuring the integrity of the shipment at all points in the international transportation chain. The Container Working Group established four subgroups to examine issues relating to:

- Information Technology (IT) – Cargo information and acquisition;

[3] Other members of the CWG include: Maritime Administration; Federal Highway Administration; Federal Motor Carrier Safety Administration; Saint Lawrence Seaway Development Corporation; Federal Aviation Administration; Federal Railroad Administration; Bureau of Transportation Statistics; U.S. Department of Agriculture through its Animal and Plant Health Inspection Service; the Department of Commerce through its Technology Administration and National Institute of Standards and Technology; various offices of the Department of Defense; the Department of Justice through the Immigration and Nationalization Service; the Food and Drug Administration and the Federal Maritime Commission. Additionally, there are a large number of private sector participants including in part the American Trucking Associations, the Association of American Railroads, the World Shipping Council, the Pacific Maritime Association, the National Association of Waterfront Employees, the Marine Transportation System National Advisory Council, and the International Mass Retailers Association.

- Security Technologies (ST) – Physical security, tracking of containers, WMD detection, and eventually "blast containment technologies";
- Business Practices (BP) – To examine best practices to improve security that are commercially viable; and
- International Affairs (IA) – To work with the international community on container security.

The anticipated result of this effort is to improve the overall security of containers/trucks by:

- Establishing security standards and criteria for identifying high-risk containers/trucks;
- Implementing a pre-screening process to target containers/trucks before they are shipped to the United States;
- Developing and deploying technology to pre-screen identified high-risk containers/trucks;
- Developing procedures and deploying technology to secure containers/trucks as they are transported to the United States; and
- Improving cargo security during domestic transportation; particularly high consequence cargoes.

Related to the CWG is a Container Security Initiative (CSI). TSA will participate in this effort by increasing the data that agencies such as the Customs Service can review in order to accomplish a more thorough analysis of threats posed by containers shipped in commerce.

Perhaps the most important maritime related initiative that TSA has begun during its first year of existence is the "Operation Safe Commerce" (OSC) program. OSC is a cooperative effort between the Federal government and the non-Federal sector that includes some of the top "load centers" in the United States. Here in the New York metropolitan area it includes the Port Authority of New York and New Jersey. On the West Coast it includes the ports of Los Angeles, Long Beach, Seattle, and Tacoma. OSC involves the close cooperation between several Federal agencies. The Department of Transportation (including the Office of the Secretary, TSA, the Coast Guard, and the Maritime Administration) and the U.S. Customs Service currently chair the program, with key members being the Office of Homeland Security, the Department of Justice, the Department of State, and the Department of Commerce. Its purpose is to explore commercially viable options that support cargo management systems that keep pace with expanding trade, while protecting commercial shipments from threats of terrorist attack, illegal immigration, and contraband. Using grants to the designated load centers, OSC will analyze existing supply chains and current security practices, and provide a test-bed for potential solutions and improvements in container security. OSC will ultimately develop procedures, practices, and technologies that help secure and monitor cargo from point of origin to point of destination. TSA appreciates that Congress appropriated $28 million as part of the Fiscal Year 2002 Supplemental Appropriations Act. These funds will be the seed money for grants that TSA will award and administer based on proposals

that the load centers will submit. The grants will not be limited to the port authorities alone. Rather, persons and entities that represent components of the supply chain may seek funding through the ports. These pilot projects will provide a proof of concept that will ultimately improve the security of the international and domestic supply chain. One of the pilot projects may include testing security already in place by means of the shipment of radiological material through one or more of the load centers.

Another important step that TSA took in its first year was the award of port security grants. Applicants submitted 850 grant applications requesting approximately $700 million in funding. This past July TSA, in conjunction with the Coast Guard and the Maritime Administration, awarded grants to 77 ports throughout the Nation totaling $92 million. These grants are a down payment on a larger effort to enhance the security of the maritime transportation system. Here in the New York metropolitan area, I am pleased to note that TSA awarded $8.9 million to the Port Authority of New York and New Jersey. The 77 grants awarded fell into two categories, both involving critical aspects of maritime security. The first category involved an assessment of current security needs that will enable ports and terminals to evaluate vulnerabilities and identify mitigation strategies for their facilities. This category was funded for $9.3 million. The second category provided funding for facility enhancements. Approximately $77 million of the grant pool went to facility enhancements. This second category also included a subcategory for "proof of concepts" in technology that will advance port security. "Proof of concept" projects explore the use of new technologies such as electronic seals, vessel tracking, and electronic notification of vessel arrivals. Five million dollars went to grants in this area.

As part of the FY 02 Supplemental Appropriations, Congress provided an additional $125 million in funding for port security grants and stipulated that TSA use $20 million of these funds to support port incident response exercises and training related to port security. These funds will also provide continued support for security assessments and enhancements. TSA worked closely with the Coast Guard and the Maritime Administration in reviewing the grant applications and making the determinations of grant awards for the initial round of funding and will continue to do so in disbursing the additional $125 million.

Finally, I can also tell you that TSA is participating in a multi-agency effort involving Radiological Dispersal Devises (RDD). This is an important program led by the Office of Homeland Security and TSA is co-chair with the Customs Service in the Radiation Detection and Transportation sub-group. Because of this open, unclassified setting, however, there is little more than I can say about this in public.

While the focus of this hearing and my testimony in particular relates to waterborne commerce and port security, I would like to take the opportunity to briefly address transportation security in the other modes of transportation. First, it is critical to understand the intermodal nature of transportation. For example, goods that are manufactured in a factory in Belgium or China and then shipped to a point of embarkation in Europe or Asia do not complete their journey when the container is off-

loaded in Port Newark or Long Beach. From those arrival points it would be shipped by rail or truck to distribution centers around the country, and eventually again transported to factories in the United States for further assembly or placed onto store shelves. The same transport process is true for goods, raw materials, and agricultural products exported from the United States. Furthermore, a wealth of goods is either entirely transported by rail or truck within our own borders or cross-border to Canada and Mexico. On a daily basis, this rail and truck commerce also includes high volume / high content shipments of hazardous materials.

The intermodal aspect of transportation applies to passengers as well as to goods. Passengers move from highways to mass transit and back. Airplane passengers become cruise ship passengers and then make the reverse trip on the way home. Commuter ferry passengers may then take intra-city buses to get to their offices. The over-the-road bus industry carries over 750 million passengers a year on regularly scheduled and charter bus service traversing critical bridges and tunnels as part of their everyday journeys.

TSA's mission includes the security of transportation for all modes of transportation. As such we are beginning our efforts in the area of land transportation as well. TSA's Rail Cargo Security Branch has identified a "Chlorine Initiative" as a priority project to address bulk hazardous materials shipments. This effort has been closely coordinated with other key participants.[4] The goal of this initiative is to perform a system-wide security review of the shipment of chlorine. This review will track the transport of chlorine throughout the supply chain. This again focuses on the intermodal aspects of our transportation system. The analysis and the conclusions we develop will enable TSA to identify best practices, and to propose standards and performance based regulations. The Chlorine Initiative will serve as the prototype for the development of security standards for the transport of other bulk hazardous materials. TSA is also part of an Office of Homeland Security chaired working group with the Department of Energy, the Department of Justice, the U.S. Customs Service, and other agencies, to discuss regulating the transportation of radiological materials. Similarly, TSA is involved in preliminary discussions with the Food and Drug Administration to explore initiatives in the safe transportation of shipments of food and agricultural products.

A key concern of TSA is the security of cargo on trucks. In our view, the current state of cargo security in the trucking industry may not be adequate to respond to the threat that we face from terrorists. TSA is considering the necessity of an industry-wide cargo locking policy. If implemented, this will help prevent terrorists from hijacking trucks or cargo and will provide the trucking industry with the added benefit of reducing cargo theft. This effort ties in closely with the plans I have discussed earlier, and which you have heard about from the Coast Guard and the Customs Service, in preventing the unlawful importation of radiological weapons or other Weapons of Mass Destruction into

[4] TSA has worked closely with organizations both within and outside the Federal government. Within the Department of Transportation, TSA is working with the DOT Intermodal Office, and DOT's Research and Special Programs Administration (RSPA). Outside of the government some of the participant groups include the American Chemistry Council, the Chlorine Institute, and the American Association of Railroads.

the United States. Obviously, there are many materials lawfully imported into the United States, but which can be diverted to terrorist needs. Therefore, the chain of security must be strong throughout the transportation system.

When taken together, the Cargo Working Group, the Cargo Security Initiative, Operation Safe Commerce, the port security grants that we have already awarded and that we will award in the future, the initiatives in the area of land security, as well as the development of a field based support structure, TSA is confident that we will have undertaken major steps to ensure that Weapons of Mass Destruction are not imported nor assembled on our soil.

In order for TSA to succeed, we need to also continue our partnership with the Congress. It is imperative that TSA receive the full appropriation of funds that the President has requested in the FY 03 budget request, including his recent request for a budget amendment to increase TSA's appropriation to a level necessary for TSA to carry out its assigned mission.

I will be pleased to answer any questions that the Members of this Subcommittee have.

----------End of Statement----------

Mr. SHAYS. Thank you very much.

Before I recognize our first witness, I think it's fair to say we're safer today than since September 11, 2001, but we don't feel safer because we had a false sense of safety before September 11, 2001, and my request to all our panels is that they be brutally candid with this committee and the American people.

We need to speak the truth and in speaking the truth to the American people, they'll have us do the right thing. They need to know what the terrorists know and we need to know what the terrorists know.

At this time, we'll hear from Mr. Souder.

We're doing the 5-minute rule with a little flexibility. If you're on a roll, we'll let you continue.

Mr. SOUDER. Mr. Shays, I want to followup on this. I have a small company in my district that is looking at container security standards to trying to improve them.

Do you know, are there efforts underway, four or five international groups, are there efforts underway to do the same, similar to what we do on our fast pass on the border and that type of thing.

If companies are agreed to certain minimum standards on container security, on clearance and other things, that they would be treated differently and there would be delays for companies that don't—when we have multiple countries, preclearance and ports, when you're looking at Customs with this lizard of a few main companies but then lots of little companies, that part of it is that you don't agree with the standards, you're going to be slowed down.

Why isn't that an alternative in addition to trying to address the development of international standards? Otherwise it's going to take years.

Ms. HECKER. I think you probably want to hear from Mr. Ahern because they're the ones running that program and how it's to be used.

Mr. SOUDER. My fundamental concern is you may be charged at the very beginning that we have no international standards in four or five major categories and the question is how do we deal with that because within the foreseeable future, 10 years, every country in the world is not going to accept international standards even if we have international standards, so what can we do in the short-term to address that.

Mr. HERETH. Two programs I outlined, specifically international standards that is precisely what you described.

Through partnership programs, we know certain countries are maintaining security integrity through these entire supply chains and such, upon arrival at the U.S. borders, we can focus our technology and resources on those that are not.

Mr. SOUDER. In some of these cases that were addressed, we have minimum to no international standards at this point. That puts the disadvantage of the system at Customs and it puts a small company at incredible disadvantage compared to a big company.

Do you see us moving toward a standard where they can at least voluntarily ascribe to that standard, even if they don't have as much of a track record?

Mr. AHERN. I would say our program does not necessarily discern large companies from small companies. Certainly some of the large companies have greater capacity, but certainly some of the smaller companies that have established a track record with Customs and have established relationships with importers, carriers, they have to go through mandatory security assessments, so we believe it does fit the small companies.

Mr. SOUDER. You don't have a concern about the lack of international——

Mr. AHERN. I think we have to have higher international standards to do what we can do with the relationships we have with carriers, importers, as well as foreign manufacturers.

Mr. SOUDER. Do you believe their approach will address the questions satisfactory or is that a short-term approach or would you rather see a broader approach?

Ms. HECKER. I think we have to move in many directions, including we have to move unilaterally and bilaterally, but the international direction is an important one, and one of the areas we've heard from different ports and firms is the potential to be disadvantaged, and I think that is what you're alluding to for smaller firms.

There are ports, for example, that are raising a concern that as certain standards are tightened domestically, it will drive the traffic to Canadian ports, so the importance of moving globally is really that it's a level playing field and I think as Admiral Bennis said, you don't just drive the risk somewhere else.

If it's easier to get containers in through Canada, and that's the avenue that's used to smuggle the nuclear weapons and gets across the border, what has it saved us to tighten up on our domestic ports.

Mr. SOUDER. I would agree with that. I think the standard that's being used by Customs at the port, that's why I was looking for a general standard for all cargo that's targeted to the United States because we can't control other countries.

I believe Customs is definitely moving in that direction. At the very least, we should set our national standard with rail, port or air and we're attempting to do that, but I don't know that we can get the international cooperation.

Mr. SHAYS. You wanted to make a comment?

Mr. HERETH. As we raise our standards for focus on a scheme that you have laid out, the standard will have a part A and part B.

Part A will be required. Part B will be optional.

For those that don't adopt those parts will be further scrutinized and delayed in transit. The scheme is not completely in focus yet, but it's still working in that direction.

Mr. SHAYS. Thank you, gentlemen.

Mr. Allen.

Mr. ALLEN. Thank you very much for your testimony, all of you.

Admiral Hereth, I want to ask you some questions about how the Coast Guard is going to maintain its traditional responsibilities while it's based on all the additional responsibilities of dealing with the issues related to terrorism, particularly the one we're focusing on today.

When Captain Bohn had some of us out on the boat a little while ago, he pointed out—he made a remark, and I'm not quoting him, so don't—I'm trying to interpret what he said.

He said on some days, we may be more concerned with a poorly maintained, poorly staffed tanker that is at risk of exploding than we are with the threat of a nuclear device coming in.

It highlighted for me the challenge that the Coast Guard faces in dealing with some traditional safety issues versus the new threat of terrorism. Back in Maine, the Coast Guard is a vital part of keeping our fishermen safe, conducting rescues at sea and there is some anxiety about whether there will be enough resources available for that.

I know you can tell me that if we have the resources we can do it all, but I'm really interested in probing where you think the problems may arise and what issues we need to focus on here in Congress.

Mr. HERETH. I'll give it my best shot.

I believe there are a couple of things that need to be addressed. One is our traditional mission obviously requires the support. We had great support from secretary of the administration, the Coast Guard to make sure we have all the competency, capability and capacity that we need to continue traditional measures in addition to security missions.

That's a huge challenge. This first year, it seems like the funding is shifting up for a significant increase to the Coast Guard. That will be a big boost.

I would also offer that as Captain Bohn may have discussed, the Coast Guard operates on a first base decisionmaking protocol in the field and having served about 10 years in not only field offices around the country in major ports, most recently from San Francisco, the balancing act of the staff requiring every day is challenging but necessary, but also a very efficient use of resources.

Certainly the Coast Guard needs to grow capabilities and resources and we're seeing some positive movement in that direction.

It's not so much of a stretch for the Coast Guard to perceive people like myself who have been in the field for years seeing how side by side, very competent, very capable.

Mr. ALLEN. Could you comment, Ms. Hecker?

Ms. HECKER. Yes. As we were talking about the hearing started, we recently completed a report reviewing in detail the balancing that the Coast Guard is having to manage on a daily basis between its traditional missions and the security missions.

We'll be issuing that report tomorrow, and it's now at the Senate, so I can't really discuss it completely in detail, but we have various specific recommendations about bad reporting by the Coast Guard, about the balance of the mission and also an important opportunity to really look at alternative strategies including public partnership to address some of the tensions occurring daily in their missions.

As I said, we would be happy to brief you and we hope it will be helpful because as many agencies are merged into the Department of Homeland Security, there are other missions and this is really one that's quite critical in terms of fishery enforcement, boating safety and many other areas.

Mr. ALLEN. We look forward to seeing a report. Thank you.

Mr. SHAYS. Mr. Tierney.

Mr. TIERNEY. Thank you, Mr. Chair, and thank you for having these hearings. Thank you, members of the panel, for the testimony.

Admiral Hereth and Ms. Hecker, the International Maritime Organization, we've been negotiating in a bilateral fashion with a good number of countries governing almost all of the high volume force.

How were the standards to bilateral agreements measured up against the international standards in the IMO?

Mr. HERETH. I think maybe the way to view that is the 80 or so countries that are involved in general security arrangements, port facilities, domestic and on vessels, are all agreed to a standard and those will be concluded at a diplomatic conference in December.

As a result, a very comprehensive effort by multi-agency effort in the United States, are participating to design the standards.

Once that is in place, I think it will set the stage for further refinement on the part of the security agreement. So I think you're going to see a lot of efforts talking about work with Customs to develop further standards.

Mr. TIERNEY. The IMO standards being set for port security don't yet cover the containers?

Mr. HERETH. No. In a general way, in terms of raising the general precautions around compartment security in general. Specifics are under development still.

Mr. TIERNEY. What about the bilateral agreements that we've been engaged in, do those cover containers?

Mr. AHERN. A couple issues I would like to speak to.

World Customs Organization, they're working on supply chains security issues. We'll look at security standards for the supply chain to include some of the issues relative to container security as well.

Certainly you take a look at what we're doing with the container security issue as well. We're looking into moving out to the 20 megaports throughout the world for establishing the ability to targeting, screening at the 20 megaports.

I'm happy to say at this point we have 15 of those 20 ports already signatories to the CSI security issue worldwide.

One point as well, I think certainly we need to move up and move up quickly ascertaining international standards. Currently, one of the things we did was look at specific data, which was important to us for our target system, submitted to us 24 hours prior to waiting in foreign location for vessels destined to the United States.

Mr. TIERNEY. Tell me, approximately at least, what percentage of the exports to this country did those 20 megaports constitute?

Mr. AHERN. It flows between 65 and 70 percent, those 20 megaports.

We will not rest. Once we get the 20 megaports signed on, then we'll take it to the next ports, to further implement as necessary.

Mr. SOUDER. You said you have 15 of the 20.

Which 5 don't you have?

Mr. AHERN. I'll submit it for the record. I don't have the remaining 5.

Mr. TIERNEY. Do you have a time estimate by which you think you'll have all the exporting ports covered?

Mr. AHERN. It's our hope to be within the next couple months. We had some progress within the last 2 months getting some of the initial signatories. The time table is not as precise as I would like it to be, but we're moving aggressively.

Mr. TIERNEY. The remaining 35, 35 to 40 percent——

Mr. AHERN. We would take that over the next 12-month cycle after that.

Mr. SHAYS. The gentleman from New York is recognized.

Mr. NADLER. I think the question is either for Ms. Ahern or Admiral Bennis.

We're hearing that you're making agreements with foreign ports. We're looking at their manifests. We're inspecting the manifests, and we're looking at the operational safe commerce program to explore options to keep pace with expanding trades to develop practice technology to help secure cargo port of destinations.

What would it take and why would it not be—let me put it this way: We seem either to not think it necessary or to think it impossible to inspect every container at every major port before it leaves the port.

Which is it, that it's impossible or it's not worth doing?

Mr. AHERN. I'll be happy to start from my point of view on that. Certainly it's not an impossible task. Logistically I think it's beyond our capacity right now. We would have to have the additional technology and resource to do it effectively.

I will tell you that what I think we need to do is we need to make sure that the legitimate trade coming in and out of this country is not firmly impacted by overcontrolling or oversecuring.

We need to have better information systems, better intelligence. We need to use our technology as efficiently as we can.

What we have studied over the years is that the international trade coming into this country is highly compliant and we need to make sure we recognize that. We can't fall on any safe sense of security or make any assumptions without having random factors build into our——

Mr. NADLER. Highly compliant reviewing possible nuclear weapons, highly compliant does not do the trick. You have to have 100 percent. One nuclear weapon, there goes chaos.

My question is it shouldn't make sense to target based on risk based targeting until you get 100 percent coverage, but we don't seem to be aiming for 100 percent coverage.

Why should we not be aiming for a situation, aiming for a system under which every container is inspected and certified before it's loaded on a ship bound for the United States.

Mr. AHERN. I would offer one final point. One of the things I do want to address is this 2 percent, that we're looking at 2 percent in the United States in containers.

I think it's important to note 100 percent of the vessels' manifest information submitted to Customs has an ability to go through our expert targeting systems, go through a security screen——

Mr. NADLER. I don't understand. Why doesn't every container need to go through security screening with technology. You're assuming people are telling the truth on the manifests. You're assum-

ing that no dishonest employee is sleeping something in the container which he doesn't tell his boss he's putting on the manifest.

In order to give real security, why is it not necessary to have every container inspected, physically inspected?

Mr. AHERN. We rely heavily on our target system for the technology we have in place, and certainly as far as one event can be of massive consequences, but right now based on our security system we have in place, we need to do more.

Mr. NADLER. You're not answering the question.

Yes, given the resources, obviously you want to target the resources where they're most effective. That's not the question.

The question is would it not be better to target a—have a lot more resources, even if it took us some time to get there, it took us a lot of money to do it, why is it not necessary to give us really good security to physically inspect with radiological equipment or with the eyeball or whatever every container before it gets put on a ship?

Is there anything other than doing that can give us that assurance?

Mr. AHERN. I would go back to your original question and the question that you just posed.

I think immediately after September 11th when the container working group was put together, it did involve Customs, TSA, Coast Guard, VOT and all the State holders, all the industry folks, all the Federal, State, local and international people involved in the shipment and inspection of containers and the movement of containers, we tried to look at what the absolute safest way to achieve the 100 percent that you're talking about, that fine level of certainty.

I think what we all came up with coming out of that is I guess in a perfect world, certainly 100 percent of all those containers were physically inspected, that would achieve what you're talking about, but after applying what that cost would be.

Mr. NADLER. What would that cost be?

Admiral BENNIS. That cost would be huge.

Mr. NADLER. What order of magnitude, are we talking about $1 billion, $10 billion, $100 billion?

Admiral BENNIS. We're easily over $10 billion.

Mr. NADLER. $20 billion?

Admiral BENNIS. A lot is the answer. I'll get back to you on that.

We looked at intelligence, bringing more information in with regard to each container, better means of securing the container, risk assessment, and I think as a community we all felt that we could have a higher level of certainty doing something other and better than 100 percent inspection.

Mr. NADLER. Doing all these other things would give you a hire level of certainty than 100 percent inspection?

Admiral BENNIS. When you put together the intelligence, information we would receive, the actual greater amount of electronic data that we can provide to Customs and better partnership, working with the shippers, I think we'll have a very, much more comfortable level at a much more lower cost.

I think the cost is prohibitive.

Mr. NADLER. The cost is another question. I can't understand how you can have a higher level of certainty with all this.

Admiral BENNIS. I think the consensus was we gain an awful lot of intelligence, those things, are aside from the 100 percent inspection. 100 percent inspection is a monumental task. You asked if it was impossible. It's not impossible, but it's certainly not easily doable.

Mr. NADLER. Thank you very much.

Mr. SHAYS. I want to start from the basis of just understanding whether we have the capability ever to locate the—discover a nuclear needle in the cargo container haystack.

I want to know if this is a goal that is even achievable. I would like to ask each of you.

Ms. Hecker.

Ms. HECKER. We don't believe it's achievable with the equipment in place. We think it is limited. The radiation detention pagers that have been so prevalent, our analysis and our review with DOE, with real expertise in this technology, is that its capacity is limited. Its range is limited. Its sensitivity is limited.

So that it is not a major detention tool. Similarly, the portals which has more promise, there is one of them in place. There are 400 planned to be in place by the end of next year, but there is one being tested at Detroit Winston Bridge.

There are other detention devices that attach on the x-ray machines, but they're only for small packages, so the detention of nuclear materials is dependent upon technology that is limited and isn't working.

I think that perhaps goes to some of your questions, Mr. Nadler, that if we get better security what goes into the containers, it potentially can be more assuring than scrutiny after the fact that is not consistently reliable.

We have ongoing work looking at the targeting criteria and the screening technology more broadly than the one I've talked about that is used by Customs.

That work has identified a number of challenges, both about the implementation of this targeting and the effectiveness of these initiatives. That's all I can say about it. The rest of the work is law enforcement sensitive.

So the answer to the question of why don't we do every single one, I think we really have to deal with how well we're doing what we're doing and how it can be improved before we try to replicate it and have it on every container.

We have to get it working better. We have to get the technology more fine-tuned. We have an outstanding recommendation for systematic training. A training is not in place. The strategy is not in place for the placement of the equipment and those are fundamental concerns that we have.

Mr. SHAYS. Admiral Hereth, do you remember the original question? I just want to know is our objective achievable, are we going to ever be able to discover the nuclear needle in the cargo container haystack.

Mr. HERETH. I don't know that anyone will give you a 100 percent yes to that.

I believe we can be significantly much higher and closer 100 percent than we are today. I think the supply chain integrity improvements are key to this, along with a couple of other keys.

One is intelligence and infusion of that intelligence information from a multi-agency source and maritime environment is a key, one of the keys to making sure we deal with things overseas or outside of the ports, and we're focused in on that. We're about ready to stand up to further complement the intelligence work.

The supply chain work by Customs and others is an important piece of this. Pushing out the borders to the screening overseas, like Mr. Nadler was referring to, I think is another piece of this.

While each of those individually is not a 100 percent answer, I think when you do the percentages and add them up, that you start to begin to approach that level where it becomes just not an acceptable alternative. It's a target. It's too hard.

That's our assessment on things.

Mr. SHAYS. Mr. Ahern, is it achievable?

Mr. AHERN. We can certainly do a much better job than we currently are. Certainly, the Customs Service believes we need to continue to move borders back. I believe we're doing that.

We believe we're doing that faster and we need to pick up the pace on it.

One of the points, it does start with the information. The information that goes in more target systems. A lot of it was based on the fact that we were getting incorrect or incomplete manifest information. On December 2nd we will have a targeting system of getting this information submitted to us within 24 hours in advance of lading in foreign location.

As for technology, we want to have a layer system technology. We do not want to have a single system that could be potentially be concealment by terrorist organizations or narcotics and contraband. That's why we have a layered set of systems in place.

We're not relying on personal radiation detection pagers as a sole interdiction source. First and foremost is the safety of our 9,000 officers getting close to a source of radiation that they know that with their personal safety.

I will submit to that certainly as you were getting close to a source making your radiation pager go off, that will lead you to believe there is something there that warrants further review.

Mr. SHAYS. What we're learning is a nuclear device is not going to set off that pager. Dirty radioactive material might, but not a nuclear device. That was unsettling to me when I learned it, but that's the fact. That equipment is basically useless.

Mr. AHERN. I won't get into the capabilities of the system. I would happy to submit information on that.

Mr. SHAYS. We'll come back to the material in a second.

Admiral Bennis, is it achievable?

Admiral BENNIS. There are several keys to that point.

One is beyond pushing back the borders. It has to be through the global operation. It's best achieved through technology, through intelligence, through manpower.

And to go one step further, Congressman Nadler was asking radiological detection at the source is better than inspection at the source. It has to be done in combination.

The next step from that is we inspect the source, close those doors. Then you have to rely on technology manpower to ensure that you have security and you maintain that security as opposed to the supply chain.

To close the doors in Brussels and say it's safe and secure and let it go, I want to know there is technology and a system in place to ensure the security and integrity of that particular cargo is maintained through transit.

We need to know once it's closed up that it's secure throughout the entire transit.

Mr. SHAYS. Is there hope that someday we'll be able to x-ray a container and have a pretty decent idea what is in it?

Mr. AHERN. I think that will be something attainable. We need to make sure we have the technology and also have the capacity that we have facing our U.S. borders as we're securing the homeland.

That's one of the things we need to do, a lot of this screening when we have some natural lag time prior to moving the vessels, as we move further modalities of trading, the greater capacity, greater technological system, something that's ideal.

Mr. SHAYS. I didn't realize my time has run out. Leave the red light on. We'll do a second round.

Mr. SOUDER. I think it's important that the record show you came up with an answer Mr. Nadler's question. I don't think $10 billion even works.

Admiral BENNIS. I don't either.

Mr. SOUDER. Because in addition to this goal that we would like to see, the container and see what's in it, we would have to do it at all locations, the train and anybody who touched that and had access to it while it was moving.

But it doesn't cover Amtrak, it doesn't cover other shipments of biological weapons. That's our challenge as we look at this. We're not under attack from one type of weapon. What is clear, however, is we have to have tremendous technology investments.

I think everyone understands, if I can ask you to elaborate, if you have a higher level than 100 percent coverage of the container is because we are completely confident that our equipment, all of the subparts of the risk, unless you're doing multiple or layered checking, you don't have the competence that any, whether it's access machine or hand search is 100 percent reliable because you don't know exactly what you're looking for.

In other words, if you search every container it would give you one aspect of it but it doesn't tell you what you're learning from intelligence. It doesn't tell you what you're learning about other types of things coming through and we don't have confidence in even our best machines. It's just like plastic guns going through an airport screening and it's not like the bad guys aren't coming up with new things, too.

Mr. AHERN. We need to make sure, there are a variety of different threats. You do have an array of systems that have different capabilities that you can detect some of the other threats that might be facing us on a particular day.

Mr. SOUDER. The new portals, you said we were going from one to 400. Partly we're testing thing and moving them so rapidly because of the need right now.

What does one of those portals cost?

Mr. AHERN. Range of $80,000. The site work that is done is also similar in that range. It runs about $90,000.

Mr. SOUDER. A portal is only a fraction of coverage. I understand that the 2 percent is merely a skim 2 percent.

The new machinery we're putting in fits into three or four.

The partial answer to the question is that if you're looking just at one thing, and that you can get near 100 percent certainty in some areas with that, it is achievable in one category of risk.

Mr. AHERN. You have to look at the configuration throughout the United States, airline and sea, to define the natural points are. We have close to 100 percent screening radiation.

Mr. SOUDER. It's more obviously difficult in the north. The truth is that a good percentage of our traffic comes across Canada, Buffalo and Windsor. To control that is to reduce the risk.

I think that correctly what Mr. Nadler was hitting on was to define things, you need to reduce that substantially, the monetary concern in Congress is a little less. It's only part of our high risk targets.

Mr. AHERN. We agree.

Mr. SHAYS. Mr. Allen.

Mr. ALLEN. Thank you, Mr. Chairman. On September 11th, ABC news aired an investigation they conducted in which they smuggled into New York harbor a shipping container with 15 pounds of uranium. It was not enriched, so it did not pose a threat. If it had been, it would have been enough for half of a crude nuclear device and more than enough for a so-called dirty bomb.

The Customs commissioner claimed his inspectors singled out the ABC News container as it entered New York Harbor and said they checked it and they ran it for radiation and also did a large scale x-ray.

If you can elaborate that for me, I would like to know what equipment Customs used on this particular container. And if you could address the question—as I understand it, the uranium came in anyway, and so if you could talk whether this is the case, where the equipment that we were using didn't work or whether it read the package properly, the container properly, or where reading was all right but human beings didn't interpret the analysis correctly, is it one of those two things?

Is there some other explanation? Is there something that we can learn from that incident that would help us.

Mr. AHERN. Certainly we learned from these types of exercise, but I would point out for the record that on that particular vessel, we believe there was 1,030 containers that were on board and our targeting systems did work because that was one of the few of those containers we don't get into specific numbers. We'll have to provide those to you later.

It was one of the few containers there were targeted for further radiation. We did that radiation screening as well as the x-ray and we found there was no radiation emitted or anything significant in that container that drew us to do any further in that inspection.

Mr. ALLEN. If it had been enriched radiation, would it be detected, do you think?

Mr. AHERN. That's a question of science that I'm not qualified to answer, but I would be happy to have our research development people, scientist provide you with that.

Mr. ALLEN. I would like to know the answer to that.

Mr. SHAYS. Not to put you on the spot, it's kind of a basic question, and for us to have a committee—we didn't learn from the CIA or anybody else's intelligence community that plutonium or enriched uranium didn't give off a signal. We had to learn it from a public organization, and so is this—are you uncomfortable in talking about it.

Mr. AHERN. I'm not uncomfortable talking about it.

Mr. SOUDER. Thank you, Mr. Chairman.

Mr. TIERNEY. Ms. Hecker, you mentioned a moment ago that there was an incident and it basically involves communication between a number of different agencies making a decision with respect to whether to allow them to move forward or not.

Let me start by asking, if a ship were coming in that had suspected nuclear acid on it, how many agencies would be involved? You have the Coast Guard, I assume. You would have the FBI presumably.

Ms. HECKER. Perhaps the Department of Energy.

Mr. TIERNEY. The CIA, Customs?

Ms. HECKER. Certainly.

Mr. TIERNEY. So at least those five.

Customs and Coast Guard are part of the new homeland security department, but the CIA, Department of Energy and the FBI are not.

So how are we going to determine what coordinated effort is going to made to make a determination who is going to be in charge of the situation, who is going to make the decision?

I know from your testimony the incident at hand, that boat sat there for 18 hours docked before a decision was made to send it further out.

So I guess the first question is, who made the final decision to send it further out? Was it the Coast Guard?

Mr. AHERN. Coast Guard in connection with the other members of that unified unit.

First of all, CIA wouldn't have been part of that mix.

Mr. HERETH. I don't believe they were part of the mix, but the other agencies are.

Our response as coordinator, for marine responses is to involve the people who have the expertise to make a decision. The Coast Guard, DOE, FBI, Customs were involved in that.

Mr. TIERNEY. Who was in charge?

Mr. HERETH. The Coast Guard is the lead maritime Federal agency. We have the ability to control vessels, so we can tell a vessel not to come into a port if there is any suspicion that we need to deal with.

That poses some dilemma having to deal with that, because it's difficult to get equipment out there, to get people out there, to get expertise out there to deal with a survey that's required on a con-

tainer that has some radiation materials in it. So it's depending on where it's located.

Mr. TIERNEY. Can somebody tell me why it took 18 hours in that particular incident for a decision to be made?

Mr. HERETH. I understand there were a lot of details that went into that decision. We probably should respond for the record on that particular issue because it gets into some of the details.

I guess to answer your question as directly as I can, the Coast Guard called in as soon as possible those people that have the expertise to help make the decision and evaluate the risk of that particular scenario. Getting the right equipment there, getting the right people there to get the survey was the intent of that response of the organization.

There is a work group that has been set up by the Office of Homeland Security. That group is looking not only at what has happened in the east coast, but it's looking for protocol improvements, process improvements, procedure improvements. Those efforts are underway.

Mr. TIERNEY. Someone suggested that one of the reasons the ship couldn't leave is because it required higher tide for an exit.

If that's the case, are there provisions being made for a similar type of situation if that should arise again so if something comes in far enough, before the problem is detected and they can't get out because the tide isn't high enough? Seems like a fairly serious matter.

Mr. HERETH. I don't have an answer to that particular question. I haven't heard that particular scenario, but in other ports I've been associated with, there are usually clearance requirements and they may or may not be affected by the tidal range of that particular port.

Mr. TIERNEY. Before I close out, Mr. Ahern, you mentioned several times during your discussions, reliable manifests.

Will you define that? What makes a manifest reliable? Where you would consider it reliable?

Mr. AHERN. We believe when the new manifest regulation goes in December 2nd, the data elements specified in those 15 specific areas, within our expert submission. We need to have those 24 hours in advance.

Mr. TIERNEY. Can you tell me what those are?

Mr. AHERN. I would prefer to give those to you as part of the record afterwards. They're very similar, shipper, importer's name, address information, other things that we've not been receiving.

When you take those 15 data elements, based on certain factors in this, it gives us a risk determination.

Mr. TIERNEY. All of those factors are provided on the manifest by some human being that enters them on, so they're only as good as the reliability of the person who is making the entry.

Mr. AHERN. We do have a compliance test as well to make sure some of the data information is accurate, but you're correct. It's reliant on key stroking the information submitted to Customs.

Mr. TIERNEY. Thank you.

Mr. SHAYS. We have a 10-minute rule so that we're able to pursue the points to bring it to some conclusion.

In the process of my asking questions I wanted, I got some long answers on things that needed to be part of the record. I was wanting to get a very clear sense of whether we're going to be able to find a nuclear needle in the cargo of a container haystack, and the answer is no. That's the answer.

I think the answer is no because it's illogical for anyone to explain to me, unless you can, and I'm being a good listener, but when I—a larger containership contains how many containers?

Mr. AHERN. 6,000.

Mr. SHAYS. It's stacked—no? Yes? Do we have an agreement, 6,000? It's stacked stories high in the interior of the ship and then you can have at least seven containers atop or even more?

Admiral.

Mr. HERETH. Six or seven.

Mr. SHAYS. They're tightly fitted, you don't get to walk down the center of them, so I'm at a loss to understand when you board the ship how you're going to find out what is in the core of that ship in a container that has seven containers above it and seven below it. Or less, and how many on either side, you don't get to it.

So what impression are we trying to give to the public right now as to our ability to search a ship once it has the container on it.

Tell me how that happens. Do we have the ability of equipment to be able to go through all of those containers and know what each container is? Is this something you can't testify to publicly?

Give me a little help here. I'm leaning to a point that says it's got to stare us in the face that we got to know what is in the container beforehand. If not, that's one thing, but my view is tell the American people the truth and they'll understand why we have to be there overseas. If we can, in fact, know what is in containers of the ship once it's loaded, tell me.

Can we?

Mr. HERETH. We still need work on sensors and detectors. You can get on the vessel, you can approximate and position equipment to determine exactly where the range and source may be located. So to that degree, we can locate the approximate location of the problem.

The difficulty becomes how do you deal with it in an offshore environment, and that's where consultation and discussion has to play into this.

Mr. SHAYS. Is it your testimony that we have the ability to detect a weapon grade material on a ship?

Mr. HERETH. No, it's not.

Mr. SHAYS. We do not have the capability?

Mr. HERETH. I'm not a scientist. Lots of work is being done in that area. I'm not testifying to that particular fact.

Mr. SHAYS. You're not testifying today that we have the capability to detective a nuclear weapon on board the ship?

Mr. HERETH. I'm not testifying to that.

Mr. SHAYS. Is anyone else testifying that they have that capability?

So it gets us to this point, which is a point you're making, but I don't think it's emphatic enough. We have to be able to look at these containers before they get on the ship.

Would you all agree?

Ms. Hecker.

Ms. HECKER. That's certainly the preferred way, and where most of the emphasis is.

Mr. SHAYS. When you said preferred, it implies there is another way that's not preferred, but is somehow—in fact——

Ms. HECKER. Clearly, there is still screening that will occur domestically and that should not go away. As Mr. Ahern said, it's certainly not what we want to be, anything but the very, very last line of defense.

Mr. SHAYS. I'm attempting to pursue this line before I get the answer from the others, but in Miami, when I was watching containers being unloaded, it was an amazingly impressive thing. They come off the ship, the truck is there, they're loaded and they're sent off to St. Louis or whatever. One, after the other, after the other, so is it your suggestion that we have the ability without intelligence to know which one of these containers, the 5,000, 6,000 that come off the ship, we're going to inspect?

By the way, in Miami, it's in Miami. It's already there.

So I guess what I want is a little bit of candidness because we have to make decisions on this side of the table as to how hard we pressure our allies as to knowing is there a more effective way to know what are in the containers.

I guess what I'm asking the rest of you is, is the preferred way to look at and then define preferred for me, is it really the best way, in fact really the only way as things stand now to make sure that we're protected?

Admiral.

Mr. HERETH. I would say in addition to that, supplement that with integrity and intelligence—intelligence has to play into the equation.

Mr. AHERN. There's not a single solution to this problem. As I submitted as part of my testimony, it needs to be a layered set enforcement system. We believe it should originate in foreign locations, with megaports overseas to begin the enforcement screening for weapons of mass destruction or implement terrorism before they get laden on the vessels coming into the United States. We can take it one step further at the place of manufacturing and shipping consultation.

Mr. SHAYS. Let me interrupt. My sense, as I listen to your testimony, is that many, 99 percent of the challenge basically is trying to know what is in that continuer before and then everything else is a secondary approach. If we have the right intelligence, if we had the right intelligence we can isolate that container hopefully before it arrives in the port.

If it's on the ship, if the container is in the core of the ship, it's going to be a little more difficult.

And so I guess I would like each of you, after I ask Admiral Bennis, I would like to you rank how much of the battle is doing it overseas before it gets here, and these are the Customs overseas, so I'm not going to put you out of business, Admiral Bennis.

Admiral BENNIS. I think it goes back to what I said before. The key is when you have a point of origin and maintain the security of the containers through the process. If you know what's it in from

the point of origin, maintain it throughout the transportation, and you're all right.

Again, as I said, that's intelligence, that's manpower. If you get intelligence and at some point in the movement of particular cargo there is a problem at that point, then you're doing it based on intelligence or you're targeting container row 8, 115, on cell 7, you're targeting a specific container, you know exactly what you're looking at.

Mr. SHAYS. The purpose of this hearing is to educate us indirectly, the American people who have to tell their legislators how to allocate funds.

Let me ask you this: In a scale of one to ten, tell me the importance of doing what Admiral Bennis has done.

Let me put it in percentage. Is that 90 percent of where the effort is, 40 percent of where the effort should be. Or 10 percent.

I want each of you to do that.

I'll start with you, Admiral, and go the other way.

Admiral BENNIS. I'm going 90.

Mr. SHAYS. Mr. Ahern.

Mr. AHERN. I believe it starts with information. 80 percent.

Mr. HERETH. 90 percent range, but let me supplement that with——

Mr. SHAYS. Let me ask Ms. Hecker.

Ms. HECKER. I hesitate to put it—I want to endorse the layered approach.

Mr. SHAYS. I'm not going to allow you to hesitate. The question is pretty easy. We have to make a decision where we put our resources and our time.

Do you think that most of this effort should be to stop it before it comes to the United States? We should know what is in the containers. Do you think we should put more pressure on our allies to cooperate? Do you think we should put more emphasis on trying to seal those containers up and knowing what is in them before they're put on a ship?

Ms. HECKER. 80 percent.

Mr. SHAYS. That's not at the end of the world, I hope.

Mr. SOUDER. I thought you felt it should be on information. Did you say you felt it should be on internal ports? 80 percent of our emphasis should be on preclearance information.

Mr. SHAYS. We're talking preclearance.

The other, what that says to me, we already know how important intelligence is. We know how important those other things are. This tells me this is a big deal that we have to spend some time and effort on. That's what it's telling me. It tells me this needle in this haystack, let's get it before it becomes the needle in the haystack. If you want to tell me something different, you have time.

Admiral BENNIS. I would like to add the percentages are pretty high. This Operation Safe Commerce, it's pretty much the census we've come to since September 11th.

Mr. SHAYS. It's logical. If you were doing all those things and told me it was 30 percent—any other comment?

Mr. HERETH. One comment is to push the discussions AMO have focused on, pushing that issue on Customs organization through WCO, foreign countries that are shipping stuff to the United States

to comply with our standards and raise their standards at the same time so we can develop resources overseas.

This could be supplemented with a quality assurance program, such as foreign assessments to security levels of ports overseas.

Mr. SHAYS. We asked all of our panelists if there is anything you want to put on the record. One of our panelists put on the record his biggest fear. His biggest fear was a small group of scientists developing an agent that if released, would wipe out humanity.

My biggest fear and why I'm eager to have this hearing is a country has nuclear weapons and would not send them by missile. They will put them on five containerships or one containership, send them to five different cities in the United States and say goodbye if you don't change a policy on this.

The president of the United States is faced with that horrific decision. It wouldn't be the country—it wouldn't come out of Iraq. It would be some distant terrorism in Indonesia acting on behalf of some source.

Is that an unrealistic fear?

Admiral BENNIS. I would say no.

Mr. SHAYS. Mr. Ahern.

Mr. AHERN. I would say no. It's a fear we all share.

Mr. SHAYS. Mr. Heckler, do you want to answer?

Ms. HECKER. I believe it's a great danger.

Mr. SHAYS. I want to put on the record you've been a wonderful panel.

Is there anything you want to put on the record?

Admiral BENNIS. Only thing I would add, what I've seen in the last year is tremendous cooperation among the small agencies. It's been phenomenal.

Mr. HERETH. No one can do it all, and in my experience around the country, I have just come from San Francisco to the east Coast and I've seen lots of cooperation at all levels of Federal, State and local government. We need to continue to push on that factor. No one agency can do it all.

Mr. SHAYS. Thank you all very very much.

Let's take a 5-minute break.

[Recess.]

Mr. SHAYS. We'll start. We have called before our panel Mr. James Kallstrom, Director of New York State Office of Public Security and Ms. Bethann Rooney, Manager, Port Security, The Port Authority of New York and New Jersey.

We will swear our witnesses in, if you would both stand.

[Witnesses sworn.]

Mr. SHAYS. I would also note for the record that we have been joined by Carolyn Maloney who is a very valued member of the Government Reform Committee, and it's nice to have her here as well.

This isn't quite your district, but you can throw a baseball and reach your district from here.

Mr. Kallstrom, we'll start with you.

STATEMENT OF JAMES KALLSTROM, DIRECTOR, NEW YORK STATE OFFICE OF PUBLIC SECURITY

Mr. KALLSTROM. Good afternoon, Mr. Chairman and distinguished members of the committee. On behalf of Governor Pataki and New York State Office of Public Security, I would like to thank you for the opportunity to discuss critical issues relating to port security.

I would like to just take one moment and introduce John Scanlon, who is the Director of Public Security, and Mark Cohen, who is the deputy, and we actually have a number of staff from the office here that have worked so hard at all these issues for the last year.

Mr. SHAYS. What is your title?

Mr. KALLSTROM. Senior adviser to the Governor for terrorism. They kicked me upstairs.

The subtitle of these proceedings, Finding the Nuclear Needle in the Cargo Container Haystack, aptly describes what we're up against when an oceangoing containership arrives in the New York/New Jersey seaport.

All terrorism is local. The Governor and the State of New York have an abiding and vested interest in close coordination of Federal counter-terrorism activities with those of State and local government. While many of the issues discussed today will involve Federal solutions, the local impact of any terrorist act or threat in our port cannot be overstated. When the Mayview Maersk arrived in Port Newark on September 22nd, to whom did Customs and the Coast Guard turn to investigate, clear and potentially render-safe its suspected explosive cargo? The Port Authority Police, the Newark Police Department and the Union County Police Department.

Make no mistake about it. There's a distinct possibility that a nuclear bomb or fissile material can come to American shores via cargo container or ship.

Al Qaeda has conducted maritime operations, employs suicide bombers, has expressed a keen interest in acquiring nuclear weapons and has conducted multiple large scale destructive attacks against western targets and civilians. Other terrorist groups are seeking to make similar claims.

Our seaports and the maritime system are ripe for exploitation and vulnerable to mass disruption by terrorists. Trade and port security must be made a national and indeed a global priority.

If a containership passes under the Verrazano Bridge with a nuclear, radiological or even conventional explosive device on board, it's too late. As the September 10, 2002 Palermo Senator incident demonstrated, there are no attractive options when a ship suspected of containing a weapon of mass destruction somewhere within the container that is among scores of other containers above or below decks is tied to your dock.

Worse yet, if a ship were the delivery means of actual weapon of mass destruction, detonated anywhere in New York harbor or in the port, the consequences to human life, our area's habitability, our infrastructure, our national defense, our economy and global trade are enormously catastrophic.

A seaport operator can only do so much. A comprehensive global maritime security strategy is required. We must know definitively

the contents of each of the other 3 million containers that annually are handled in the port before they arrive. We need to be assured that the cargo containers have not been tampered with.

The State of New York supports such initiatives as Operation Safe Commerce in order to develop dependable arrangements for securing and monitoring cargo, starting at its overseas point of origin to its final destination. We're pleased that the Port Authority is the local lead in this initiative.

The new role that amends Customs regulators to require presentation of manifest information 24 hours prior to cargo lading at a foreign port is a step in the right direction. The Container Security Initiative in which U.S. Customs inspectors are placed at foreign seaports to prescreen cargo containers before they are shipped to America is also a step in the right direction.

We look forward to the day when responsible government officials verify shipments as being free of terrorist contraband at their ports of origin prior to this dispatch to America.

In essence, we should virtually roll back the borders of the United States so that necessary security checks can take place before our population is threatened by hazardous cargo. Keeping danger at a distance would also serve to avoid security bottlenecks that would paralyze our seaport.

Accurate detective, monitoring and reporting technology, and electronic sealing of containers to verify the intransit integrity of cargo shipments will also serve to protect national and regional security while not hindering the processing of cargo in our port.

We must be mindful of the passengers and crew members that arrive in our ports on oceangoing vessels. The U.S. Coast Guard and Immigration and Naturalization Service must effectively work together to ensure that only those passengers and crew with permission to land in the United States actually disembark the vessels.

Of course, this permission to land must only be given to those who are predetermined by INS to not represent a threat to the United States. Having been checked against watch lists, etc., we believe this capability does not exist today.

All concerned must pay scrupulous attention so that terrorists do not use our seaports as ports of entry into our country by a vessel gangway off the side of ships or even inside a container. Steps must be also in place to ensure that personnel authorized for temporary landing return to their ship before they leave port.

We need to do logical common sense things to keep terrorists out of the United States.

Our current structure of overlapping jurisdiction dealing with different aspects of a ship's arrival is to say the least not an efficient one. While we have Customs, the Coast Guard and INS ostensibly working together, consolidation of functions into the President's proposed Department of Homeland Security would clearly hold one department responsible for the ship and any of its potentially dangerous people or cargo.

It has been over a year and 2 months since the horrific terrorist attacks on New York and America took place and we have yet to enact legislation to create this vitally important new department.

Finally, a word must be said concerning the safety and security of activity in the harbor. The bombing of the USS Cole and the French oil tanker Limburg are pointed reminders that vessels transiting or berthed in our waterways are subject to external attacks. Ferryboats and cruise ships are vulnerable. Stepped up harbor security is a must.

The Staten Island Ferry that we observe go by every 10 minutes, holds up to 6,000 people.

A seaport operator such as Port Authority, in close cooperation with Federal, State and local law enforcement, must provide a safe operating environment for the maritime industry. In the areas under its control, the port operator in partnership with the maritime industry, must adopt best practices to reduce vulnerability, prevent or deter terrorist or criminal activity and manage the risk should deadly and dangerous items enter our harbor after all else fails.

In this regard, the Port Authority of New York and New Jersey is a proactive partner.

We are pleased that Congress has passed the Maritime Transportation Security bill and we're looking forward to its enactment into law.

Finally, as a related matter, the New York State Office of Public Security, together with the national Office of Homeland Security, is hosting a December 12th meeting with 10 northeastern States homeland security advisors, to formalize a working group on port security, among other issues and to exchange ideas and experiences so that collectively we may contribute toward ensuring that global maritime commerce is conducted securely, safely and expeditiously.

Thank you for the opportunity to testify before the committee. I'll be happy to answer any questions at the appropriate time.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Kallstrom follows:]

Testimony of James K. Kallstrom
Senior Advisor to Governor Pataki on Counter-Terrorism

before the

United States House Government Reform Committee,
Subcommittee on National Security, Veterans Affairs
and International Relations

HOMELAND SECURITY:
FINDING THE NUCLEAR NEEDLE IN THE CARGO CONTAINER HAYSTACK

November 18, 2002
New York, NY

Good afternoon Mr. Chairman and distinguished members of this Committee.

On behalf of Governor George E. Pataki and the New York State Office of Public Security, I would like to thank you for the opportunity to discuss critical issues relating to port security. The sub-title of these proceedings: "Finding The Nuclear Needle In The Cargo Container Haystack" aptly describes what we're up against when an oceangoing containership arrives in the New York-New Jersey seaport.

All terrorism is local. The Governor and the State of New York have an abiding and vested interest in close coordination of federal counter-terrorism activities with those of State and local government. While many of the issues discussed today will involve federal solutions, the local impact of any terrorist act or threat in our Port cannot be overstated. When the *Mayview Maersk* arrived in Port Newark on September 22nd, to whom did Customs and the Coast Guard turn to investigate, clear and potentially render-safe its suspected explosive cargo? The Port Authority Police, the Newark Police Department and the Union County Police Department.

Make no mistake about it, there is a distinct possibility that a nuclear bomb or fissile material could come to American shores via a cargo container. *Al Qaeda* has conducted maritime operations, employs suicide bombers, has expressed a keen interest in acquiring nuclear weapons and has conducted multiple, large-scale, destructive attacks against Western targets and civilians. Frighteningly, other terrorist groups are seeking to make similar claims.

Our seaports and the maritime system are ripe for exploitation and vulnerable to mass disruption by terrorists. Trade and port security must be made a national, and indeed a global, priority.

If a containership passes under the Verrazano Bridge with a nuclear, radiological or even conventional explosive device on board – it's too late. As the September 10, 2002 *Palermo Senator* incident demonstrated, there are no attractive options when a ship, suspected of

containing nuclear or radioactive material, possibly indicative of a WMD, somewhere within a container that is among scores of other containers above or below decks, is tied to your dock. Worse yet, if a ship were the delivery means of an actual weapon of mass destruction – nuclear, radiological or explosive – detonated anywhere in New York harbor or in our Port, the consequences to human life, our area's habitability, our infrastructure, our national defense, our economy, and global trade are frightening and enormously catastrophic.

A seaport operator can only do so much. A comprehensive global maritime security strategy is required. We must know, definitively, the contents of each of the over three million containers that annually are handled in the Port of New York/New Jersey before they arrive. We need to be assured that the cargo containers have not been tampered with. The State of New York supports such initiatives as "Operation Safe Commerce" in order to develop dependable arrangements for securing and monitoring cargo, starting at its overseas point of origin to its final destination. And we are pleased that the Port Authority is the local lead in this initiative.

The new rule that amends Customs regulations to require presentation of manifest information 24 hours prior to cargo lading at a foreign port is a step in the right direction. The "Container Security Initiative" in which U.S. Customs inspectors are placed at foreign seaports to pre-screen cargo containers before they are shipped to America is also a step in the right direction. We look forward to the day when responsible government officials can verify shipments as being free of terrorist contraband at their ports of origin prior to dispatch to America. In essence, we should virtually "roll back the borders" of the U.S. so that necessary security checks can take place before our population is threatened by hazardous cargo. Keeping danger at a distance would also serve to avoid security bottlenecks that would paralyze our seaport. Accurate detection, monitoring and reporting technology, and "electronic sealing" of containers to verify the in-transit integrity of cargo shipments will also serve to protect national and regional security while not hindering the expeditious processing of cargo in our Port.

We must also be mindful of the passengers and crewmembers that arrive in our Ports on oceangoing vessels. The United States Coast Guard and the Immigration and Naturalization Service must effectively work together to insure that only those passengers and crew with permission to land in the United States actually disembark the vessels. Of course, this "permission to land" must only be given to those who are pre-determined by INS to not represent a threat to the U.S., having been checked against watch lists, etc. We are not assured that this capability fully exists today. All concerned must pay scrupulous attention so that terrorists do not use our seaports as ports of entry into our country -- via vessel gangway, off the side of the ship, or even inside a container. Steps must also be in place to insure that personnel authorized for temporary landing return to their ships before they leave Port.

Our current structure of overlapping jurisdictions dealing with different aspects of a ship's arrival is, to say the least, not an efficient one. While we have Customs, the Coast Guard and INS ostensibly working together, consolidation of functions into the President's proposed Department of Homeland Security would clearly hold one Department responsible for the ship, and any of its potentially dangerous people or cargo. It has been over a year and two months since the horrific terrorist attacks on America took place and we have yet to enact legislation to create this vitally important new Department.

Finally, a word must be said concerning the safety and security of activities in the harbor. The bombing of the *USS Cole* and the French oil tanker *Limburg* are pointed reminders that vessels transiting, or berthed in, our waterways are subject to external attacks. Ferryboats and cruise ships are vulnerable. Stepped up harbor security is a must.

A seaport operator, such as the Port Authority of New York and New Jersey, in close cooperation with Federal, State and local law enforcement, must provide a safe operating environment for the maritime industry. In the areas under its control, the port operator, in partnership with the maritime industry, must adopt "best practices" to reduce vulnerabilities, prevent or deter terrorist

or criminal activity and manage the risk should deadly and dangerous items enter our harbor after all else fails. In this regard, the Port Authority of New York and New Jersey is a proactive partner.

We are pleased that Congress has passed the Maritime Transportation Security bill and we are looking forward to its enactment into law.

Finally, as a related matter, the New York State Office of Public Security, together with the national Office of Homeland Security, is hosting a December 12th meeting with 10 northeastern states' homeland security advisors, to formalize a working group on port security, among other issues, and to exchange ideas and experiences so that collectively we may contribute toward insuring that global maritime commerce is conducted securely, safely and expeditiously.

Again, thank you for the opportunity to testify before the Committee. I am happy to answer any questions you might have.

Mr. SHAYS. Thank you very much.

Ms. Rooney.

STATEMENT OF BETHANN ROONEY, MANAGER, PORT SECURITY, THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Ms. ROONEY. Good afternoon, Mr. Chairman and distinguished members of the subcommittee.

Thank you for the opportunity to testify at this hearing and discuss critical port security issues.

The topic of port security was rarely discussed prior to September 11th, except in the context of drug interdiction and waterfront crime. However, the events of that day created a new and urgent focus on the worldwide vulnerability of the marine and intermodal transportation industry.

The nature of the ports make it extremely vulnerable. Every container that enters or passes through our ports must be treated as a potential weapon of mass destruction. Every vessel, a crew member or passenger are potential terrorist and every port a potential target.

Physical port security is absolutely critical, but it is just one piece of a much larger puzzle.

Our collective mission must be to prevent our ports from being the conduit for which a container laden with WMB, or terrorists facets.

Legitimate cargo must not be used as a means to transport potential terrorist devices.

Interdicted container carrying a WM by inspection at the port of import is too late. Our goal should be to increase our confidence that we know exactly what is in each container before it is discharged. It is not possible to physically examine the contents of each of the 6,000 containers that arrive in the Port of New York and New Jersey each day.

The key is finding a way of separating high risk cargo in the mass majority of legitimate containers and dealing with the exceptions.

Creating a transportation system that balances economic concerns with national security is our challenge. We believe that every effort must be taken to verify the contents of the containers before they're even loaded on a ship.

The process must include certifying that the container was packed in a secure environment, sealed to prevent tampering and transported under the control of the responsible party.

A chain of custody must be established that ensures the cargo's integrity and that complete and accurate data is provided to Customs well in advance.

As a way to test the validity of this theory, various Federal and State agencies also with private sector partners participate in the initiative referred to as Operation Safe Commerce which you heard about this morning.

By verifying and securing monitoring, and sharing information about cargo from the point of origin throughout the supply chain to the final destination, it is our collective vote that if we can provide constructive and tested regulations to various domestic and

international regulatory agencies on how best to secure the supply chain, without burdening the industry with unnecessary delays will impact international commerce.

The Port Authority is one of the key players in this initiative. In addition to changes in business practices, we must leverage and able technology to secure the maritime technology.

Today's technology and security are no longer the same issues. We must conduct research and development, followed by a group of concept projects for physical and data securities systems to identify and introduce areas of technologies.

The solution should include a number of discrete technologies capable of being operable with other stand alone systems and the ability to analyze the data.

Technology needs to include container tracking, smart boxes with electronic seals and sensors and non-issues of detection. We must not only look at what problems the technology solves, but also what problems it causes.

Many of the technologies out there today claim to have false alarm rate of just 1 percent and are very proud of that number.

That pride is perhaps understandable. We have to view it as totally unacceptable. A false alarm rate of just 1/2 of 1 percent on detention equipment would equate to 36 containers a day in our port alone.

Why is a mere 36 containers out of 6,000 a day a problem? Every container that's considered to be a high risk container, be it by intelligence reports or alarms generated by detection equipment requires a cooperative response effort on the part of numerous Federal stages and local agencies.

Each incident is different, some taking hours or even days to render State. Most utilizing 20 to 50 percent for primarily a stand by mode in the event something does happen.

In the case of Palermo Senator, the ship that was suspected of having on board radioactive material, which turned out to be ceramic tiles, it took 4 days and ultimately a team from Washington to render it safe.

The determination to shut down terminal operations in the specific area and even to evacuate the facility, must be made on a case-by-case basis. Suspending operations in just one terminal for 1 hour costs close to a half a million dollars.

And to say the obvious, a false negative can be catastrophic. That is why in addition to improvement in technology, we must have people with the expertise to use it to interpret the data and to identify the responses to any alarms.

For the last 14 months, the maritime industry has almost been exclusively focused on the potential WMD laden container being transported to the United States.

If a container can be used for WMD, why not the 610,000 automobiles, trucks, buses and subway cars that pass through our port every year.

In addition, we need to be just as concerned if not more concerned, about a vessel being attacked like the USS Cole and the French oil tanker Limburg for being used as a weapon itself.

I don't believe that other ports have the resources to detect, deter and prevent such incidents. The Federal Government has a clear role to play in that regard.

It is also important to note that all freight loads have the means to deliver a WMD; maritime, air, highway and rail. Major gateways must pursue a defensive strategy that complements overseas interdiction and intransit cargo security measures within an array of sensors, screening and inspection methods employed at key points throughout the free transportation system.

Focusing on securing maritime containers and the related supply chain to the exclusion of other vulnerabilities could be our downfall. As you would expect, the Port Authority works in close cooperation with the appropriate State and local agencies.

However, through its office of operations and emergency management and our public safety department, the Port Authority has reached out to Federal agencies for help in tackling the problems of monitoring, interdicting, mitigation and consequence management that gateway facilities along key interstate corridors.

The cooperation has been strong in the regional Federal relationship. We have found the Department of Justice, Energy, Customs, the Coast Guard and TSA to be willing and creative partners in our efforts to apply existing methods to assist in the tremendous challenges we face as to the transportation agency.

We're eager to engage in discussion on original approaches for interdiction and welcome being considered for any group of concept or projects.

We and other ports earnestly hope that Congress followup with actions, substantial appropriation to match the substantial needs of the American gateways.

Beyond the enactment of the legislation, the international maritime organization international code for security of ships and port facilities is another essential means to which achieve progress in maritime international freight sectors.

I hope my comments today have been helpful. The Port of Authority is prepared to offer any additional assistance you may require. Thank you.

[The prepared statement of Ms. Rooney follows:]

Statement
Bethann Rooney
Manager, Port Security
Port Commerce Department
The Port Authority of New York & New Jersey

On the Matter of
"Homeland Security:
Finding the Nuclear Needle in the Cargo Container Haystack"

Before the Subcommittee on
National Security, Veterans Affairs and International Relations
Committee on Government Reform
U.S. House of Representatives

New York, New York
November 18, 2002

Good morning, Mr. Chairman and distinguished members of this subcommittee. Thank you for the opportunity to testify at this hearing and discuss critical port security issues. I am Bethann Rooney, Manager of Port Security for the Port Commerce Department of the Port Authority of New York & New Jersey.

Forty-six years ago, the marine transportation industry was revolutionized by the introduction of the intermodal container, which facilitated the principle doctrines of transportation: speed, reliability and cost, and increased cargo security in terms of theft and pilferage. It is that very same system, in the post September 11th environment that makes our industry extremely vulnerable.

The topic of port security was rarely discussed prior to September 11th except in the context drug interdiction and waterfront crime. However, the events of that day created a new and urgent focus on the worldwide vulnerability of the marine and intermodal transportation industry. The porous nature of ports makes them extremely vulnerable. Every container that enters or passes through our ports must be treated as a potential weapon of mass destruction, every vessel a delivery device, every crewmember or passenger a potential terrorist and every port a potential target.

The Port of New York and New Jersey is the third largest in the United States and the largest port on the east coast of North America. Last year the port handled over 3 million containers (as measured in twenty-foot equivalent units) and 610,000 autos. The port handles more refined petroleum products than any other port in the nation, along with a variety of other bulk and breakbulk commodities. New York harbor also supports a wide range of passenger services including cruise ships and the growing, increasingly important, commuter ferry services. Ports like ours are key transportation links in global trade. Ninety-five percent of trade in the United States enters by ship. The Port of New York and New Jersey serves a region of 18 million people locally and a larger population of 80 to 90 million people within the ten state region surrounding the port.

While physical port security is absolutely critical, it is just one piece of a much larger puzzle. Perhaps the most daunting challenge to ensuring against terrorism in ports and larger transportation system is the issue of container security and Weapons of Mass Destruction (WMD). Our collective mission must be to prevent our ports from being the conduit through which a container laden with a WMD, components of a WMD, or a terrorist passes. Legitimate cargo must not be exploited as a means to transport potential terrorist devices.

Interdicting a container carrying a WMD by inspection at the port of import is too late. We must prevent the weapons or terrorists themselves from ever making it to the United States. The only way to do that is to push the borders out and make maritime security an international issue whereby foreign countries cooperate with each other in holding the shipper responsible for verifying the contents of every container and, if warranted, inspecting the containers before they are ever loaded onto a ship.

Our goal should be to increase our confidence that we know exactly what is in each container before it is discharged in any port. It is not possible to physically examine the content of each of the six thousand containers that arrive in the Port of New York and New Jersey each day. Productivity and other advances in recent years that have made the container industry so efficient, and the proliferation of just-in-time inventory, are the same things that have made the industry more vulnerable. The key is finding a way of separating high-risk cargoes from the vast majority of legitimate containers and dealing with the exceptions. Creating a transportation system that balances economic concerns with national security concerns is our challenge. The subtitle of this hearing "Finding The Nuclear Needle In The Cargo Container Haystack" might better be stated with a phrase from the old movie *Saving Private Ryan* – "we are looking for a needle in a stack of needles."

Today, there are no security standards when loading a container at the manufacturer's plant or consolidator's warehouse, often well inland of a seaport. There are no security standards for the seals that are put on containers. Cargo is transferred from one mode of conveyance to another and there are no standards for how that is done or for accounting for the integrity of the container as it changes hands. International seaports are generally not held to certain security standards. I should note, however, that the recently approved maritime security legislation addresses this problem by having the Transportation Security Oversight Board develop performance standards "to enhance the physical security of shipping containers, including for seals and locks."

We believe that efforts must be taken to verify the contents of containers before they are even loaded on a ship. The process must include certifying that the container was packed in a secure environment, sealing its contents to prevent tampering, and transporting it under the control of a responsible party. A chain of custody must be established that ensures the cargo's integrity and that complete and accurate data is provided to Customs well in advance of a ship's arrival. All parties in the logistics chain must accept some burden of responsibility for the additional security.

As a way to test the validity of this theory in the United States, various federal and state agencies along with private sector partners are participating in a new initiative referred to as Operation Safe Commerce (OSC). OSC is an innovative public – private partnership dedicated to enhancing security throughout domestic and international supply chains, while facilitating the efficient movement of cross border commerce and decreasing the risk of additional congestion in our ports. This can be achieved by developing dependable arrangements for verifying, securing, monitoring and sharing information about cargo from the point of origin, throughout the supply chain, to its final destination. Private companies have volunteered to join with representatives from key federal, state and local agencies to construct prototypes of a secure international supply chain. It is our collective hope that we can provide constructive and tested recommendations to national governments and international regulatory agencies on how best to secure the supply chain without burdening the industry with unnecessary costs or delays that reduce the flow of cargo through the U.S. and impact the national economy.

The U.S. Customs Service is to be commended for the programs they have introduced to increase cargo security, namely the Customs-Trade Partnership Against Terrorism (C-TPAT) and the Container Security Initiative (CSI). C-TPAT enlists the cooperation of shippers and their trading partners to secure their facilities and conveyances. The CSI program partners with the top 20 international ports that represent the origin of more than seventy percent of the containers that enter the United States. By negotiating bilateral agreements with foreign governments, U.S. Customs agents are stationed at overseas ports to target suspicious cargo, pre-screen and inspect U.S.-bound containers before they are loaded onto ships destined to the U.S. Although we support these initiatives they are not the panacea but rather, along with Operation Safe Commerce, part of the layered approach to security that is required to build secure supply chains and systems. We also agree with statements in a recent *New York Times* article whereby "European Union officials are concerned that the program's incentives favor those ports that sign the agreements and penalize

those that either refuse or are too small to take part." Port and maritime security is an all-hands evolution and must actively involve more than the top twenty ports and those that ship through them.

In addition to changes in business practices, we must leverage enabling technology to help secure the maritime industry. Today, technology and security are no longer distinct issues. We must conduct research and development followed by proof-of-concept projects for both physical and data systems to identify and introduce various technologies. The solution should include a number of discrete technologies capable of being interoperable with other stand-alone systems and the ability to analyze the data. Technology needs include: 1) container tracking and warning systems, 2) "smart boxes" with electronic seals and sensors that can indicate if a container was tampered with after it was packed or last inspected, and 3) non-intrusive detection equipment for chemical, biological, nuclear, radiological and explosive devices. And it is worth noting that while numerous federal agencies and the private sector are exploring new technology there appears to be no one organization tracking all of the initiatives or leveraging similar initiatives.

We must not only look at what problems the technology solves but also what problems it causes. Many of the technology vendors out there today claim to have a false alarm rate of "just one percent" and are very proud of that number. That pride is perhaps understandable but we have to view it as unacceptable. A false alarm rate of one-half of one percent on detection equipment would equate to 36 containers a day in our port alone. Why is a mere 36 out of 6000 containers a day a problem? Every container that is considered to be a "high interest" container, be it by intelligence reports or alarms generated by detection equipment, requires a cooperative emergency response effort on the part of numerous federal, state and local agencies. Each incident is different, some taking hours or even days to render safe, most utilizing 20 - 50 people who are primarily in a stand-by mode in the event that something does happen. In the case of the *Palermo Senator*, the ship that was suspected of having onboard radioactive material, which turned out to be ceramic

tiles, it took 4 days and ultimately a NEST team from Washington to render it safe. Determinations to shut down terminal operations in a specific area or even evacuate the facility must be made on a case-by-case basis. Suspending operations in one terminal for just one hour could cost close to $500,000. And, to say the obvious, while a false positive is bad, a false negative can be catastrophic. That is why in addition to improvements in technology, we must have people with the expertise to use it, to interpret the data, and to identify responses to any alarms.

For the last fourteen months, the maritime industry has been almost exclusively focused on the potential of a WMD-laden container being transported to the United States. Yet if a container can be used to transport a WMD, how about the 610,000 automobiles, trucks, buses, subways, cars and huge crates that pass through our port every year? In conducting our own threat and vulnerability analysis, we have tapped the knowledge of terrorist experts who have suggested that we should be just as concerned, if not more concerned, about a vessel being attacked, like the *USS Cole* and the French tanker *Limburg,* or it being used as a weapon itself. I don't believe that we and other ports have the sort of in-shore coastal security resources to detect, deter and prevent such incidents. The federal government has a clear role to play in that regard.

While we are not going to be able to eliminate the threat, we need to take some steps to reduce or limit the risk. We must find ways to expedite the movement of low risk cargo and people and focus our resources on the higher risk traffic. This requires international cooperation and coordination. Everyone in the supply chain must share responsibility for security, but most importantly, trade security cannot be voluntary.

All of the great work now being done by the Customs Service and the Coast Guard to interdict WMD before reaching the shores of the U.S. notwithstanding, we cannot simply focus efforts on overseas interdiction and security measures within the narrow bands of major supply chains. Such measures will help considerably to better direct our energy and must be advanced with all speed. However, they are not a panacea. They are costly, will take time to fully implement, and rely heavily on the willing

participation and strict compliance of trading partners, shippers and carriers across the globe. And while major ports and trading partners may quickly adopt security practices other parts of the world may lag in that regard or give less attention to security concerns.

It is also important to note that all freight modes are at risk for exploitation as a means to deliver a WMD– maritime, air, highway and rail. Major gateways must pursue a "defense-in-depth" strategy that complements overseas interdiction and in-transit cargo security measures with an array of sensors and selective screening and inspection methods employed at key chokepoints throughout the regional freight transportation system - tunnels, bridges, intermodal facilities, and the like. While the Customs Service, Coast Guard and the federal intelligence services do their part to prevent the arrival of WMD into this country, local, state and federal agencies in each major gateway region must band together do all they can to protect the population and infrastructure from the one WMD that might slip through an imperfect line of defense around the Nation's borders. Focusing on securing maritime containers and the related supply chain to the exclusion of other vulnerabilities could be our downfall. In hockey, the goalie is not celebrated for how many pucks he stops from reaching the net, but it's the one that gets by and is the game-breaker that is always remembered.

As you would expect, the Port Authority works in close coordination with the appropriate State and local agencies. However, through its Office of Operations and Emergency Management and our Public Safety Department, the Port Authority also has reached out to federal agencies for help in tackling the problem of WMD monitoring, interdiction, mitigation and consequence management at gateway facilities and along key interstate corridors. The cooperation has been strong in this regional/federal relationship. We have found the Departments of Justice and Energy, the Customs Service and the Transportation Security Administration to be willing and creative partners in our efforts to apply existing methods and systems to the tremendous challenges we face as a multimodal transportation agency. We are eager to engage TSA in discussions on regional approaches to threat monitoring and

interdiction, and we would welcome being considered as a platform for any proof-of-concept demonstration projects.

In closing, I must say that we are pleased that Congress concluded consideration of the comprehensive Port and Maritime Security Act. We and other ports earnestly hope that Congress will follow up that action with substantial appropriations to match the substantial needs at the American gateways. Beyond the enactment of legislation the International Maritime Organization's International Code for the Security of Ships and Port Facilities is another essential means to achieve progress in fighting terrorism in the maritime and intermodal freight sectors.

I hope my comments today have been helpful. We at the Port Authority of New York & New Jersey are prepared to offer an additional assistance as you may require. I would be happy to take any questions. Thank you.

Mr. SHAYS. Thank you very much.

I'm going to recognize Mr. Allen first. We're going to do the 10-minute.

And we'll just go to Mr. Allen, Mr. Tierney, Mr. Souder and then Ms. Maloney who has joined us and then I'll go.

Mr. ALLEN. Thank you, Mr. Chairman.

Thank you both for your testimony today.

Were you both present during the testimony given by the prior panel?

Mr. KALLSTROM. Yes.

Mr. ALLEN. Do you have any comment on any of the questions or the answers they gave? We would like to at least give you that opportunity.

Mr. KALLSTROM. I through the line of questioning was very poignant. I would agree with most of what I heard.

There is one thing I would add. I might have got the impression that the majority of the work was overseas and not much needs to be done in the United States.

I would rebalance that notion a little bit, that we have an awful lot to do in the United States. We haven't had borders that have been very tight for a long, long time. We haven't had gateways that are tight.

Obviously, the discussion we're having today, we all know that things can come and go.

My concern and the Governor's concern and State and local concern is what is already here. So we should not lose track of that also at the same time we talk about overseas.

Ms. ROONEY. I would add on this issue of no standards, similar to Mr. Kallstrom, is that we go back to this notion of defense, where we need to have interdiction, intransit cargo security, domestic cargo security and then use the technology to have an array of sensors, screening and inspection of containers where appropriate.

Mr. ALLEN. I want to begin with you, but I would like Mr. Kallstrom's response as well.

We talked a lot about interagency cooperation, and certainly that was a theme of the prior panel from the Federal agencies, but back in Maine, I can tell you there is great concern at the local level, but at the State level the cooperation is not extending to the flow of funds in the way that it should. It seems to me in the long term in order to maintain the right kind of cooperation between Federal, State and local authorities, there's got be a way to make the—get the allocation of resources right.

I'd be very interested in both of you commenting on that, how that's worked for you so far and what you think needs to be strengthened vis-a-vis the relationship.

There's been a great deal of talk in our level how we have to be beef up the national security, and I think there's a recognition in Congress that a good part of the additional work needs to be shouldered by the Federal Government.

That isn't necessarily happening, at least with the local and State agencies I've been talking to.

Ms. ROONEY. I think your question raises two points. One is in regards to the communication and coordination among the State and local agencies. The second is regard to funding.

I can say that we have been rather successful in both of those regards. We have an incredibly successful working relationship with our partners in security, both on the local level and national level.

We have a variety of—we are participants in a variety of committees that have polled all of these organizations together.

On the funding side, through our office of operations and emergency management, we have been very successful again in working with the Department of Justice, Department of Energy and TSA in securing funds for some of the projects that we're looking at doing in the area of needs assessment and deploying and testing some technology that is out there that could assist us in our maritime, air and rail and highway systems.

Mr. ALLEN. For the State, what has been your experience?

Mr. KALLSTROM. Well, I come from 28 years in the FBI in my prior life, so I think we turned the corner. I think we now understand the necessity to have better information, better communications. I think there's a long way to go.

We have close to 700,000 State and local police in the United States. We have 70,000 here in the great State of New York and we need to get them more engaged in the terrorism business. They're the eyes and ears of our citizens and they're our first line of defense in many ways.

Two days before the tragedy that happened right up here, one of the terrorists was stopped on Route 95 doing 90 miles an hour. He was written a summons and let go. Police generally don't have access to data bases. That's relevant as to them taking any kind of action or making logical decisions on the scene.

I think that's been widely discussed. We need to move to a new paradigm of assisting and helping and empowering State and locals to play a bigger role. False identification, which may be a little bit off point, is totally out of control.

The ability to acquire identification pretty much anywhere in the world, including this great State and other States—Federal identification doesn't have the technology and Social Security cards, the State identification, birth certificates, it's things that get into a baseline I.D., most of us don't have that type of technology.

They get you on an airplane. They get you on a boat. They get you a whole new identify. It's a local issue that has wide ramifications.

Mr. ALLEN. You said you were open to regional cooperation with other communities. Mr. Tierney is from the Boston area. I'm from Portland.

Has there been much going on, much exchange of information among different port directors up and down the east coast in dealing with some of the issues you're confronting?

Ms. ROONEY. Yes, there has. One organization is the North Atlantic Port Association, which is really from Maine to I believe Maryland, and the other is through the American Association of Port Authorities.

Both of those organizations have been focusing quite a bit on port security pre September 11th actually and certainly stepped up those efforts post September 11th.

The FAA has a port security committee and task force that is working on port security, in particular on the legislation, on the Federal rulemaking and the Coast Guard regulations, Customs rules and programs that have come out.

There is quite a bit of discussion among myself, with myself and with my counterparts around the Nation in coordinating more activity.

Mr. ALLEN. Thank you.

That's really all I have.

Mr. SHAYS. Mr. Tierney.

Mr. TIERNEY. Thank you.

I think you've done a great job rounding up what went on in the first discussion and adding your comments to it.

We're asking to reach out and extend our borders to a lot of other countries and have them go along with the standards we are going to set for security.

Are we prepared for this?

Mr. KALLSTROM. Well, I assume we are. That's logically a Federal issue. I don't know how those talks are going. I suspect we are.

The recent events of the last week in the U.K. and elsewhere, there have been terrorist acts in the last 2 weeks. Everyone has been coming to the same conclusions we've come to already.

I suspect we are.

Ms. ROONEY. We certainly agree. We're going to be required to do the same thing that we're asking our foreign counterparts to do. Many of the comments that the port operators and the shipping lines and the like have had is in evaluating these international requirements and regulations is are we able to do the same thing in return.

So we have been very active in those discussions.

Mr. TIERNEY. You've included those discussions with people from the industry?

Ms. ROONEY. Yes.

Mr. TIERNEY. Thank you, Mr. Chairman.

Mr. SHAYS. Mr. Souder.

Mr. SOUDER. Does the State have special efforts on protection on security system other than Pugent Sound and there are many more people here during rush hour that are vulnerable on the ferry system.

Have you taken steps to beef that up? Has the Federal Government helped you with any of that? What type of protection do you people have?

Mr. KALLSTROM. It's one of our highest concerns. We have taken steps. We've done a lot of coordination.

I prefer not to share the technical details of that here today. Clearly, we need a much larger Coast Guard.

I know there's a huge budget approval in the next fiscal year. If I was empowered, I would triple the size.

Mr. SOUDER. You think the greatest threat would be, the whole problem with these hearings, I would like you to say publicly what you don't, but we talked about the USS Cole, but rather than inter-

nal threat, have you stepped up efforts internally in passenger screening?

Mr. KALLSTROM. Within the resources available, Coast Guard and NYPD that paroles that harbor out here, I think we're taking logical reasonable steps.

Look out here and look at the number of vessels just going by here during this hearing and they're voluminous and a lot of them are packed with tourists and citizens of this great city going back and forth and we're very concerned about it.

The type of venue, and it's on our radar screen and it's on our first page of things that we care about. We need more resources to adequately deal with it.

Mr. SOUDER. One of the challenges that we have at the Federal level is that this would be predominately intrastate or interstate rather than a Federal jurisdiction and at the shame time, and obviously what you're doing is very diverse, upstate, downstate, type of things, and figuring out how to deal with the ferry system and it's such a huge risk, such a high point that in the United States would you see possible ways of addressing this—have efforts for response biological and chemical attacks.

We have other types of—we have something that can be tapped into for any type of screen or protection in that type of system?

Mr. KALLSTROM. We mentioned that on numerous occasions when we had the opportunity, obviously all these issues we talked about for hours are issues that here because we have terrorists in the United States of America. They lived among us for many years.

We need better adequate controls to keep terrorists out of the country or we wouldn't be having the discussion about not enough NYPD, not enough Coast Guard. That's why we need much more resources.

We're dealing with the individual issue like the port, we need to keep in furtherance of our mind the fact that we need control and do the best we can. I believe we can do a lot better under our existing rules and under our Constitution, under our new process.

I don't think we have to give up our way of life to try to do a better job of keeping people who want to kill us out of the United States.

Mr. SOUDER. We dealt with the cruise ships because they're so large. We have all kinds of procedures on cruise ships.

One of the struggles that we dealt with and it's always going to be a challenge is how to have information sharing because of different ways of collection, because of concerns the State is getting too much information on individuals, because of the particular risk, the more you have that information spread over a lot of people the easier it is to get it compromised, all those kind of debates.

I don't think the average American understands why we can't have a system that when a policeman arrests somebody you don't get specific information, they pop up that says this person, any kind of basic warning system that somewhere in a system where it's a pop-up.

You haven't seen that yet at this point, even if you could call in and say we'll turn this over, something came up on my screen.

Mr. KALLSTROM. That's an outstanding comment. We go from one extreme to the other in this country. We go from no one can get

any information for certain reasons, and then we shift back the other way. We need some logical middle ground.

If a State trooper stops somebody on the parkway, who has reasonable suspicion, because maybe the identification, what they see in the car, or whatever, that person could be on a watch list of the U.S. Government and the State trooper does not know that.

We need a green light or red light response back from Washington. We don't really need the information. We just need to know should we hold onto this person. Should we bring them to the station and FBI will show up later to interview them.

So I think you hit on something that is important, and I think there are ways around dealing with this information.

Yes, there are reasons why we don't share information, but I think we can build walls around the sensitive part of the information and still provide responders on the street a better opportunity to make decisions.

Mr. SOUDER. Prescreening overseas, we've seen what a short-term strike can do in the west coast to our business in the United States to greatly push it overseas, are we prepared and have we analyzed how do we prepare for this type of thing and study it adequately as we're aggressively pushing, could it slow down the process, could it put us more vulnerable to stoppages or will they move to the Caribbean or other places of entry and come by train.

Ms. ROONEY. Our Customs office in New York and New Jersey has been able to quantify what increase just in the port of New York and New Jersey would be. If they increased that from the 2 percent physical inspection that was talked about earlier to a 5 percent physical inspection, that would equate to a backlog of 4,500 containers a month that otherwise would be going out the facility that would be delayed.

It would require 400 additional inspectors and cost $1.2 million per month. That's the most that we can do to qualify or rather quantify the cost in terms of delay and dollars of additional inspections.

And therefore, when you look at that, you go back to doing it overseas, and we've got to have this layered approach to security that people have talked about.

Mr. SOUDER. If we put the pressure, might they look to go to another port of entry and never come to New York?

Ms. ROONEY. One thing we're afraid of is if we don't have regulations at our borders, at our land borders in Canada and Mexico, that cargo coming across our land borders will be diverted and that is clearly a fear, that we cannot allow this to be diverted to Canada and Mexico.

We need to have the same regulations at our border crossings as we do at our seaports of entry, but if you look at the foreign point of origin, and when you talk about Operation Safe Commerce and CSI and C-TPAT and some of these initiatives, if you put those all together and have this layered approached to security, we believe that you will be able to have reasonable assurance on the majority of the containers that you don't have to stop and inspect them here.

We need to ensure at the point of origin what is going inside that container. There's a program in place in I believe 23 other ports

around the world right now that requires precertification of all import cargo, and that's being done.

The United States and shippers that are exporting from the United States to these other countries are participating in that program today. And it's a person who is witnessing the containers, taking photographs, doing a sampling of the cargo.

If we do a program like that and have the intransit, witness the intransit visibility and you have the inspection that Customs is not getting the information 24 hours in advance, they have the ability to do the prescreening.

We believe that we can do a lot to solve the problem and not do the inspections here in the United States because it is too late for doing it here.

Mr. SOUDER. I would like the chairman visiting different ports and different places around the world to look at this from a narcotics standpoint, from the terrorist standpoint, from a trade standpoint, immigration, at the same time at Vancouver, for example, the American Customs facility, even at the harbor you have to further move some of the items that protection at the harbor does not meet the standards that Vancouver would be more than some of the others.

We shouldn't think this is all of a sudden going to fix all the risk. We're a long way, even if they meet some of the standards, even some of our best allies and advance systems are not as advanced as our own 2 percent is not even what they're used to meeting.

This is a multi-year process as we're moving into overseas.

Ms. ROONEY. If we're going to eliminate the risk 100 percent, I don't think anybody expects that we are or that we can. It's a multi process and we have to have other measures in place. And that would be the screening and the detection here and all of our modes so that we can provide an extra level of assurance.

The primary detection has to be overseas.

Mr. SHAYS. Thank you.

At this time, the Chair recognizes Ms. Maloney.

STATEMENT OF HON. CAROLYN B. MALONEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Ms. MALONEY. Thank you, Mr. Chairman.

Thank you, Mr. Kallstrom, for your many years of service with the FBI. We worked together as a special agent with the terrible TWA crash and I'm glad you're still serving our city and State.

Ms. Rooney, thank you very much for your professional presentation.

I must thank Chairman Shays for coming into what I believe is the most beautiful port in the world. The most beautiful setting to have this important hearing.

I thank my colleagues on the Government Reform Committee, many of whom have traveled a great distance to be here today, and I really join the President and others shining a much needed spotlight on the security weaknesses of our seaports and our cargo containers from abroad.

Just this morning, Secretary Manella instituted a new program for screening baggage that goes onto our planes. They had an event at the airport this morning. We're inspecting our bags now at the

airports, but as you pointed out, we're letting thousands of 10-ton containers into our port without even a glance at their contents.

I truly do believe that our Nation's ports are more vulnerable to terrorism than our airports are. As Ms. Rooney pointed out, less than 2 percent of shipping containers are inspected when they enter one of a dozen of our ports, and our port security should be in my opinion just as strong as our aviation security is becoming.

The ABC News investigation demonstrated how vulnerable we are with 15 pounds of uranium being transported into the country successfully without a single hint of its movement through our border.

My first question, that I do not want to depend on the port of export. I don't want to depend on them. I would like the same screening process that we're literally implementing today at our airport to be in our country for our containers.

I must say that I've never seen our Congress more united or determined as we have been since September 11th, and we've joined in a bipartisan way the Maritime Security Act, and in that act was a $90 million, it was an amendment put in by New York Senator Schumer for new technologies to increase our screening capabilities.

GAO recommended that we needed $2 billion for such an effort, but we did get $90 million.

So my first question, exactly what is in place now that we can screen these containers, not with a bodily search but with a screener like we're doing in airports.

Do we not have any technology? What can we prepare in the future? I applaud the efforts of our country and every country to be very vigilant at the port of export, but as we learned from September 11th, we have many elements already in our own country that would be willing to work to undermine our government and our security.

I would like a line of defense at our own ports. Many people tell stories, you can put a bomb in the container and detonate it over here or time it to go off.

What type of technology do we have in place now? What can we use this $90 million to do? What more do we need to do to come up with screening technology similar to what we're doing now at our airports?

Mr. KALLSTROM. I don't know how much the $90 million will do for us. It's probably a drop in the bucket. We're a very rich Nation, and I think I would agree with the Port Authority, we need a layered approach and that layer overseas is important for the reasons that we don't want to take this thing off the Brooklyn pier and have it blow up there.

We have sophisticated technology in the United States, we can interrogate containers in transit. Containers can talk to us if someone has penetrated the container and then the Coast Guard can take appropriate action.

Clearly, also, we need a second or third layer here in the United States. There's no question. But I think probably the most important layer is overseas, but we should have another layer somewhere else.

I guess the other thing I would say is this is going to take a long time. Unfortunately, this is such a great country with a great heart. This has been going on for a long time.

Let's go back to 1993 when they blew up the World Trade Center. The tunnels, United Nations, FBI office, barracks in Saudi Arabia, USS Cole—this is not new. I wish we had started doing this many years ago.

I don't say that for any kind of retribution. Only to make the points that we have a lot to do and it's going to take a long time to do it and we have to do a lot of things simultaneously.

Ms. MALONEY. Shortly after September 11th, the Intelligence Committee came to City Hall and a hearing was held with the police commissioner, fire commissioner and our former Mayor Giuliani. He was very disturbed about the passage of classified information, and he felt that the City did not receive the necessary classified information that they should have in the aftermath.

I know that the FBI has I believe maybe 14 offices around the country, one is here in New York, which is supposed to be a multi-tiered approach from the FBI to CIA, the City, fire, police, working really in an anti-terrorism effort to share classified, all types of information in the event you have a September 11th, you have a working team in place to respond.

Could you comment on that program? Do you think it's successful?

I know that sharing classified information is particularly difficult because of sources, etc., but we want to be as prepared as possible.

Do you think that system has worked well to be expanded to other cities? My colleagues raised it, it's sharing the information so that we're really right for it and could you comment on this FBI model and whether or not you think it's been successful.

Mr. KALLSTROM. You're talking about the terrorist task force.

The first one dealt with terrorism issues, and I think it's worked quite well.

The problem is—it's not a problem of not passing classified information. I can tell you right now when I had the honor to run this office, there wasn't anything of substance that I didn't share with the Mayor and the police commission, regardless of their classification.

That's not the problem. The problem is there isn't enough information about terrorists and what they're doing.

If you look at the FBI for instance over the last two or three decades, it's a miracle the FBI solved as many cases as they did when you look at the Attorney General guidelines.

We need better intelligence. Now we need to figure out, in this city we have about 200 State and local police on the task force. That leaves 69,800 not on the task force. We need to figure out a way to get to them.

Not exactly classified information, but relevant information of what the government knows about certain things. Green light, red light, things like that.

Ms. MALONEY. You mentioned in your testimony the need to really clamp down on our systems so that what happened in the past, we had these villains basically living in our country with false IDs.

Would you elaborate on that? I remember when we caught one of these people and they found the man who had given him the false IDs and they gave him a fine of $20. Maybe we should clamp down on the people who are giving these false IDs.

How can we be more vigilant in finding the other people who are living in and planning to destroy human life, innocent human life.

Do you think we should have a national ID card?

Mr. KALLSTROM. Yes.

Ms. MALONEY. Can you elaborate things we can do in this country that we can be safer on the ID issue.

Mr. KALLSTROM. The falsification of IDs is out of control. We had an operation to get our task force, we made 400 arrests in Queens in 90 days. It's out of control.

Ms. MALONEY. When was this?

Mr. KALLSTROM. Within the last 6 months. It's totally out of control in the United States, and the world for that matter.

We need to insist that the baseline documents in this country have security features put into them. And that's not Big Brother. That's common sense. In this age that we live in, it's a disgrace what we do with identification.

We have terrorists that live among us. They were observed daily by police, shopkeepers and all kinds of people, a trooper in Maryland—they were stopped and ticketed numerous times. Two people that were put late on the watch list, the CIA put them on late, they were in the phone book in San Diego.

We have so much information in the United States kept away from our law enforcement because some subset of people think—clearly we should not have personal information put willy-nilly into the public.

It's not that we don't connect the dots because the FBI didn't talk to the CIA. The FBI talks to the CIA. My best friends are in the CIA. The data bases don't talk to each other.

You can't get any of the data to really connect the dots. When you're talking about billions and billions of data points in the Federal Government, that's not a function two people want to take about. That's a bunch of data bases not doing the analysis.

Ms. MALONEY. Thank you so much and thank you, Mr. Chairman, and my time is up.

Mr. SHAYS. Thank you very much.

I would like to ask you both of you if you could in a fairly concise way describe to me the world that exists today versus the world that will exist 5 years now as it relates to port security.

What do you envision in port security 5 years from now that you don't see today?

Ms. Rooney.

Ms. ROONEY. Starting here and working back overseas, I would imagine that everybody in the port maritime administration and airway transportation will have a worker's identification card. Whether we have a national ID card by then is another question, but everybody in the transportation industry will have an ID card.

That ID card will provide access to sensitive information and sensitive security areas.

I would imagine that we have more sensor and detention equipment than we have today. That certainly has been piloted and

prototyped and demonstrated to detect the radiological, nuclear, biological and chemical threats that we're faced with.

I imagine that we'd have more personal government resources. Clearly, we need additional resources, Customs, agents, Coast Guard, officers and boats. I would imagine that as we work our way out overseas that's we have provisions that we've talked about, where there is a chain of custody from the point of origin to destination, where there is a preinspection of cargo overseas when required that would be determined on Customs having information ahead of time and perhaps on the certification of cargo at the point of origin and through the preinspection of cargo.

I would imagine that we'd have the electronic seals and sensors that was talked about, deployed on the containers so that we can determine at any stage in the transportation chain that they have been tampered with.

There will be sensors for the containers. We all know and recognize that it's very easy to get into a container without opening the doors. The only way to detect something inside of them would be with a sensor inside the container.

Building this layered approach of security with the adequate processes, procedures and personnel in place, in order to create a complete secure transportation system.

Mr. SHAYS. Your point would be at this point we don't have that.

Ms. ROONEY. We don't have that to the extent that we need to have that. We don't have it all. We're making the right steps to get there.

Mr. SHAYS. I agree that we are moving along in the right direction. The question is we have a long ways to go. And it will take at least 5 years, correct?

Ms. ROONEY. I would say so, yes.

Mr. SHAYS. Mr. Kallstrom, would you like to add to that?

Mr. KALLSTROM. I think we'll feel relatively good 5 years from now knowing what is in the containers when they're packed. I think we'll have the type of security on the containers that is fairly foolproof.

There is no reason why we can't have things put inside the containers that provide intelligence to us, but this is about life and death of our country and our citizens.

I this the containers will be interrogated by overhead assets in route. They will report back to an intelligence center that will let the Coast Guard and Customs and others make better decisions.

Obviously, anything we're concerned about we'll try not for offload in the United States. We'll offload it somewhere else. Inspect it somewhere else.

We'll have a more robust central intelligence agency, and we'll have an FBI that is much more proactive, better intelligence. We'll have improved coordination of our intelligence throughout State and local police and corporate America and business communities, and we'll protect our civil liberties.

I think the biggest risk to our civil liberties is the action over decades. We have big problems and now we'll have big solutions.

I think there's ways of doing these things. Clearly, we don't want to give up our privacy. We don't want to give up on our way of life. Five years, I think is probably optimistic.

Mr. SHAYS. Five years is probably optimistic?

Mr. KALLSTROM. Yes.

Mr. SHAYS. One of the folks in the audience would have liked me to ask this question of the previous panel but I would like to ask it in the context of your expertise. It's a very important question.

Routinely, legal shipments of components of the United States's own weapons of mass destruction come into this and other ports upon flagged vessels. Due to the responsible agencies currently tracking these legal routine shipments, so at least they're accounted for.

That's the question I couldn't ask the previous panel but what I can ask you is are you told when this happens? Is the State of New York told? Is the State of New Jersey told? Is the Port Authority told?

Mr. KALLSTROM. There are certain things we're notified about. Probably not the whole list, but there's certain things of a sensitive nature that we have been notified about.

I think we need to explore that notion and we're putting work together on these issues, so that we can better anticipate the actions we have to take at the State and local level.

Mr. SHAYS. We have the Governor here from New Jersey who is going to testify.

Ms. Rooney, do you feel you were told?

Ms. ROONEY. We're told when it's important. There are some certain shipments that are quote unquote restricted in the harbor and when necessary we're told that they're coming and that's through the Coast Guard.

Mr. SHAYS. You're told there are restricted shipments. You may not be told what they are.

Ms. ROONEY. Correct.

Mr. SHAYS. Anything either of you would like to put on the record before we adjourn for 15 minutes?

Mr. KALLSTROM. I think it's been a very timely hearing. Talking about one of the major vulnerabilities that we have to deal with, and we are dealing with.

I think everything we talked about today has been discussed in many, many venues, both in State and local level and in Washington.

It's just a big thing to deal with. It will take some time. I think we're on the right track now to deal with these issues.

Mr. SOUDER. I have one quick question.

Do you know if there is any subgroup that studies what they think the terrorists will do in port security if we take the steps we talked about in the next 5 years?

There's this feeling that we do things and we don't figure out how the other guy is going to react.

Mr. KALLSTROM. That's a baseline mechanism in our business to do that in all aspects of our security.

Mr. SOUDER. So the answer is yes?

Mr. KALLSTROM. Yes. I don't think there is a particular group in Washington that mandates that, but clearly, what we talk about when we get into New York, we talk about all of those issues.

Mr. SHAYS. Any comment?

Ms. ROONEY. I would like to add a point on the equipment that we have in the port for cargo.

I want to note that the TSA has provided grants of over $5 million, that we have received in the port of New York/New Jersey for passenger and ferry security to increase those measures.

In addition, many of the pilot projects that are going on around the country under the TSA grants are to prove technology that can be used to increase cargo container security.

I think we need to rely on those pilot protects and more that will come out in future rounds in order to help begin to close the gaps.

Mr. SHAYS. Thank you both. You've been wonderful witnesses. We're going to have an 11-minute break and we'll start at 15 after.

[Recess.]

Mr. SHAYS. This hearing will convene to take care of some business that we haven't done. Members will be permitted to place an opening statement in the record and that the record will remain open for 3 days for that purpose.

Without objection, so ordered.

All witnesses will be permitted to include their written statement on the record.

Without objection, so ordered.

At this time, the Chair is delighted to recognize and acknowledge the presence of our third panel, the Honorable James E. McGreevey, who is the 51st Governor of the great State of New Jersey and as an elected official for many years in Connecticut, pays attention to what happens in New York and New Jersey.

Governor, your reputation is a very positive one and it's well deserved. I know the State of New Jersey is fortunate to have you serve as Governor and we're fortunate to have you here to give testimony and then respond to our questions.

As you know, we swear in all our witnesses. Over the 8 years I've sworn in every witness but one and that was Senator Byrd.

Governor MCGREEVEY. You swore at him.

Mr. SHAYS. I chickened out, but if you could stand.

[Witness sworn.]

Mr. SHAYS. It's wonderful to have you here. We'd like to hear your statement and then we'll ask you some questions.

STATEMENT OF JAMES E. McGREEVEY, GOVERNOR, NEW JERSEY

Governor MCGREEVEY. Thank you very much, Mr. Chairman.

On the outset, I would like to thank the chairman and members of the committee for focusing today on a critical concern of homeland security, and namely the protection of our cargo containers.

Also, I would like to express my gratitude to the leadership of Governor George Pataki of New York, a dear friend who today is represented by Senior Advisor James Kallstrom.

The allusion to the metaphorical needle in a haystack along with our recent experience regarding the Palermo Senator and the Mayview Maersk underscore the immediacy of security threats we face in protecting the seaports of the Port Authority.

The Port Authority deserves our continued support, particularly in understanding the dual risk in terms of potential loss of life.

There are 18 million individuals served locally by the port. The port serves a larger population of 80 to 90 million citizens. Potential loss of life would be devastating, as would be the economic impact.

It's been estimated that the damage to U.S. economy could run as high as $1 trillion. In light of the west coast labor strikes, that was approximately $1 billion.

The implements for potential terrorist attacks are hypothetical. Refined petroleum products at any port face potential threat for terrorists. In addition, there exists substances that enter a port in extremely small quantities that could have a potential for a dire impact.

A dirty bomb, for example, two ounces would have a devastating impact if it exploded in lower Manhattan. 6,000 containers arrive in port on a daily basis so the haystack metaphor is appropriate.

Prior to September 11th, 2 percent, or more than 3 million containers were actually inspected. Intelligence lead efforts increased to 5 percent, yet I understand clearly that this stream of cargo containers is higher than that percentage.

We can clearly do better. The Nation aviation industry receives $6.1 billion Federal appropriations. The association of port authorities has calculated and assessed the security cost of $2 billion and again, we understand from the home ports the importance, we need to buildupon the container security issue, which is collaborative and critical in high risk cargo before it's shipped to the United States.

We must also focus on tightening Customs performance to minimize the possibility of tampering, and clearly, it is necessary to tighten rules related to cargo manifests, as well as to expand the scope of those cargo manifests.

We also need to be proactive at home. Obviously field tests, x-ray, as well as next generation, scanning sensory equipment.

Our ports are intermodal. It's critically important that Federal grants for detective equipment being applied be diversified, not only through containerized shipping cargo, but also rail and truck transportation.

Again, I think Port Newark is perhaps the most powerful example for the necessity for an intermodal detection network.

We also need obviously to continue the integrity of leaving or entering U.S. ports and roadways. Again, upgrading the licensing standards, provide for better coordination, developing and integrating FBI, INS, Customs and Coast Guard and to maximize our abilities to detect and deter reports, establish a tear line system, disseminating intelligence, great information to State and local authorities on a need-to-know basis, which we contend is critically important.

Also providing for the necessary critical review of that tear line system so it's done in a simple, thoughtful and efficient manner, as well as the integrating State and local response teams, and in addition, the necessity of specialized Federal equipment inventories that cannot be shared with States, we need to have the State to share with our Federal counterparts. This could potentially significantly accelerate our critical response time.

Finally, it makes no sense to take action in a piecemeal and disjointed manner. Security procedures at the 50 largest ports leaves more than 300 as unguarded back doors.

Personally, I have witnessed the discrepancy in distinction of operations between for example New Jersey ports and Delaware river, port of Camden, port of Philadelphia and accepted protocols of manifests that are readily evident in Port Newark, Elizabeth Port Authority operations.

Again, I also want to say thank you for your time and also urge the importance of understanding increased as Governor Ridge as the president support for Coast Guard operations.

New Jersey has 127 miles of coastline. Certain perimeter Coast Guard operations have been stretched beyond rationale capacity, and again, we need to understand the completeness of the Coast Guard mission and not merely respond to the focus here today and potentially exacerbate risks to security issues.

Thank you.

[The prepared statement of Governor McGreevey follows:]

TESTIMONY OF
GOVERNOR JAMES E. MCGREEVEY

BEFORE THE
U.S. HOUSE GOVERNMENT REFORM COMMITTEE
SUBCOMMITTEE ON NATIONAL SECURITY
"HOMELAND SECURITY: FINDING THE NUCLEAR NEEDLE IN THE CARGO CONTAINER HAYSTACK"

11 A.M., MONDAY, NOV. 18, 2002
AMERICAN PARK RESTAURANT AT THE BATTERY, NEW YORK

Mr. Chairman and distinguished members of the Committee.

I would like to thank you for inviting me here today to discuss the vital issue of containerized cargo security.

Before I begin, I would like to introduce New Jersey Attorney General David Samson, who chairs my state's Domestic Security Preparedness Task Force, and Sidney J. Caspersen, who heads New Jersey's Office of Counter-Terrorism. Both of these individuals play crucial roles in New Jersey's war against terrorism.

I would also like to recognize Governor George E. Pataki of New York, who is represented here today by his senior advisor James K. Kallstrom, as my critical partner in the effort to safeguard the Port of New York and New Jersey, and our surrounding communities, from the threat of terrorist attack.

As a number of speakers have noted, this session's allusion to the metaphorical "Needle in a Haystack" and our recent experiences with the *Palermo-Senator* and the *Mayview Maersk* underscore the immediacy of the security threats we face in protecting the seaports of New Jersey and New York.

I'd like to use this opportunity given me by the Committee to provide a snapshot of the problems we face in New Jersey and describe how they fit into a larger national picture. I'd also like to present some recommendations for moving forward.

As a preview, I believe our focus should be on implementation in the following areas:

- Port-to-port tracking of containerized-cargo shipments from ports of origin to final ports of call, using U.S. Customs personnel stationed overseas and state-of-the-art electronic cargo seals and GPS tracking technology;

- Integration of appropriate federal data bases that will enable cross-checking of shipping records, such as manifests and bills of lading, against terrorist watch lists

and threat information;

- Integration of federal, state and local authorities in terms of emergency communications, law enforcement activities and emergency response procedures.

These are not revolutionary ideas. You doubtless have heard and will hear variations on these themes from a number of witnesses today.

Clearly, threats to our ports constitute dual risks in terms of potential loss of life and large-scale disruption to the regional and national economy, which could be staggering in scope.

In this regard, a federal report on this topic noted: "We must begin to look beyond the simple view that a lack of security affects only the ship and the terminal it calls upon. A much bigger economic interdependency exists within the entire transportation network. Ports must be committed to developing effective maritime security programs based on the recognition of ports as intermodal interchange hubs of commerce, critical to international trade."

Let me pause to note that these words were written in 1997, and were part of a U.S. Department of Transportation planning guide on port security. Though concern for this issue is hardly new, the events of 9/11 have certainly heightened our concern and, more importantly, our resolve to transform rhetoric into reality.

Our resolve should also be hardened by simply contemplating the number of lives that could be lost as a result of a terrorist attack on or using maritime assets. As you are well aware, the Port of New Jersey and New York serves 18 million people in the Northeast.

The economic devastation would be just as overwhelming. Earlier this year, the Brookings Institution estimated that the damage to the U.S. economy as a result of a terrorist attack involving a weapon of mass destruction could run as high as $1 trillion.

The implements for potential terrorist attacks against our ports are more than hypothetical. According to an article in last week's Washington Post, there are quantities of radioactive caesium 137 that are unaccounted for in the former republics of the Soviet Union — a fact presumably not lost on al-Qaeda operatives.

A study by the Federation of American Scientists' Strategic Security Project, also cited by the Post, indicated that a "dirty bomb" made up of 50 grams — or less than two ounces — of radioactive caesium chloride exploded in lower Manhattan could contaminate 60 city blocks. Compounding the tragedy of human loss that would result from such a release or detonation, the costs for clean up could run into the tens of billions of dollars. Residual healthcare costs could add tens or hundreds of millions of dollars more.

This is but one example of a lethal radiological agent that could fit neatly in a shipping container. We are talking about a quantity of material that would take up less space than a travel-size container of talcum power. This is not even to the scale of the suitcase-sized 15

pounds of depleted uranium that was recently reported to have passed through New York harbor.

The Port of New York and New Jersey is the largest container port on the East Coast and the largest foreign trade zone in the United States. Since the port handles more than three million shipping containers a year, your needle in the haystack metaphor is all too appropriate. This is especially true since, before September 11, 2001, only 2 percent of these containers were actually inspected. Through intelligence-led efforts and increased deployment of Vehicle and Cargo Inspection System — or VACIS devices — that number has increased to approximately 5 percent.

Surely, we can and will do better. But I must express the concern that reducing port security vulnerabilities are not currently being given sufficient attention in our domestic security efforts.

In 2002, for example, the country's aviation industry received $6.1 billion in federal appropriations to upgrade security and maintain business operations. In contrast, the nation's ports have received a total of $125 million. One estimate, by the American Association of Port Authorities, has calculated the cost of adequate physical security for the country's seaports at $2 billion.

Given the direct impact of September 11 upon the nation's aviation industry, I can easily understand why the bulk of federal funding was concentrated on aviation security. But we now have greater appreciation of the scope of al-Qaeda's ambitions to harm the United States, principally through attacks on our key infrastructure. We must translate that perspective into enhanced funding support.

More than 95 percent of this nation's foreign commerce goes through our ports. Many of these ports — Los Angeles/Long Beach, Houston, Miami, Seattle, Camden/Philadelphia and New Jersey/New York, to name a few — are at the heart of major metropolitan population centers.

At this point in the war on terrorism, domestic security spending must be made proportionate to documented vulnerabilities and potential threats against our ports. To that end:

- Emphasis must be placed on prescriptions for prevention. It makes no sense to build better safeguards in our homeports and to ignore the integrity of shipments and containers at their ports of origin.

- We need to focus, therefore, on the interdiction of cargo-borne threats overseas rather than focusing on preventing terrorist events in our own waters.

    - We need to build upon the Container Security Initiative, a collaborative effort between the Office of Homeland Security and the U.S. Customs Service. In this program, Customs agents deployed overseas identify high-risk cargo before it is shipped to the United States, thereby assuring container security from packaging

to loading to shipping.

- This program is currently operating in the Netherlands, Belgium, France and Germany, as well as in Canada.

- Customs requirements also need to be tightened to minimize the possibility of tampering with cargo while it is en route. This can be accomplished through the implementation of electronic cargo seals and GPS tracking technology.

- We also must tighten requirements related to cargo manifests. Currently, shippers can amend their manifests up to 60 days after a vessel arrives in the United States. In a post-September 11 world, we need to be more insistent in making shippers accountable for their cargo's contents.

Pre-screening cargo abroad and maintaining the integrity of crew/cargo manifests can go a long way toward ensuring that terrorists' weapons of choice do not reach our shores. However, we also need to be proactive at home.

- We need enhanced federal appropriations to pay for testing and implementing cutting-edge detection technologies. Senator Hollings' proposed Maritime Security Legislation (S. 1214) is an excellent start.

- However, additional federal appropriations must be designated for the development and field testing of mobile container x-ray devices as well as for 'next generation' neutron scanning and sensor equipment.

- As our ports are intermodal, federal grants for detection equipment should be diversified to include not only containerized shipping cargo, but also rail and truck transportation.

- We also need to be concerned about the integrity of containers entering or leaving U.S. ports by our roadways. We must avoid a catastrophic terrorist event that could result from cargo originating from inside the United States, as well as from overseas.

- We can start that process by upgrading our credentialing and licensing standards for truckers and HazMat haulers who operate within the loading and unloading areas at the docks.

  - This improvement in credentialing and certification is called for in Section 1012 of the U.S.A. PATRIOT Act of 2001. When implemented, the provisions of this section will require criminal background and Interpol checks, as well as checks to determine whether a driver is an illegal alien. These measures will help ensure that truckers hauling hazardous materials to and from our ports are not security risks.

- To provide for better intelligence coordination, we should insist on development and eventual integration of FBI, INS, Customs and Coast Guard databases. This will enable the key agencies to keep informed of intelligence-based threat assessments regarding incoming vessels.

- In order to maximize our capabilities to detect and deter acts of terrorism at our ports, we need to establish a 'tear-line' system for disseminating actionable intelligence and threat information to state and local authorities on a need-to-know basis.

- We also need to create an integrated federal, state and local response team that will participate in joint planning and exercises to prepare for potential maritime threats. Federal agencies such as the U.S. Coast Guard and the U.S. Customs Service must interact with state Offices of Emergency Management and Departments of Environmental Protection and law enforcement, as well as with port and transportation authorities as appropriate, to coordinate response actions and equipment inventories proactively. Without this level of integration, we are doomed to repeat the scenario that occurred with the *Palermo-Senator*.

- We recognize that specialized federal equipment inventories cannot be shared with states. But we also must emphasize that sharing state inventories of specialized detection and responder equipment with our federal counterparts can accelerate critical response time.

- With 361 ports in this country, it makes no sense to take action in a piecemeal and disjointed way. Enhancing security procedures at the 50 largest ports leaves more than 300 as unguarded back doors that terrorists can enter.

Since we are at the Battery today, there's an inclination to focus on the New York Harbor and the ports of New Jersey and New York. But New Jersey also has vibrant ports on the Delaware River on its Southern end.

It would be foolhardy to strengthen security on one end and not apply the same measures uniformly to other ports, such as those of Camden and Philadelphia.

In closing, I want to thank you again for the opportunity to appear before you here today.

Clearly, the fact that state and national leaders are here together to discuss port security is testament to its importance as a unifying issue for our region.

We have an opportunity to apply the hard lessons of September 11 to strengthening port security. By doing so, we can better ensure the safety of our citizens and the health of our economy. Our proximity today to Ground Zero and all it represents, in human and societal terms, should remind us that inaction and halfway solutions are equally unacceptable. Thank you.

# # #

Mr. SHAY. Thank you, Governor.

We'll start with Mr. Tierney.

Mr. TIERNEY. Thank you for joining us today. I share your concern about the Coast Guard coming from the north shore of Massachusetts, and I know Tom Allen from Portland asked questions of the earlier panel on the same issue, So you don't stand alone on those concerns.

Governor MCGREEVEY. Governor Pataki and I with Governor Rolland have attempted to prevail in support of Govern Ridge for his efforts, and the Coast Guard is being stretched, and we need to understand the reality of those circumstances.

Mr. TIERNEY. It's being stretched considerably and we'll have to deal with the resources. I have issues that we won't get into—we're going to see a report that's going to be put out by the General Accounting Office tomorrow. You may want your office to track down a copy of that. We'll be happy to share that with you when it comes.

If you had to prioritize what was the single most important thing the Federal Government could do for the sate of New Jersey at this point in time, what would you list?

Governor MCGREEVEY. As regard to port operations or security operations in general?

Mr. TIERNEY. In support of the port operations right now.

Governor MCGREEVEY. Tear line information.

Mr. SHAYS. I'm sorry, I will need to swear you in.

[Witness sworn.]

Mr. SHAYS. State your name and title slowly for the record. We'll make sure the transcriber has your official title.

Mr. CASPERSEN. I am director of the Office of Counter-Terrorism for the State of New Jersey and my name is Sidney Caspersen, S-i-d-n-e-y, J., C-a-s-p-e-r-s-e-n.

Mr. SHAY. Nice to have you. I should have sworn you in before.

Mr. CASPERSEN. We spoke about this earlier, I heard other speakers speak about the sharing of information.

What we really need in the State of New Jersey for port security or for all securities, is relevant information from our security asset for the CIA or FBI, actionable intelligence that we can operate from.

It's one thing to say we have a threat of some significant value coming from overseas or maybe or maybe not it has anything to do with the ports, but if they can give us more specific information what type of threat, whether it be biological or chemical so that we could deploy the appropriate resources.

We can't deploy our resources as all of the critical infrastructure. What we're for from the Federal Government is some kind of guidance and help being able to deploy those limited resources that we have to those areas which have real actual intelligence where we can deploy resources.

Mr. TIERNEY. This sounds reasonable. What sort or response are you getting when you make that request?

Mr. CASPERSEN. We're getting generalized information, and when we ask for specificity, we don't get any.

Maybe the Federal Government doesn't have it. What we're looking for, we've had discussions with the Department of Energy and

they agreed to do a private project on our critical infrastructure where they will look at our intrastructure and based on the threat design particular protocols to help our response.

We also like to see the Federal Government maybe come forward and designate some of the critical infrastructure as a national security asset. It's unfair to expect the private sector to put up their money to protect assets that really have to do with the national security of the United States.

We're talking about either power or financial or other critical infrastructure.

Governor MCGREEVEY. We're asking—obviously post September 11th, there is a basic requirement to take every threat seriously. Yet the State has a reasonable interest to understand the applicability of that State, applicability of that threat to our respective State and the nature of that threat to make a critical judgment as to how best to respond.

And so again, tear line system would be able to provide for this dissemination of actionable intelligence on a need-to-know basis so that this information would be targeted in a coherent manner to those regions of the Nation and/or States where the threat has a potentially higher impact or for potential attack.

Mr. TIERNEY. What Ms. Hecker was testifying from the general accounting office, she was pretty clear about the need for that, the fact it was lacking also, but when you look at the President's executive order, he basically refers to port security expressly and indicates that Governor Ridge helped facilitate the exchange of information.

I would guess what we have here is a failure to communicate, as some would say, and that maybe this committee could ask of Governor Ridge——

Governor MCGREEVEY. Congressman, we applaud Governor Ridge's leadership——

Mr. TIERNEY. I don't mean to put you in a position of criticizing Governor Ridge. I'm trying to put this committee in a position of finding an answer that we can get Governor Ridge to respond to written questions or directly come in and talk to us about where in that operation of his office would you go for the kind of information that you want and how could we facilitate some type of protocol for that so we can expedite that. I think that might be a healthy approach for it.

Mr. CASPERSEN. The data information center that is up and functioning, the problem, as you well know, he doesn't have an agency yet, he is the advisor to the President, there's not really any funding there, and the other agencies that are working there are working part-time right now.

I think they're waiting to get that whole thing up to speed. We're in contact with him daily and we furnish as much information as we can. We try to keep them fully advised.

What we're really talking about here is maybe CIA, FBI sitting down with the foreign services and getting more analysis of the information instead of just scaring the bejesus out of everybody in the public.

Mr. TIERNEY. The problem we're going to have there is that neither the CIA or FBI are going to be under Governor Ridge in this

new department that's set up. That's an issue that we'll raise in another context.

I thank you for your testimony today and I thank you for your exchange.

Mr. Chairman, thank you.

Mr. SHAYS. Mr. Souder.

Mr. SOUDER. I would like to briefly comment on two points you made, coming from Indiana, where our risk is probably less than here.

First, you said the ability to target based on potential damage and high risk is politically difficult right now because we don't know for sure whether the terrorists will move to softer targets, but political pressure on those of us who aren't from the highest risk areas, if something happened in our home area and we voted to put more money in another area, we don't know how to work through this as a country right now.

So the common question I get is are we going to get hit over here or over there and trying to figure in an unknown world, politically we're trying to work through this.

I agree with the fundamental statement that there needs to be some hard logic applied to this or we'll be on the road chasing every new aircraft, new chemical threat problem, nuclear—because if you don't prioritize it, you don't do nothing well.

At the same time, this has more political risk and that's partly why it's been difficult. Similar to the intelligence, and this kind of scaring everybody every weekend. It's the little boy who cried wolf story all over again, yet part of this is because everybody wanted to put a finger on who is responsible for September 11th and there's little tidbits of information that the FBI and CIA should have been able to figure out September 11th in advance.

Now we have every agency so afraid that they're putting out announcements any time they get any kind of bit of information and the general public is becoming immune to it.

Governor MCGREEVEY. I think the success of our efforts should be based upon not necessarily eliminating information. Distributing information is a good thing, but it will be in a critical evaluation as to how we respond to that spectrum of information.

It is invaluable that we undertake the necessary strategic analysis as to when we apply for critical review based upon what information and how those critical judgments are made and when do we disseminate those judgments to whom.

Mr. SOUDER. I agree with you that needs to be done at the local level. We had a fiasco in San Francisco, California bridges, in that some of the information that is leaking out does come from local officials, that now have the political pressure that previously was on the Federal officials.

In other words, they have information. If they don't share it, they're worried they're going to get blamed and we're in a terrible box. The general public needs to understand there is a level of risk and sometimes it's slightly higher. The communities are trying to figure this out.

We absolutely need to share a risk if we can; otherwise, you don't know where to put your resources and everybody has this higher level of anxiety and they don't know what to do.

We have to figure out as a society how to deal with that.

I want to ask you a couple of specific questions.

You had one line in your testimony, it says making shippers accountable for their cargo contents. Do you have any specific recommendation how to do that?

Governor MCGREEVEY. Manifest.

Mr. CASPERSEN. When shippers ship overseas, the testimony earlier from Coast Guard and others about a trusted shipper, we need to know what is on that manifest and if that person is doing this—if the company is in the United States, we have ways of verifying that, so what we're looking for is a manifest ahead of time, well ahead of time, coming into the port.

Almost like an easy pass system. Something that Customs and the Coast Guard——

Mr. SOUDER. Would you propose heavy penalties if they don't—in other words, if you're going to get—there's a penalty because we're not going to screen as much, we're not going to put as much pressure on.

Mr. CASPERSEN. If you're asking me if the penalties should be stiffer, that's a Federal issue.

You mentioned earlier about the midwest and other areas being targeted, even though the port is a Federal issue for the majority of it, anything that happens there is a local issue and the State of New Jersey and the State of New York are going to be the ones that have to respond and be the ones who have to clean it up until we get Federal help.

What I'm saying is when it comes to trusted shippers, that's a Federal issue we can work out. We in the State try to help out with our businesses.

Mr. SOUDER. One other question, we talked about driving the information collection of ports overseas which we agree need to be a part of, key part of all this.

We also talked about intercepting boats prior to them coming in so if they do have something overseas, it doesn't blow up in the United States.

How would this work in Camden and Philadelphia? Is there any kind of screening coming up, Delaware River, any kind of checkpoint that we have to some degree here?

Mr. CASPERSEN. We have other major issues.

This is a major trafficking place for jet fuel. So that's an issue where that port, that naval station is where we have our major trafficking places, coming in and out of there all day.

Mr. SOUDER. Any other suggestions? We probably aren't going to have a hearing in the foreseeable future. If you can give us your challenges there, and how it's different from the kind of traditional harbor where you're coming in right off the ocean.

Governor MCGREEVEY. You can ask Governor Ridge that.

Ms. MALONEY. Thank you for your testimony.

I know that you've made security issues a top priority of your administration, particularly port security, and I know that you were probably as troubled as I was with the ABC report that showed that 15 pounds of uranium was literally smuggled into this very port without any movement across many borders.

I would like to ask what are your idea of what the Federal Government should be doing to make sure this doesn't happen again.

Earlier, there was a lot of testimony that we should focus on the port of export, that we should spend a lot of time making sure that which leaves another port is reviewed, yet I for one do not want to rely on the port of export or some other government to secure the people and the life of Americans here in New Jersey, New York and across our country.

What are your comments on that?

Governor MCGREEVEY. I would go back to what was said earlier, particularly regarding rules governing cargo manifest.

We need to ensure the integrity of container operations, by ensuring that manifest practices are acceptable and for those overwhelming number of companies that deal in large measure, that also cargo manifest provide for valuable private economic function as well as security function, so I believe that is perhaps among the most reasonable method to track, preserve and monitor cargo, and then in addition, to provide specifically a tear line system for disseminating accurate intelligence on a need-to-know basis on a case specific, so that we can act quickly and efficiently.

It's the greatest degree that we can expand rigid, stringent cargo manifest guidelines. That is to our advance and provide for tear line information which will assist us in making a critical determination as to the significance of a threat.

Mr. CASPERSEN. One of the things that has been around for hundreds of years is Lloyds of London, they have people in all the ports around the world and these are agents of Lloyds. They can tell you what ships come and go and whether they're in drydock or in repair and that they should be there or shouldn't be there.

These are the resources that we have to reach out to and glean information from, and I'm sure the Customs and Coast Guard are aware that these are the things, we need people overseas to tell us what that ship is doing there.

Being aware where the containers are being packaged, of what is in those containers before they're put on the ships.

Ms. MALONEY. You mentioned in your testimony the aviation industry receives $6.1 billion in Federal appropriations to upgrade security, but ports received only $125 million, and I'm sure you agree with many of us who see that the vulnerability of our ports literally is far greater than that of the aviation areas.

Just today, they are announcing a total new screening operation for our airports, so I just wondered, this appears to be exactly the type of discrepancy that might be remedied if Governor Ridge performed the competence of threat and risk assessment.

Would you support this kind of assessment and would you join the members of the committee, and I believe the chairman in calling on this type of assessment to take place for our ports?

Governor MCGREEVEY. I would just contend much of our respective shape by September 11th, insofar as the tragic use of those airliners, as well as the dramatic fear that citizens have mentioned regarding airline security.

In addition to be responsive to those legitimate security concerns, we need also to have such a thoughtful nationwide assessment of

threats happening in multiple areas and I would just also suggest that it's been said earlier, the importance of the private sector.

95 percent, we've utilized this statistic so often, 95 of the infrastructure is controlled by the private sector. Clearly they have to be at the table to ensure best practices in determining what constitutes the most strategic investment and the beneficial investment of limited security dollars.

Ms. MALONEY. My time is up.

Thank you very much, Mr. Chairman.

Mr. SHAYS. I would like you, you responded to the tear line system and Mr. Caspersen has responded as well.

I'm unclear still as to what exists today. Let me just open it by saying as a Member of Congress it's assumed I'm given clearance. I would in own mind think that anyone who is elected Governor of the State would have automatic clearance.

Mr. CASPERSEN. That's not the case. What is the case in reality is this, is the Office of Homeland Security sent out 7 or 8 months ago a request to all States to identify five people that they would like to have cleared. To my knowledge, no one yet has received a clearance there based on those requests. Jim Caltry was cleared based on his past job.

Governor MCGREEVEY. If I can, Mr. Chairman, it's also been receiving specific information, say, for example, when a threat is transmitted to the State of New York or anyplace, is to having a greater level of insight when that threat is unique to the region.

Mr. CASPERSEN. These threats that we get, like when we just recently got the ones against the railroads. We were talking about in New Jersey, we send 400,000 people across the water every day from New Jersey into Manhattan to work, a lot by rail and by bus and we're concerned about that. How do we know what that threat really means?

Mr. SHAYS. What I'd like to do is have a better idea of how it can be helpful. We need to try to get a handle on the Federal backlog we have of security clearances.

But it seems to me that in this war against terrorism, there are only five people that they're trying to identify in each State. I make an assumption one of them would have to be the Governor, and I would think I guess the first question is five enough and if five is enough, should this committee be working overtime to try to get those clearances to happen.

Governor MCGREEVEY. I believe five is enough and again, Governor Ridge's efforts, Mr. Chairman, I think while five may be enough, it's a separate and distinct question in determining how information is given to this State center on a regional basis.

Mr. SHAYS. The purpose of our having these hearings is to make sure we're listening to you, and as soon as I get beyond this point, that's what I want to get to. I just want to know if you—your statement before us is none of the five have yet been cleared other than one——

Mr. CASPERSEN. We were talking about New York, not New Jersey. There's a variety of agencies that can issue clearances, and we have the FBI, CIA, DOE, there are a variety of agencies giving clearances.

Mr. SHAY. Let me interrupt you. I understand a good part of that. What we are trying to do is have a coordinated effort to fight this war on terrorism.

We're asking the Governors to identify five people, correct, in each State who are instrumental in fighting this war on terrorism.

You're saying this is our highest priority. It strikes me, and this is not a criticism with Ridge, it's just a statement, that we as a committee would like to play a role in having that happen.

Has the Governor been cleared?

Governor MCGREEVEY. We have not received a form.

Mr. SHAYS. We will just try to speed up that process, not just in New Jersey but everywhere and that it be given a higher priority. That's helpful to know.

The next point, you say you need more information and you need to understand the logic of the information, you need to put it in some context so that you can respond to it in a way that makes a contribution.

Is that what I should be hearing you say?

Governor MCGREEVEY. Again, Mr. Chairman and Congressman Tierney, folks, it's also with what we suspect will be increase notices to the States and to regional offices, is by virtue of the plethora of those notices not to diminish our vigilance and the best manner in which to maintain a level of vigilance, to provide information, to provide all information, particularly to flag the States as to where it has potentially focused impact on that respective State.

And that is not happening to a sufficient degree necessary.

Mr. SHAYS. In your statement, you mentioned obviously about the Port Authority in New Jersey and New York. I had never focused on when I invited you, I'm sure my staff did, about your expertise and concern obviously with Camden and the Philadelphia port system.

When I look at you as Governor, you have a hefty responsibility what comes in the United States and what leaves the United States, so this is obviously a primary concern to you and we thank you for being here for that reason.

I'm trying to imagine what, you have given a number of points in terms of, you talk about the port tracking, containerized cargo shipments from ports from origin to final, you talk about integration of Federal data base that will enable cross-checking of shipping records.

Governor MCGREEVEY. For example, in Port Camden, communications were not totally integrated between port operations, State police, and Coast Guard, so clearly the integration of those communications systems per se provide a critical service in and of itself.

Mr. SHAYS. Do most of the security functions of the State and local communities get funded out of the income of these two ports and are these two ports major sources of revenue to the State of New Jersey.

Governor MCGREEVEY. The port operations happen, Delaware River, Port Authorities, there's the State of Pennsylvania, State of New Jersey, port authorities respectively.

Mr. SHAYS. Do I make an assumption that as Governor, if you want to make sure that anything related to security costs are paid

for by the authorities or do you also have to provide some of your own resources to the State?

Governor MCGREEVEY. The Coast Guard provides for critical operation. Port Authority New York, Jersey police support as well as the State, actually there are different protocols with respect to Port Newark and Port Elizabeth, Port Camden, Port Philadelphia.

The concern being is that the Coast Guard as the lead agency, receives adequate funding. In my perspective and Governor Pataki's perspective, we find the States shouldering an increasing burden for the perimeter Coast Guard operations for cargo operations.

Mr. SHAYS. If you were to give me the thing that is the way you feel the most progress has been made in port security and the least, is there an area that you think significant progress has been made?

Governor MCGREEVEY. There has been substantially greater cooperation between Federal, State, local and private law enforcement agencies which has been seismic in change in the level of cooperation and a level of integration of effort, which has proven invaluable, where I believe it is still important, is in tear line information, such that while we may have greater integration of efforts, there's not necessarily the sharing of critical information to State authorities on a targeted basis.

Mr. SHAYS. And had you not come and testified, I'm not sure that message would have been really known to this committee to the extent it needs to be, so it's very nice.

I basically asked the questions I need to. I don't know if you need—is there anything you feel we should have asked you that we didn't touch on?

Governor MCGREEVEY. Again, my perspective is the need for meaningful uniformity, and again, I clearly see the distinction between Delaware River, Port Authority operations and Port Authority of New York and New Jersey and obviously there are significant substantial distinctions, but yet best practice is in protocols ought to be implemented nationally by virtue of the force of this committee.

Mr. SHAYS. I'm going to make a bit of a prediction, there was tremendous desire on the part of Democrats and a number of Republicans in Congress to have a department of homeland security. Eventually I think they became convinced of the logic, and there are always going to be I think disagreements as to how we go about it.

I have tremendous hope that you're going to see a much more invigorated Coast Guard. I believe that you'll see lots more resources going toward it. I'm I'm wrong, it will be a gigantic disappointment because I think there is logic to taking them—Department of Transportation to a Department of Homeland Security.

The other thing I think you're going to see is one of the pillars of this operation is the first line of defense, the State and local governments. And if the new secretary is doing his or her job the way they need to, you're going to see one source to get resources and one source to get information, one source to turn to that hopefully will be very, very helpful.

We in our capacity as oversight committee will be monitoring that to see that it happens and we'd love to have your continued input.

Governor MCGREEVEY. Thank you. It will be so critically important for a Governor to have one-stop shopping, to have one access point.

Governor Pataki and I were successful in securing substantial dollars for operations, get it, it was exceptionally difficult to have OMB release those dollars.

Mr. SHAYS. Thank you.

Mr. TIERNEY. I just want to add, by and large, there are many of us thanks to his leadership over the last several years on top of this terrorism issue before the chairman was able to get the attention of this administration, but one of the things we wanted was to empower someone like Governor Ridge to take the position of the equivalent level of the Office of Management Budget—one of the problems we have is we have 133 agents and only 22 of them can be put in this department.

So we're still concerned that when it comes to getting money for the Coast Guard or getting money for another critical area, it may not come because that particular secretary does not have the ability to override the budget, and the best example of that was the Department of Energy asking for a significant amount of money to safeguard nuclear facilities in the transport of nuclear materials only to have it overridden by OMD and came up with a fraction of that.

I think we're going to see some improvements of concern, that unlike World War II when we tried to reorganize the army, navy, air force in 1947 we're tying to do it now.

There's still some idea of whether or not we properly empowered Governor Ridge or whoever may succeed him on that, but I know we're going to work on this committee to make it work, however it comes out and be as helpful as it can.

Mr. SHAYS. I'm trying to get the last word. Just to make sure on the reorganization of the military was in response to the new threat of the Soviet threat, but I do agree with your point.

Thank you.

We'll call on our next panel. Mr. Frank McDonough, President, New York Shipping Association.

General Charles Boyd, U.S. Air Force, retired, CEO and President, Business Executives for National Security, referred to as BENS.

Mr. Brian D. Starer, Partner, Holland & Knight.

Mr. John Hyde, Director of Security and Compliance.

Why don't we stay standing and I'll swear you in right now.

[Witnesses sworn.]

Mr. SHAY. I don't want to be disingenuous and say I saved the best for last, but I sometimes learn the most from the last panel, in part because some of the last panel have been here all day and have heard all the other comments and go right to points that you think need to be made.

This is a wonderful panel and we're very grateful that all of you are here.

Mr. McDonough, you'll go first.

STATEMENT OF FRANK M. McDONOUGH, ESQ., PRESIDENT, NEW YORK SHIPPING ASSOCIATION, INC.

Mr. MCDONOUGH. Thank you very much. I appreciate the opportunity to be here today.

I want to throw a little bit of cold water on what we've heard today.

First of all, cooperation among government agencies is not necessarily coordination. Those of us who are on the ground, that's a very important issue.

As president of the New York Shipping Association, I have the pleasure of representing the people who drive the ships, move cargo, run the terminals, provide and maintain the equipment, train and employ he labor that moves almost $90 billion of cargo throughout the port each year.

Port security has long been an issue that has confronted us. It's been relatively easy for us to ship to this new focus.

Obviously, the best place to start is at the point of origin. If we apply Customs efforts to develop inspection programs at foreign ports, much of testimony today has been directed at that, we stand behind that 100 percent.

Presceening of cargo, containers, manifests, even crew members is a huge step forward. As you learned today, containers are not placed on vessels in a random manner. Cargo storage requires a high level of sophistication. There is very little point to point vessel movement in today's world. Vessels are shared. Multiple destinations are plotted. Containers are loaded, off-loaded and transhipped at a number of stops in a single trip.

Customs needs the people and the equipment to establish and support a consistent method and timeframe in which to screen those cargo containers before they get here. If they want us to submit our manifests 24 hours in advance, that's all well and good but they also have to respond back to us in sufficient time to tell us they are going to target a container before we sail. It's too late after we sail.

In the event the information on a suspect container is acquired after loading, Federal agency involved needs to talk to the vessel owners and operators before acting precipitously. Simply ordering the vessel to stand to or make berth while everyone figures out how to approach the situation may only serve to increase the exposure.

If a specific container destined for Newark happens to be targeted for inspection by the authorities in Baltimore and it just so happens that container is buried under several hundred or even 1,000 other containers, we need to work with the ship owners and masters to develop a rational approach.

We also need to think about the impacts to the system.

If a ship with suspect cargo sits at anchor for several days while the pertinent agencies try to figure out what to do with it, consider the effect on the ship's schedule, the customers, and the 20 to $40,000 per day that it costs to operate that ship. Those are costs that we will all pay. Again, what of the prolonged exposure?

We need to develop rapid reaction response teams that can quickly clear a suspect ship or a suspect cargo. We want that to

happen as much as anybody else in this room does. We need to have a single agency in charge. We don't have that.

We need to know who is in charge among a dozen Federal and State agencies, because they all respond in those cases.

We need the right expertise and training. If you've got some Navy Seals on our ships, you better keep in mind the biggest ship those guys were on before was made of runner. We need to have them trained.

We need someone who is going to be operating detection devices that not only can detect the readings but interpret the readings. The government needs to partner with the experts.

No one knows this industry better than we do. It seems we're the first ones that the agency shuns aside when they think there's a problem. Its approach from the law enforcement perspective and we heard it somewhere—in one case it was suggested take them off the ship.

We need technology. We must develop cargo tracking systems and all the gee whiz stuff you heard about today. We have to have that. Guards and guns aren't going to help us.

When we inspect boxes at this end, we need to use the best equipment available. The best equipment available. Not the least cost. I know how we do things on the low bidder.

Protecting our ports while allowing free flow of trade is a daunting task. As we develop new technologies and meet these challenges, cooperation and coordination, to preserve the good in the system, is as important as enhancing our security.

Thank you.

[The prepared statement of Mr. McDonough follows:]

Testimony
Before the House Subcommittee on National Security, Veteran's Affairs, and International Relations,
Committee on Government Reform

Statement of
Frank McDonough, President
New York Shipping Association
November 18, 2002

Chairman Shays and Members of the Committee, good morning and thank you for the invitation to appear before you today to address federal agency efforts to screen cargo containers entering US seaports and the effect of those efforts on the free flow of trade.

As President of the New York Shipping Association, I have the pleasure of representing 56 member companies who are the ocean cargo carriers, terminal operators, stevedores and other marine related businesses in the Port of New York and New Jersey who employ members of the International Longshoremen's Association.

We drive the ships, move the cargo, run the terminals, provide and maintain the equipment, train and employ the labor that moves almost $90 billion dollars in cargo through the Port each year.

Maritime Security operations impact every member of our association. Each is impacted differently. This hearing focuses on containers, but we must not overlook the other types of cargo, bulk, break-bulk, automobiles, etc. Each presents different challenges to the development of port security plans and security schemes.

No matter the type of port operation, security procedures must be rational in structure and application, consistently and uniformly applied, sustainable and sustained over the long haul.

Port security is an issue that has long confronted the Port of New York and New Jersey. We have had a Waterfront Commission doing background checks and investigating criminal activities on the docks since 1953.

We have a 235 member professional Port Police and Guards force that has been around since the turn of the last century.

We have the Port Authority Sealink driver identification system that has been in place for years.

And we have more professional law enforcement agencies operating in this port than most folks would guess: from Federal Agencies to Port Authority Police, State Police, Marine Police; even Amtrak Police.

While many of these efforts have been primarily directed at criminal activity on the waterfront, this new threat requires a shift in focus. And that is what has happened. But as you mentioned in your letter inviting me here, recent events in this harbor raise questions. Are we doing enough? And are we doing it right? We can only secure three sides of the terminal. The rest is water. And each port is different. With half the United States Navy heavily-armed and parked in Norfolk Virginia, I suspect that Norfolk's security concerns are a bit different from ours.

For this reason, we as an industry have been working with the local agencies, the Port Authority, the Harbor Safety, Navigation and Operations Committee, and the federal agencies in the hopes of developing a consistent and uniform maritime security system. Our individual members are working with Customs in the C-TPAT program. There are cargo-screening programs in place; and the 24 hour notice requirement provides an additional opportunity to clear ships and cargo.

In the year 2001, the Port of New York and New Jersey moved more than 3 million twenty-foot equivalent units (TEU's). Those boxes were on a large share of the more than 5,000 ships that transited the harbor and docked at one or more of our six major terminals.

Despite the economic slowdown, the demand for consumer goods here in the largest and richest consumer region in the world continues to increase. Goods movement in New Jersey alone accounts for more than 400,000 jobs. The port supports 229,000 regional jobs, 70,000 of them right here in this city.

There is a lot at stake. We must protect our people, our facilities, our customers and our cargo. Obviously the best place to start is at the point of origin. And we applaud Customs' efforts to develop cooperative relationships on the ground at foreign ports. Pre-screening of cargo, containers, manifests, even crew-members, is a huge step forward.

Containers are not placed on vessels in a random manner. Cargo stowage requires a high level of sophistication. There is very little point-to-point vessel movement in today's world. Vessels are shared; multiple destinations are plotted. Containers are loaded, off-loaded, and trans-shipped at a number of stops in a single trip. There can be as many as 6000 TEU's on a single ship. And they are stowed in a fashion that allows for efficient management at multiple destinations.

Customs needs the people and equipment to establish and support a consistent method and time frame in which they communicate to carriers which containers require examination before loading. We need a real-time response to manifest information submitted. Not after the vessel has sailed.

In the event that information on a suspect container is acquired after loading, the federal agency involved needs to talk to the vessel owners/operators before acting precipitously. Simply ordering a vessel to stand to or make berth while everyone figures out how to approach the situation may only serve to increase the exposure.

If a specific container destined for Newark happens to be targeted for inspection by the authorities in Baltimore, and it just so happens that it is buried under several hundred other containers, we need to work with the ship owners and masters to develop a rational approach.

And we also need to think about the impacts to the system.

If a ship with a suspect cargo sits at anchor for several days while the pertinent agencies try to figure out what to do with it, consider the effect on the ship's schedule, the customers, and the $20-40 thousand dollars per day operating costs. Those are costs that we will all pay. And again, what of the prolonged exposure?

We need to develop rapid reaction response teams that can quickly clear a suspect ship or a suspect cargo. And they can't spend the first day asking directions to the port and figuring out who is in charge among twelve different state and federal agencies, each with a separate discipline and authority.

We need the right expertise and training. If we are looking for radiation, we not only need someone who can detect it, but someone who can interpret the readings. And the tools we give

them must be the most sophisticated and the most consistent in application. They must be calibrated alike.

We need consistency and rationality. Not just in the equipment but in the people who are doing the planning and carrying out the operations. If you ask a terminal operator to install radiation detectors on his cranes, he's going to ask you what for. If the alarm goes off, his people are going to be out of there in a hurry, and it may be too late for everyone else. Better to know what's in the container before it leaves its port of origin and have confidence in an inspection and tracking program that perhaps includes tamper proof seals.

We need cooperation, coordination and communications. Government needs to partner with the experts. No one knows this industry better than the people who run it. Yet it seems the vessel and terminal operators are the first ones that the federal and state agencies shunt aside when they think there is a problem.

And we need technology. We must develop electronic cargo tracking, advanced locator systems, fail-safe sensor systems and security systems that allow us to know way ahead of time that what's on those ships and in those boxes is not going to hurt us when it gets here. Guards and guns won't do that.

At this end, we can't open every box on every ship that arrives in our port. So we have to utilize the best technology solutions that allow us to continue efficient inspection and processing of cargo while insuring our safety. There are differences in the equipment that is out there, and we need to employ the very best, not the least cost.

There is no silver bullet here. Protecting our ports while allowing the free flow of trade is a daunting task. We must be wise with our approach, effective with our efforts, and sensitive to our business practices. As we develop new technologies to meet these challenges, cooperation to preserve the good in the system is as important as enhancing our security.

But most important of all, we must have consistency, rationality and sustainability. Thank you.

Mr. SHAYS. We've been waiting for the cold water.

Do you have anything else you want to say?

Mr. MCDONOUGH. I'll wait for the questions and answers.

Mr. SHAYS. General Boyd.

STATEMENT OF GENERAL CHARLES BOYD, USAF, RETIRED, CEO AND PRESIDENT, BUSINESS EXECUTIVES FOR NATIONAL SECURITY

Mr. BOYD. Your committee is focused today on a principal security risk of this country today. I commend you for taking this issue up. I would add today it's gratifying for us to see so many of our recommendations ought to be implemented, including establishment of our homeland security.

There is no question that the Nation will be more secure as a result. The work in which I am presently engaged seeks to enhance the national security by marshalling greater capabilities in support of the government's efforts to protect the citizens. Particularly the organizational, business executives for national security seeks to mobilize intellectual and material resources, and business community in support of a Nation's security efforts.

20 years of Congress have been aware of efforts, primarily related to the Department of Defense and the intelligence community. Today we're expanding our attention just as the Nation is doing into areas, not considered the front lines of our defense, since the objective of terrorism is in civilian sector disruption of those things, people focus and common purpose, then the civilian sector should have added incentive to participate in the common defense.

BENS, since September 11th, has energized business across country, has become involved in the crucial battlegrounds, threats, bioterrorism, financial tracking of terrorist money.

Our most important project may also serve the area of concern for this congressional hearing for security. I don't think Governor McGreevey mentioned in his testimony, but in New Jersey, BENS has established a major partnership with him and the State government's organization for homeland events.

It's called BENS New Jersey business course, the central purpose is to marshal resources to assist the State in areas that are vulnerable and to address that need.

All of the business leaders we've approached so far express interest, even enthusiasm, for two basic reasons.

I think they truly want to make a contribution from a purely patriotic obligation and because they understand that their own companies share in the risk posed by this new set of—the most recent area in which we're investigating in New Jersey has to the triangulation; university, government sector and business.

There's much that can be done here. I recommend that triangulation is an area of concern.

The Stephens Institute of Technology of New York and New Jersey has a major project of looking at integrated system for maritime status and I think as an example, this new and existing technology, this project is funded by the Office of Research, is directed at providing port protection of the U.S. Navy, use of high resolution surveillance, vessel traffic, oceanic atmospheric conditions in a prescribed area.

These techniques have great value in the commercial sector. We have another form of government private partnership.

I would conclude also, because of recent time, we can talk about some other things in the Q and A, but I would emphasize that I believe in the organization I lead, and believes that we cannot find a solution to the Nation's problem in port security without having private business sector deeply involved, sharing solutions and in the cost as well.

I believe this hearing will be a platform for exploring some ideas or events and others are thinking about. I look forward to your questions.

Mr. SHAY. Thank you.

Mr. Starer.

STATEMENT OF BRIAN D. STARER, PARTNER, HOLLAND & KNIGHT, LLP

Mr. STARER. Good afternoon. I wish to thank you for the opportunity to address you on the important topic of maritime security.

I'm Brian Starer, national practice leader for the maritime group of our firm. Ours is the oldest and largest maritime law practice in the United States, founded in 1830, a few blocks north from here.

Our New York office is about 300 feet east from Ground Zero.

Five years ago, Haight Gardner Poor & Havens combined with Holland & Knight, which is now the sixth largest law firm in the Nation.

Our clients include most of the major domestic and foreign ship owners and operators carrying cargo to and from the United States. Since the horrific events of September 11, 2001, we have been in the forefront of advising our clients and the maritime industry in general on maritime security issues.

My firm's Washington office maintains an internet site exclusively devoted to this issue, tracking Coast Guard security zones and new security requirements so as to allow the maritime industry worldwide to quickly be informed and adapt to these rapidly changing developments.

I will focus my testimony today on Federal Government efforts to screen cargo containers entering U.S. seaports and the effect of these efforts on the free flow of trade.

I must start by saying that my firm supports all reasonable efforts of the Federal Government to enhance maritime security of the United States.

Not to unfairly single out any particular group, I've asked Charlie Brown and some of his friends to help me emphasize what I think is the heart of the issue here. I call it, what's in the box, Charlie Brown.

Charlie Brown is walking toward Lucy's house carrying a beautifully wrapped present to give Lucy at a birthday party. Linus sees Charlie with this fancy box. Linus yells, what's in the box, Charlie Brown?

Charlie Brown replies, don't know.

Linus: What do you mean you don't know?

Charlie Brown: I really don't know. My mom bought it in this big fancy store in Toledo where it was boxed, sealed and gift wrapped. And she only told me that Lucy would enjoy it.

Linus persists. Could it be a football? A new blanket?

Charlie Brown: Look, I told you I don't know. It could be anything.

Linus: Let's open the box, Charlie Brown. It's the only way we're going to know.

Charlie Brown says, we can't open it now. We'll be late for the party and we'll miss the cake.

Linus: Well, the only way we're going to know what is inside without opening the box is to ask your mom. She'll know.

Neither Linus nor Charlie Brown nor Lucy know the contents of the box.

In today's supply chain world, Charlie Brown represents the ocean carrier. Lucy is the ultimate receiver. Mom is the shipper from Indonesia. Linus is U.S. Customs.

It seems simple, doesn't it? Linus should only have to ask Charlie Brown's mom and they would know what is in the box.

U.S. Customs Service is requiring ship owners and operators, I think on December 2nd, to submit electronic manifests 24 hours prior to loading the cargo at a foreign port if the ship is bound for the United States.

I understand Customs' hope is in this early warning, it will allow the agency to direct its certain suspicious containers not be loaded until they are examined.

I'm convinced that the burden of this is misallocated. The manifest is nothing more than a compilation of information derived from shipping documents prepared by someone else.

Virtually all cargo these days with the exception of bulk liquid and solid cargos, such as oil and coal are packaged generally in sealed containers. The master of the ship has no way of knowing what he or she is being asked to carry.

All that is provided other than the cargo itself is a shipping document prepared by the shipper. Having the master owner or operator provide Customs with a manifest is, to use the legal analogy, merely hearsay evidence regarding what is actually being shipped.

The best indication of what is being shipped other than visually examining the cargo itself is the original shipping document. The Customs Service should be obtaining copies of the shipping documents from the shippers or intermediaries rather than the manifest if it truly wants to know what is being shipped to the United States.

By obtaining these documents from the shipper or intermediary, rather than a manifest from the ship's master, the agency would have the cargo information sooner and would be obtaining it from the source most likely to know what is being shipped. In legal terms, this would be consistent with the best evidence rule.

Every player in the international supply chain should also adopt meaningful security plans, rather than just provide a certificate to be framed and put on the wall.

Security measures should be only—should only be adopted if they provide measurable increases in deterrence against terrorism at a reasonable cost.

Absolute transportation security is only achievable by shutting down the international transportation system. Just think in a small way about the west coast lockout a couple of months ago. A balance must be reached between reasonable security levels and efficient maritime transportation.

As you noted, the purpose of this hearing is to examine agency efforts to screen cargo containers entering U.S. ports and the effect of these efforts on the free flow of trade. From my perspective, this has been a mixed bag.

Certainly maritime security is vastly improved since September 11th. There is plenty of room for enhancement.

Also, the cost today of these efforts has far exceeded that. Ships and cargos have been needlessly delayed. Ships, crews and the environment have been put at risk. Burdens such as 24-hour advance manifest notice had been enacted with little thought to the true costs and benefits or whether the agencies slowly prepared to implement requirements.

I strongly recommend that Federal agencies meaningfully involve the maritime industry in its security initiatives at the planning stage rather than to apologize later for the errors and implementation. Prevention of maritime terrorism is a group effort and all players should be involved at all stages. It is only then we, as a secure maritime Nation, will be able to provide the answers, the answer to the question, what is in the box.

I respectfully request my submitted written testimony be made part of the record of this hearing.

Thank you for listening. I will stay to answer questions.

[The prepared statement of Mr. Starer follows:]

TESTIMONY

Statement of
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"WHAT'S IN THE BOX?"

Presented before Congress of the United States, House of Representatives
Subcommittee on National Security, Veterans Affairs, and International Relations
Of the **House Committee on Government Reform**

Hearing On:

Homeland Security: Finding the Nuclear Needle in the Container Haystack

Battery Park, New York
11:00 a.m.
Monday, November 18, 2002

Introduction

Mr. Chairman and distinguished Subcommittee Members, I wish to thank you for the opportunity to address you on the important topic of maritime security.

I am Brian D. Starer, National Practice Leader for the Maritime Group of our firm. Ours is the oldest and largest maritime law practice in the United States, founded in 1830, a few blocks north from here. In 1997, Haight Gardner Poor & Havens combined with Holland & Knight LLP, which is now the sixth largest law firm in the nation.

Our clients include most of the major domestic and foreign ship owners and operators carrying cargo to and from the United States. Since the horrific events of September 11, 2001, we have been in the forefront of advising our clients and the maritime industry in general on maritime security issues. My firm's Washington office maintains an Internet site exclusively devoted to this issue, tracking Coast Guard security zones and new security requirements so as to allow the maritime industry to quickly be informed and adapt to these rapidly changing developments.

I will focus and limit my comments today on federal government efforts to screen cargo containers entering United States seaports and the effect of these efforts on the free flow of trade.

I must start by saying that my firm supports all reasonable efforts of the federal government to enhance the maritime security of the United States.

We are not privy to all the methods utilized by the Customs Service, the Coast Guard, and other agencies to accomplish this vital mission – nor should we be. It is important, though, that these security methods be seen as reasonable by the maritime industry. It is only through close cooperation, indeed partnership, with the maritime industry that maritime security will be improved. The public and private sectors must be one when it comes to security.

Proposed Rule Requiring 24-Hour Advance Reporting of Manifests

The U.S. Customs Service is requiring ship owners and operators to submit electronic manifests 24 hours prior to the loading of cargo in a foreign port if the ship is bound for the United States. While I understand the Customs Service hope is that this 'early warning' will allow the agency to direct that certain suspicious containers not be loaded until they are examined, I am convinced that the burden is misallocated. The manifest is largely nothing more that a compilation of information derived from shipping documents prepared by someone else. Virtually all cargo these days (with the exception of bulk liquid and solid cargoes such as oil and coal) are packed, generally, in sealed containers. The master of the ship has no way of knowing what he or she is being asked to carry. The ship's master has no idea "what's in the box." All that is provided (other

than the cargo itself) is a shipping document prepared by the shipper or an intermediary. Having the master, owner, or operator provide Customs with a manifest is, to use a legal analogy, merely 'hearsay evidence' regarding what is actually being shipped.

The best indication of what is being shipped, other than visually examining the cargo itself, is the original shipping document. The Customs Service should be obtaining copies of the shipping documents from the shippers or intermediaries, rather than manifests from ship masters, if it truly wants to know what is being shipped to the United States. By obtaining these documents from the shipper or intermediary, rather than a manifest from the ship master, the agency would have the cargo information sooner and would be obtaining it from the source most likely to know what is being shipped. In legal parlance, this would be consistent with the 'Best Evidence' Rule.

Curiously, neither the Notice of Proposed Rulemaking (NPRM) announcing this planned requirement nor the Final Rule establishing the requirement, included a cost-benefit analysis. These omissions may indicate that the proposal was not fully considered prior to publication or that the costs are high and benefits are low. In either event, the Customs Service should perform a cost-benefit analysis, in accordance with Executive Order 12866, before proceeding further. Under that Executive Order, agencies are required to consider the costs of enforcement and compliance, as well as distributive impacts and equity. Agencies may adopt a regulation "only upon a reasoned determination that the benefits of the intended regulation justify its costs."

This rulemaking includes a provision that would prohibit use of generic terms to describe cargo, such as FAK (freight of all kinds), general cargo, and STC (said to contain). I have no problem with the first two [FAK and general cargo], but STC is not a generic term. STC (or "Said to Contain") is a precise legal term (a term of art) utilized by carriers worldwide clearly to indicate that the ocean carrier has no direct knowledge of the contents of the container or other sealed package and is relying on the description furnished by the shipper or intermediary. Various courts have ruled that absence of the term STC (or "Said to Contain") on a manifest or bill of lading issued by a carrier has the legal effect of making the carrier the guarantor of the contents. All the carrier can do in good faith regarding a sealed container is report what the shipper or intermediary said was inside. The Customs Service can not ask for more and should not remove whatever limited legal defenses a carrier may have in a misguided attempt to better identify cargo coming into the United States.

STAR Initiative

In this regard, I support the Secure Trade in the APEC Region (STAR) Initiative put forward by President Bush on October 26 at the Asia-Pacific Economic Conference (APEC) meeting in Los Cabos, Mexico. The STAR Initiative calls for, among other things, the provision of advance electronic information on containers to customs, ports, and shipping officials AS EARLY AS POSSIBLE in the supply chain. Tasking ship

masters with providing the information would be doing it as late as possible. Only the shippers and intermediaries with actual knowledge of the contents can provide accurate information on containers as early as possible.

Supply Chain Security

Every player in the international supply chain should adopt meaningful security plans. The plans should add value, rather than just provide a certificate that can be framed and placed on the wall. Security measures should only be adopted if they provide a measurable increase in deterrence against terrorism at a reasonable cost. Absolute transportation security is only achievable by shutting down the international transportation system. A balance must be reached between reasonable security levels and efficient maritime transportation.

Know Your Shipper/Intermediary/Carrier

The next step in the international intermodal supply chain involves knowing the people with whom you are dealing with – Know Your Shipper/Intermediary/Carrier. Most carriers have long-standing relationships with their shippers and intermediaries. Likewise, most shippers and intermediaries have long-standing relationships with their carriers. Those relationships should be fostered. Each party in the international supply chain should have creditable assurance that the party from whom it receives cargo and the party to whom it delivers cargo has a meaningful security program. Government agencies should serve as the clearinghouse for such assurance.

C-TPAT

The U.S. Customs Service has initiated such a clearinghouse function with its Customs-Trade Partnership Against Terrorism (C-TPAT) Program. The C-TPAT Program provides participants with a guide for establishing, improving, or amending security procedures, a security profile questionnaire for conducting a self-assessment of security measures, and an agreement of participation. Participants will also have access to the list of other participants, providing a higher level of assurance that parties with which it does business have meaningful security programs. Benefits of C-TPAT participation include reduced U.S. Customs Service examinations and expedited processing.

Removal of Containers at First U.S. Port-of-Call

Recently, the U.S. Customs Service has begun requiring that certain containers be removed from vessels at the first U.S. port-of-call and subjected to examination. Usually, no justification is provided for this demand. To my knowledge, no evidence of terrorism has been discovered through these unloading and examination requirements. These requirements place a heavy burden on the carrier and others involved in the process. It is

both time-consuming and expensive to conduct the unplanned offloading (and reloading) of a container from a large modern containership. The ship normally operates on a tight schedule and delays at the first U.S. port-of-call can affect all subsequent port calls in the voyage. The terminal also operates on a tight schedule. Keeping a ship at the terminal longer than anticipated creates delays for other ships scheduled to load or unload at the terminal. While there is legal authority for these unplanned Customs first port-of-call examinations, the agency should only require them where there are sound articulatable reasons. Making such demands based solely on hunches only fosters disrespect for the law.

Ship Security Plans

The U.S. Coast Guard is also encouraging private sector parties to enhance maritime security. Waterfront facilities and vessels are being pressured to adopt security plans. To the extent that Coast Guard-recommended ship security plans are consistent with ship security plans being developed at the International Maritime Organization (IMO), I fully support them. It would be inappropriate, though, for the Coast Guard to pressure ship owners and operators to adopt security plans that are inconsistent with the international norm. One coordinated plan will work, two or more will not. As the Coast Guard drafts regulations implementing security plan requirements under the Maritime Transportation Act of 2002, it is recommended that those regulations be as consistent as possible with the international requirements.

Boarding Teams

Through the Sea Marshal program and otherwise, the U.S. Coast Guard places its personnel on some commercial vessels as they enter or leave U.S. ports. This activity is largely pro-active and is generally endorsed by ship owners and operators. On occasion, though, these boardings run amok. Last year, a liquefied natural gas (LNG) carrier was boarded in a U.S. port by a USCG law enforcement team. The team assembled the entire crew on the main deck while it spent over an hour searching the ship for suspicious situations. What the USCG boarding party did not realize is that an LNG carrier is a highly sophisticated ship requiring constant attention by trained operators. Fortunately, nothing went wrong during the extended period that the crew was forced to be away from the ship's monitoring and control systems, but we may not be so fortunate next time. On another occasion, a boarding party member entered the pump room of a tanker and (without warning) took a photograph with a flash camera. The atmosphere in a pump room may contain explosive levels of gas. If that had been the case here, the tanker could have suffered a catastrophic explosion. The Coast Guard must ensure that its boarding parties understand the full ramifications of their actions.

Radiation Detection Devices

Personnel of the U.S. Customs Service and other agencies frequently carry radiation detection devices as they examine ships and their cargoes. These devices are only of value if the personnel using them have been adequately trained. Recently, here in the Port of New York and New Jersey, a ship was ordered away from the terminal where it was unloading cargo and required to anchor near Ambrose Light Tower for several days after a federal inspector noted that the detection device had located low levels of radiation coming from a container. Following several days of intense searching by personnel from the Department of Energy, the Environmental Protection Agency, U.S. Navy SEALS, and others, it was determined that the radiation was being emitted naturally by a cargo of clay tiles. The lessons learned from these misadventures should be widely disseminated throughout the enforcement community so as to avoid repetition.

Non-intrusive Examinations

The U.S. Customs Service is acquiring and installing various sophisticated devices to conduct non-intrusive examinations of shipping containers when they are offloaded at U.S. terminals. I support this effort, with two caveats. First, more such devices are needed so that containers don't get delayed waiting in the queue. After all, time is money. Second, these devices should be installed and utilized overseas to examine containers before they are loaded on ships bound for the United States. It is of immensely greater value to find weapons of mass destruction before they reach their targets rather than upon arrival.

Immunity for Third Party Losses due to Terrorism

While the maritime industry has expended much time, effort, and monies to enhance maritime security, we have learned from the USS COLE and the M/V LIMBURG (both in Yemen) that ships are not immune from terrorism. On top of the direct losses that might ensue from a terrorist attack, there is much concern in the industry regarding possible third party claims. Costs for liability insurance for such a potential loss are rising dramatically. It is recommended that Congress enact immunity legislation protecting ship owners and operators from third party claims based on terrorist attacks against vessels. An example of such immunity legislation may be found in the Oil Pollution Act of 1990 (OPA 90), where the ship owner or operator is not responsible for damages if the discharge of oil was caused solely by an act of war or the act of a third party.

Summary

As you noted, the purpose of this hearing is to examine agency efforts to screen cargo containers entering U.S. seaports and the effect of these efforts on the free flow of trade. From my perspective, this has been a mixed bag. Certainly, maritime security is vastly improved since September 11, 2001. There is room for enhancement, though. Also, the cost to date of these efforts has far exceeded the benefit. Ships and cargoes

have been needlessly delayed. Ships, crews, and the environment have been put at risk. Burdens, such as 24-hour advance manifest notification, have been proposed with little thought given to true costs and benefits or whether the agency is fully prepared to implement the requirement. I recommend that federal agencies meaningfully involve the maritime industry in its security initiatives at the planning stage, rather than apologize later for errors in implementation. Prevention of maritime terrorism is a group effort and all players should be involved at all stages. It is only then we, as a secure maritime nation, will be able to answer the question – What's in the box?

Mr. SHAYS. All your written statements will be in the record. That's taken care of.

Mr. Hyde.

STATEMENT OF JOHN J. HYDE, DIRECTOR OF SECURITY AND COMPLIANCE, MAERSK, INC.

Mr. HYDE. Good afternoon, Mr. Chairman. My name is John Hyde, and I am director of Security and Compliance for Maersk Sealand. I appreciate the opportunity to appear before you and your committee to give the perspective of an ocean carrier in an international terminal on this very important subject.

Maersk Sealand is the largest container shipping company in the world. We operate more than 250 container vessels and more than 800,000 containers through a worldwide transportation network. We provide transportation to and from six continents and we maintain 325 offices in more than 100 countries.

Everything we do is captured by the watchwords of our founders, which is constant care. The security of our containers and the integrity of our transportation network are essential to our operations at Maersk Sealand.

Mr. Chairman, you and other members of this panel know that our national maritime transportation is a worldwide business and it is inherently intermodal in nature. A container that is unloaded at a U.S. seaport today can be efficiently transported to another location in America in a matter of days.

This presents many challenges.

We've always been security conscious. The evens of September 11th have only made us more concerned about security threats and their potential impact on our fellow citizens, our employees, our port facilities, our containers, our vessels and our customers' cargo.

Also, the Nation's economy has slowed dramatically as result of the September 11th events. Our global trade posture has been affected in dramatic ways. We cannot ignore the very real potential that terrorism will again visit our Nation, and to the greatest extent we must take steps to ensure the safety and security of our ports, our containers and our vessels.

We must do this while still maintaining a vibrant maritime trade, which is the life of our economy.

We are responding to the challenge. We embarked on an aggressive proactive campaign to prepare against security threats. These include our voluntary entry into a number of U.S. Government programs and pilot projects, such as the U.S. Customs supercarrier issue program, business anti-smuggling coalition, the Customs trade partnership against terrorism and we are poised to begin participating in Operation Safe Commerce.

It is not enough to make our operations within this country secure. We are intensifying our efforts to secure our global cargo network. We have a security officer within our company responsible for providing security challenges.

Inasmuch as we have a presence in more than 100 countries, we've established regional security offices throughout the world. We have security that includes people from our hazardous cargo operations, our intermodal, terminal, logistics, container, oper-

ations, information technology, legal and government affairs offices as well.

Certainly one aspect of our interest and concern addresses specific subject matter of today's hearing, which would be unknowingly transporting nuclear weapons and materials.

We at Maersk Sealand combatted smuggling of all items, but the potential harm from nuclear weapons and material is a provision of their smuggling is especially significant.

Please let me respond to several of the various specific questions raised.

First you inquired as to the existence of screening programs to prevent illegal fissile material or nuclear weapons from being smuggled into our country. The inbound cargo declaration that is provided in each manifest identifies among other items the contents of the container or the cargo carried on-board the vessel, as well as the identity of the shipper, the port of origin, the destination within the United States.

Advance information is critical to the U.S. Government's efforts to detect a container anomaly before it is loaded for a U.S. port.

In addition to manifest details, carriers can and often do provide additional data to the government agencies regarding cargo and shippers and other relevant information about goods on the vessel. This supplements the required manifest information.

Pinpointing high risk containers is at minimum daunting challenge. The manifest does provide a great deal of specific information. We should remember that carriers, ocean carriers in this context do not generate the manifest information. It's provided to them by the shippers.

Carriers simply act as a conduit to such information to the government. Under current law, a shippers generally assume no liability when poor manifest information is provided to the government.

We think this aspect should be reconsidered. We think the shippers should be much more accountable for what they're carrying on board the vessels.

We support a system that would require advance manifest information, credible advance manifest information as far up the supply chain as possible.

Your questions also highlighted critical element in the deterring the transportation of dangerous nuclear weapons and materials. The need for coordination, compatibility of containers screening program, Federal, State, and local authorities and commercial interest.

I regret to say in these areas we are not doing as well as we could. It is often not clear which Federal entity is leading the effort in maritime security incidents in screening.

This confusion is further complicated by the overlay in State and local requirements. At times carriers do not know exactly what information must be provided and to whom. A lead agency must be designated and there must be better coordination among various government entities.

I say that in the context of it is improved—it's not simply bad and will never get better. We see improvement but we would like to see it improving quicker.

Mandatory Federal guidelines must be issued if cargo security is to improve and they must balance the burdens fairly among all the participants in cargo security.

Biggest obstacles facing the agencies in the maritime security area are their numbers. We will believe that real good faith partnerships between government and industry must be enhanced. Partnerships result in force multiplies and more efficient and effective methods of achieving higher security.

If full partnerships are not permitted, the government will deprive itself of crucial knowledge and information and resources to accomplish their critical mission.

Government agency partnerships can be very useful in confronting challenge of personnel training. Government personnel will be familiarized much better with the industry's operations if they were afforded and accepted the opportunity to be trained within the industry itself.

We spoke about all the technological advances that are out there. I'm not going to take them over again, but I will say that all the advancements and new technology that is coming out needs to be appropriate to what we're trying to accomplish to answer the way we're doing business.

We can adjust. It has to be the determined who is responsible for implementing some of these things. Seal technology—again, who puts the seal on this extremely difficult task.

These advancements must be thoroughly evaluated and tested. We do not want to have a sense of false security.

Maersk Sealand has committed itself to an intensive effort to make our seaports as safe as possible. This is in the national security interest of our country, our own commercial interests and the interest of providing a safe and secure workplace environment for our employees.

I will be happy to attempt to answer any questions you may have and I appreciate very much the opportunity to appear before you this morning.

[The prepared statement of Mr. Hyde follows:]

STATEMENT OF JOHN J. HYDE
BEFORE THE
SUBCOMMITTEE ON NATIONAL SECURITY, VETERANS AFFAIRS, AND INTERNATIONAL RELATIONS
COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES
NOVEMBER 18, 2002

Mr. Chairman, my name is John Hyde, and I am Director of Security and Compliance for Maersk Sealand. I appreciate the opportunity to appear before you today to discuss cargo container security, particularly security involving the transportation of nuclear weapons and materials.

As you know, Maersk Sealand is a division of the A.P. Moller Group. Maersk Sealand is the largest container shipping company in the world. We operate more than 250 container vessels and more than 800,000 containers through a worldwide transportation network. Our feeder vessels, as well as our trucks and dedicated trains, allow us to offer door-to-door service. We provide transportation to and from six continents, and maintain 325 offices in more than 100 countries around the world. At Maersk Sealand, our commitment to security is captured by the watchwords for all our activities: Constant Care. The security of our containers and the integrity of our transportation network are essential to our operations at Maersk Sealand.

Mr. Chairman, you and other Members of this panel know that our national maritime security is vitally important. Marine transportation is a worldwide

business, and it is inherently intermodal; a container that is unloaded at a U.S. seaport today can be efficiently transported to another location in America in a matter of days. Cargo has always moved freely through our ports and facilities, and for many this transport occurred previously without receiving any special attention. Maersk Sealand has always been security conscious. For example, we have been a longtime partner with the US Customs Service in its Super Carrier Initiative program. However, the events of September 11th have certainly changed the way we now think about maritime security. Maersk Sealand and other carriers serving the United States are increasingly concerned about security threats.

We are concerned about the potential impact on our fellow citizens, employees, port facilities, containers and vessels. In this part of the country, we all know someone who was directly touched by the World Trade Center attacks, and we continue to feel the effects of those events in our communities. The Nation's economy has slowed dramatically as a result of the 9-11 events, and our global trading posture also has been affected in dramatic ways. We cannot ignore the very real potential that terrorism will again visit our Nation, and to the greatest possible extent we must take steps to ensure our safety and security, including that of our ports, containers and vessels.

Maersk Sealand is responding to this challenge. We have embarked on an aggressive, proactive campaign to prepare against security threats. For example, we have entered voluntarily into a variety of U.S. government programs and pilot projects. We are an active participant in the Super Carrier Initiative

Program. This is a joint undertaking between Maersk Sealand and the US Customs Service to stop the flow of illicit drugs and deter smugglers from gaining access to our infrastructure to smuggle drugs. Without getting into specific cases, I would simply observe that this program has been very successful. Another program we are heavily involved in is the Business Anti-Smuggling Coalition (BASC), which is a business based anti-smuggling effort supported by Customs, and we are signatory to the Customs Trade Partnership Against Terrorism (C-TPAT). Finally, we are also poised to begin participating in Operation Safe Commerce, a joint undertaking between numerous government agencies (but primarily the Customs Service, Department of Transportation, and US Coast Guard) as they examine carrier business processes and standards with an eye toward making recommendations that will deter the ability of terrorists to access our infrastructure.

But we realize that it is not enough to make our operations within this country secure. We are intensifying our efforts to secure our international cargo network so that our operations are as safe as possible throughout the world. Maersk Sealand reorganized itself after September 11th to address this new dimension of security required by ocean carriers such as us. We quickly established a Security Officer within our company. This individual is responsible for driving security changes globally. Supporting the Security Officer is a committee of key personnel from the various business units within Maersk Sealand. Inasmuch as we have a presence in more than 100 countries, Regional Security Officers have been appointed. For example, I act as the

Regional Security Officer for the North American region, and because of the importance and vast dimension of everything that involves security, I have been appointed Chairman of a Maersk Sealand Security Committee that focuses on security issues within the United States. Business units participating in this endeavor include representatives from: our hazardous cargo operations, intermodal, terminals, logistics, container line, operations, IT, legal and government affairs offices. These entities are tasked with carrying out Maersk Sealand's global security mission in North America. It would undoubtedly be useful to specifically provide you some examples.

Vessel and Terminal Security:

- Vulnerability assessments have been conducted on all vessels and Maersk Sealand terminals.
- Security plans are in place on all vessels.
- Security Officers have been appointed on all vessels.
- Security training and drills have been established.
- Bomb threat, piracy, and armed robbery procedures are also in place.

Seal Procedures

- All loaded containers must be sealed immediately upon completion of stuffing.
- All seals are checked and verified at an interchange.

Documentation

- Clear procedures are in place to ensure that manifest and bills of lading are in accordance with current US regulations. I might add that we are in the process of ensuring all manifest information associated with containers bound for the United States will be transmitted to the US Customs Service 24 hours prior to being loaded on a container ship. The effective date of this new Customs requirement is December 2, 2002.

IT Security

Procedures are in place for securing and safeguarding:

- Data.
- Information that can be derived from data.
- Operating software and applications software.
- IT installations, networks, and equipment.

  This includes:

  - Application development and maintenance.
  - IT production and operation.
  - Classification and encryption of data.
  - Internet usage and web security.
  - Physical security.
  - Risk analysis.
  - Contingency planning.
  - Reporting procedures for security violations.

These and other activities reflect the very high importance placed by Maersk Sealand on making our ocean transportation safe, secure and reliable.

Certainly one aspect of our interest and concern addresses the specific subject matter of today's hearing – unknowingly transporting nuclear weapons and materials. We at Maersk Sealand have aggressive programs underway to combat smuggling of any items, but the potential harm from nuclear weapons and material makes the prevention of their smuggling especially significant. Mr. Chairman, please permit me to respond to several of the very specific questions you raised when you invited me to testify.

First, you inquired as to the existence of screening programs to prevent illegal fissile material or nuclear weapons from being smuggled into our country. The inbound manifest that is provided with each shipment provides information on all cargo that is brought into the United States. Among other items, this manifest identifies the contents of the container or the cargo carried on-board the vessel, as well as the identity of the shipper, the port of origin, and the destination within the United States. Given the volume of containers transported in and out of the United States, advanced information is obviously critical to the US government in its effort to detect a container anomaly before reaching a US port. In addition to manifest details, carriers can and often do provide additional data to governmental agencies regarding cargo, shippers and other relevant information regarding goods on the vessel, and this supplements the required manifest information. A classic example is the Super Carrier Agreement, and the critical added value information provided to the government that has led to several notable investigations and convictions.

For example, we learned that a shipment of military supplies destined to Italy was to be reshipped on a local vessel to Libya. We contacted the U.S. authorities and assisted in their investigation. The result was the arrest and conviction of a major international illegal arms and military equipment trader.

We also assisted in numerous narcotic investigations and convictions by giving information from our global network to Customs when anomalies are detected. We have been commended many times for our efforts in these areas.

You also asked about criteria to profile and pinpoint high-risk containers such as those carrying nuclear weapons and materials. Again, the manifest provides a great deal of specific, useful information for identifying what is being moved through our ports. Also, as briefly mentioned, the Customs Service just last month issued new manifest requirements. Any container bound for the United States will soon be required to electronically transmit to Customs key manifest information not less than 24 hours before a container can be loaded on a ship at origin. Changing global business practices is not easy, and the trade has a considerable challenge before it as it moves to meet this mandate. Nonetheless, advanced manifest information will greatly assist the intelligence community to pinpoint and profile any high-risk containers that might be in transport before their departure to this country. It should also be noted, Mr. Chairman, that carriers do not generate manifest information, it is provided to them, and it is provided to them by the shipper—the importer or exporter of the goods in the container. Carriers simply act as a conduit for such information to the government. Shippers generally assume no liability when poor manifest

information is provided to the government, and no doubt this aspect of law should be reconsidered in light of the critical reliance of accurate container information by the government. Maersk Sealand fully supports a future system where electronic manifest information is sent directly to the government by the cargo interest as far up the supply chain as possible.

Of course, your questions also highlighted a critical element in deterring the transportation of dangerous nuclear weapons and materials: the need for coordination and compatibility of container screening programs among federal, state and local authorities and commercial interests. I regret to say that, in these areas, we are not doing very well. Just among federal entities, it is unclear whether the Coast Guard, Customs Service, or Federal Bureau of Investigation is leading the effort on maritime security incidents and screening. This confusion is made more complicated by the overlay of state and local requirements. At times, carriers do not know precisely what information must be provided, and what entities must receive this notice. This creates a lack of confidence in the system, because of the view that any information provided may not really be used to make the system more secure. To rectify this situation, a lead agency must be designated, and better coordination among the various governmental entities must be instituted. And their efforts must be fully compatible and complementary, which they are not today.

Federal guidelines must be issued if cargo security is to improve. These guidelines must be clear, uniform and mandatory, and they must balance the burdens fairly among all the participants in cargo security. One agency can

serve as the repository of filings from commercial interests, and that agency can then function as a clearinghouse to distribute the information to other agencies and to the industry. Without this kind of coordination and leadership, our efforts to secure our Nation's ports and maritime network will not be successful.

There are some promising new developments in technologies and other programs to counter the smuggling of illegal nuclear materials and weapons. The advance 24-hour notice requirement that I have already mentioned should provide significant progress in intelligence screening. In addition, use of non-intrusive technology, such as Customs' VACIS X-Ray system, radiation detectors, density meters, appropriate tracking devices, and seal technology will provide an overlay of physical security measures that will increase security overall.

I should stress that technological advancements must be thoroughly tested and evaluated to determine if they in fact do the job intended, which is to enhance security. We do not wish to engender a sense of false security.

Finally, you asked about the challenges confronting agencies in planning for and implementing security measures at our Nation's seaports. Undoubtedly, the biggest obstacle facing these agencies is the sheer number of agencies involved at the federal, state and local levels. These numbers require, as I have identified, the designation of a lead entity and coordination by that entity of the efforts of these various departments and agencies. Partnerships between government and industry should also be enhanced, as these result in more

efficient and effective methods of achieving higher security – while at the same time reducing less negative impact on commercial operations. As mentioned, existing examples include the Carrier Initiative Program, the Super Carrier Program, and BASC, and C-TPAT. This is a win-win prospect for both government and industry, resulting in less waste and duplication of effort. Governmental entities can use resources provided by the maritime industry, and thus create a force multiplier for the government's maritime security resources. I must stress that it is of utmost importance that the industry function as partners with the government in this important initiative. If not permitted to do so, the government will deprive itself of crucial knowledge and information resources to accomplish this critical mission.

Another challenge facing government agencies as they implement seaport security measures is training. I suggest that government/industry partnerships also can be very useful in confronting this challenge. Government personnel could be familiarized much better with the industry's operations if they were afforded the opportunity to be on-site and trained within the industry itself. They would then have a much better understanding of how the industry functions, and would be able to utilize industry resources more effectively and produce more informed decision-making.

Mr. Chairman, Maersk Sealand has committed itself to an intensive effort to make our seaports as safe as possible. This is in the national security interests of our country, our own commercial interests, and the interests of providing a safe and secure workplace environment for our employees. The

potential transportation of nuclear weapons and other high-risk material through our seaports is a significant challenge, and we are working diligently to confront illegal smuggling. "Constant Care" are our watchwords, and they form the foundation of every activity we take in this regard.

I will be happy to attempt to answer any questions you may have, and I appreciate very much the opportunity to appear before you this morning.

Mr. SHAYS. Let me call on Mr. Souder to go first.

Mr. SOUDER. I want to qualify your manifest shipping—I come from a retail background. Are you saying that the shipping document would be like four tons, armchairs, this much two side shares, table—the manifest would be given to the trucking company would say a box that says chairs, in other words, the detail is greater and are you saying the manifest is not specific?

Mr. STARER. The manifest oftentimes is not specific. I mean, also, the big problem is every manifest that the ship owner operates under, generally the bills of lading is what they take the information off of. It starts with freights, all kinds, or general household goods, it's not specific enough.

Also, it's putting the burden in the wrong place. It's putting it on the conduit rather than the supplier of the goods.

Mr. SOUDER. I understand that point, but what I'm trying to understand now is——

Mr. STARER. The specificity.

Mr. SOUDER. Yes. Could part of this be addressed by having the bill of lading, the manifest, be more specific to management? What does that do?

Mr. STARER. It's possible. Again, you're not going to the source. You're using—we see it time and again in the industry that as good as the transfer is from the shipping documents to the manifest, mistakes are made and you're putting the emphasis and the emphasis is being placed on secondary evidence.

Mr. SOUDER. I understand. I'm trying to figure out the next question is, why didn't you do that, because the number of shippers substantially smaller than the number—in other words, if there is a problem in the manifest, unless you've doctored the manifest, we go back to the next part, is that correct?

Mr. STARER. I think that I understand what you're asking. I think the reason that the 24-hour advance rule is the way that it's been written is in some respects it's Customs, it's business as usual. That's what they're used to, and to come with a radical idea of going back to the original shipping document, I'm sure didn't cross their mind because it would require complete change in how they approached the problem.

Mr. SOUDER. What I would appreciate then, I want to yield to the chairman, but I would like to pursue this further because I chair another subcommittee that deals with INS border control, narcotics and a lot of border issues.

It's a broader question as to how to deal with this, we need, you're absolutely correct, we don't need the private sector involved. We try to fix it, fix it later, but bottom line is when the government comes in to correct it, we're going to increase costs to the system. What we need to do is figure out the most efficient way to fix it and the critical path methods comes through, the shippers, you're not liable, obviously for the stuff in the container. That's a separate point.

But what's the best place to do the 24-hour rule, because we also have the manifest question on airlines, we want to see the list of people coming in. We're having this discussion on trains and cruise ships. We want to see manifests, and we need to work with the industry to figure out what is the best way to do that, how to get

that information to the most efficient way, because they put the cost pressure back, one it's so diverse, we're going to ask you at the port to pay for those Customs officials so you might gain short term, but you don't gain long term.

What we need is to hold the people accountable for exposing us to terrorist threats and when we find the most efficient way to do it, it will be worth it to the private sector.

I think you made a good point with it. I'm trying to figure out how to get to this point, we need to look at a greater way to do that.

Mr. STARER. Quickly, you couldn't even think of doing this 10 years ago. Electronically, it's not only doable, it's very, very doable. Again, Customs is going to have to change the way they think about clearing cargo into the United States. It will make a huge, huge difference.

Mr. SHAYS. I'm going to jump in.

One of the messages I'm hearing loud and clear is that you do not believe, Mr. McDonough, you do not believe that you are being listened to, and I want to say to you that I'm adding to that feeling. I hear your message. I would like to see how our committee can be a little more proactive, proactive in making sure that you are a voice to be heard.

Mr. MCDONOUGH. It's not just you. John, by the way, is the only person in the room who drives ships and operates terminals, and we sat here this morning and we listened to all the government agencies, talking about all the things they're doing and we think that's wonderful. We pat them on the back.

We're not at the table. We haven't been invited to the table. There are 56 corporations, operating in and out of the Port of New Jersey. They should be at the table.

Mr. SHAYS. That's a major, major frankly liability to whatever program we hope to succeed if you're not being included, and what I should be doing, the committee should be doing in future hearings is asking the government folks how are you being included and forcing them to think that way.

Because I honestly don't know how we're going to succeed unless you're being included.

I want to understand a few things about the manifest. A manifest can be simply doctored, correct? What I'm having a little bit of trouble understanding is you're given a manifest, but is it reliable?

Anybody want to answer?

Mr. MCDONOUGH. That's our problem, and the reason it's our problem is because our steamship lines, our carriers are the ones we're asked to essentially verify that manifest because they're the one who have to submit the manifest and frankly we don't know exactly——

Mr. STARER. You don't have the accuracy that you would like. The steamship company or the carrier does not know what's in the box.

Mr. SHAYS. The issue of 24 hours, the ship is already long left the port, correct, and is heading to the United States.

Mr. MCDONOUGH. That was my point, Mr. Chairman, if we submit it 24 hours in advance, that's all well and good and electroni-

cally, it is very feasible, but we have to have a response back before the ship departs because otherwise you're at sea and then you get some ridiculous recommendation that we're going to take boxes off the ship.

Mr. SHAYS. You're saying a single agency in charge is a positive thing?

Mr. MCDONOUGH. Yes.

Mr. SHAYS. No silver bullet—I make an assumption we'll never have total security unless we simply have no trade. But we can make it infinitely more difficult, and that has value, correct? Does anyone disagree?

When I think of BENS, I think of an organization that cares about national security, just wants to make sure our dollars are spent there.

Are you concerned there is going to be a lot of ways to end this effort to fight terrorists?

Mr. BOYD. Mr. Chairman, I think your characterization depends on the early basis is accurate, and that was narrow focus.

What we're principally doing at this phase of our history is bringing business leaders and wisdom and their ideas into application on discrete problems. Mostly in the department which focused a great deal on the acquisition of business side of defense and intelligence commission.

Now, we're focusing much more on this new brand of threats and it turns out that we have a wonderful array of members in our organization, about 400 business leaders, CEO, Coast Guard who are willing to give back and want to give back something in the way of their experiences.

Mr. SHAYS. Let me tighten your answer a bit. So is the bottom line what?

Mr. BOYD. Bottom line is we can help, just as we're it doing it in New Jersey, marshalling business leaders to help volunteer with these various problems.

Mr. Hyde mentioned the Customs trade, a voluntary program, but one, as far as we can gather, that's a rather weak set of principles or standards that companies can adopt—be rewarded in some way. There's much more to review than that.

Mr. SHAYS. Am I hearing that you believe that there are new things that we can do to—you're frankly outside the maritime industry. Are you basically saying that you think BENS, based on business experience, can provide some new innovative ways to deal with this whole issue?

Mr. BOYD. That's what I understand.

Mr. SHAYS. Mr. Hyde, I don't know if it was you who said security should be done at a reasonable cost.

Do you want to elaborate on that whole issue?

Mr. HYDE. Since September 11th, to speak fairly bluntly, a lot of people have come out of the woodwork with new and innovative devices that are impressive, but the question is what will they do, are they effective and if they are, who's to use them, who is to monitor them, who is to make sure they're doing the job that they're intended for.

We have a concern about putting bells and whistles on containers, and we're not sure that they can add that much to the secu-

rity, but we are concerned that they would give a sense of false security.

Until we can get those questions that I just articulated answered, we're not real sure how we should support some of the high tech innovations that are out there that are dreamed up every day.

We believe there's a place for high tech industry. We're not so sure that what is out there is addressing it correctly and how it should be faced.

Mr. SHAYS. Let me say to all of you on this panel, the national security subcommittee program has a special task of fighting terrorism at home and abroad. That's in our—we're the only committee that looks at both the State department, as well as the defense, and looks at any aspects of terrorism.

If you all are not feeling your voices heard, I would like to make sure that the director of my committee and others are aware of it. Mr. McDonough, I would welcome you to be very aggressive with my committee, and we'll start to be very outspoken.

So maybe I can say to you the contribution that you're making to this committee, that I would like you to see a result on, if we met 4 months or 5 months from now you would able to make that same claim.

Mr. TIERNEY. Mr. McDonough, the chairman was correct, you were the first to speak on the issue of not being listened to.

As I understand, you took over your possession in December 2001?

Mr. MCDONOUGH. That's when I joined NYSA. I came president on January 1st.

Mr. TIERNEY. Of?

Mr. MCDONOUGH. 2001.

Mr. TIERNEY. Post September 11th?

Mr. MCDONOUGH. Yes, yes.

Mr. TIERNEY. A little research on the Shipping Association shows our staff that association hasn't always been in favor of security measures, but that since September 11th, this position has changed considerably.

Mr. MCDONOUGH. I will join Mr. Hyde in saying we get lots of bells and whistles that are offered to us but they're not necessarily cost effective.

Mr. TIERNEY. You mentioned in your testimony that you don't think there is any single plan that will work for a report, that each port security needs to be assessed individually.

Mr. MCDONOUGH. Yes.

Mr. TIERNEY. What is your opinion of the international port security being developed by the international maritime organization?

Mr. MCDONOUGH. I think it's a step forward. There's no question about that. Right now there are no standards.

I think as we go forward, we have to work very hard, Coast Guard, others working on the IMO, to include those in the IMO international standards ultimately so all the ports that we have to deal with are compliant, if you will. We have to have international standards that are equally applicable and enforced at all ports.

Mr. TIERNEY. Mr. Hyde, you said shippers should be more accountable for what they're shipping, and I want to have you explore that a little bit more.

How would you recommend they be held accountable?

Mr. HYDE. Maybe a little background. Ocean carriers are held accountable now under the Tariff Act of 1930, and the part of that act that held us accountable provides penalties for inaccurate manifests. That act was passed when shipping was different than it is today, when the carrier would know what is being put on board by visually seeing it.

I think that we have an opportunity here to look at how some of these laws apply, who they apply to. The ocean carrier simply mirrors whatever information is provided on the ship. The shipper is the person that knows what is going in the container and the shipper is the person who has to declare to us what's in there and the shipper is the person that is the first step of securing that and we believe that it's an appropriate time now to look at what the shipper's responsibilities should be, but the U.S. Customs does not have a lot of rules and regulations obviously with the 24-hour rule that are affecting overseas operations, so we believe it should be looked into by whatever appropriate government agency, I think Customs would be the best, and in fact maybe tie in with what some of my colleagues were saying, before this shipper can present a load for shipment, would have to be provide the information to Customs.

Mr. TIERNEY. Do you think the carrier might have some responsibility also?

Mr. HYDE. Well, I don't see the carrier as a law enforcement agency obviously. I see the carrier as a powerful instrumentality if working with the agencies involved, as we've been saying, more involved.

Mr. TIERNEY. They're going to have a lot of say about who they do business with.

Mr. HYDE. Carriers? We have to accept cargo that is legally tendered, so we're not in the business of turning away cargo. We do have programs in place and they're related to some of the things I mentioned.

I don't know that I would want to suggest that an ocean carrier should be able to authenticate what's in that container.

Mr. TIERNEY. How do you recommend that the shipper be held accountable in some meaningful way?

Mr. STARER. I think right now the way the system works and the ship's manifest is created, the ocean carrier has no alternative because he does not know, the operator or owner, does not know what's in the container to necessarily declare under a set—it's a legal term of art. If the carrier leaves that off, the carrier can be responsible as guarantor, so they virtually never leave off their bills of lading and manifests.

To carry it one step back further, to the shipper, if the shippers know when a particular cargo has to reach the United States, whether it's supply chain running beer or it's the latest toy for Christmas, Customs knows they have to get those through at a particular time.

It seems to me that a system, almost independent of the present ocean carrier system would work and it could be set up electronically in a preclearance manner to where virtually all of the cargo that moves in routine, to and from the United States could be identified and cleared in a routine manner, and it would also show using the example of Heinekin beer, Heinekin beer from Rotterdam to various parts in the United States is routine. If suddenly Customs saw that Heinekin container moving from Istanbul to New York, that would show an anomaly that would require it be kicked out right away and cause Customs to go back to the shipper and say what is going on here.

And at that point in time, they would either explain it or not explain it. But the point is, it would never get to the point of coming on dock side from someplace in the world.

It hits to the heart of the issue. How to do it is something that's beyond my capabilities, most certainly. Electronically it can be done, and I'm sure a program can be worked out, it will make it work, it's going to require moving the time forward so that shipper knows they've got to have Customs clearance by X date if that cargo is going to be taken in a sealed container to a local port and then transferred or transported to the United States.

Mr. TIERNEY. Generally, are you in agreement with the earlier panelists who indicated when it comes to security matters concerning containers, that the most important thing we can do is try to get the inspection done back at the point of loading?

Mr. BOYD. All the people, I went to Long Beach 2 weeks ago, and people on the docks, the people in the harbor, everyone seemed to concur that the long-term approach would be one in which things are container sealed in a real way, with surveillance equipment inside, and at the point of which it's loaded and between that point and the point which it comes to Long Beach, for example, then it is immediately suspected.

Mr. TIERNEY. Thank you all for your testimony here today. I have to excuse myself, but I appreciate you being here, I value your testimony.

Mr. Souder, I believe, has some further questions before he closes the hearing.

Mr. SOUDER. I think you've all made good points. We need to check, and we'll talk further of the shippers and get back, because I don't understand why they wouldn't be a key part of the chain as well.

It's a different liability. You shouldn't be liable for something you can't control. We're using you to control both parts, and that furthermore, it tends to be the smaller companies who aren't identified and don't have the pattern. That's why the risk ought to be concentrated, and we clearly need this for individuals that cross on the border—this is kind of a new zero tolerance error.

I can also say on behalf of the Federal Government having come out of the private sector, I understand your frustration.

I had two very particular things I wanted to ask, because it makes sense, I haven't thought about it as much before, I heard one of you said in the top 20, 65 percent comes from transport, transshipper, what percentage would you say is port of origin?

Mr. MCDONOUGH. I don't have the answer to that question.

Mr. HYDE. I would think originating cargo out of Singapore might be less than 10 percent. In an operation like Singapore, doing any of this is extremely difficult in terms of the operation. The information needs to be transmitted by, as it stands now, on the ocean carrier trying to load it on the mainline vessel leaving Singapore, which we can do, but that does not go far enough. We need that information transmitted before it loads anywhere. That would be the responsibility of whoever loaded that box.

Mr. SOUDER. We may have some additional written questions, but this is my last one that relates directly what I just said.

I heard someone say in earlier testimony that on this very point of the holding, that you could be held in Newark based on something somebody wanted in Baltimore?

Mr. MCDONOUGH. What happens is you'll get a shipment that's fully loaded and someone asks how many containers do these ships carry? Some can carry up to 6,000. Majority or two-thirds don't do that right now.

In any case, what can happen is you can get information from any number of sources, and one of the ships stopped here recently in the harbor was based on information that was gathered in Halifax and they stopped the ship and wanted that box or boxes off-loaded at some intermediary point.

And when you do that and you're sitting there with a ship, let's say 6,000 TUs, that means 13 to 21 TEUs across and another dozen up, it happens to be in the one in the hole, then you're going to have an issue. It may sit there, what happened in John's terminal a couple weeks ago, off-loading a box at a time, taking an entire day to get to the box that you want. That's an issue.

Mr. SOUDER. You're talk about the additional cross instructions coming to the Federal Government by the private insurers putting pressure on you to take action to make sure you get terrorist insurance.

Mr. HYDE. Getting terrorist insurance post September 11th is difficult. I don't deal every day in terrorist issues. Thee has been a lot of pressure on our insurers to insure that we are operating at a level that they're comfortable with.

We are obviously participating in some of the things that helps us. The insurance issue has been very difficult. I don't know much about it.

Mr. HYDE. We can't get sufficient coverage to cover their capital investment, unless they want to pay virtually the amount of the insurance. It's become a very critical issue for us. It's becomes a critical issue not in terms of so much how much it costs you to get the coverage, but also if you can't get the coverage, you're not going to get the kind of bank support, financial support, you need. It's a real dog chase.

Mr. SOUDER. They're not asking you to do certain things.

Mr. MCDONOUGH. They're not giving it to us. They're giving it to us at unreasonable dates.

Mr. SOUDER. Thank you. Any additional materials you want to submit are very helpful.

The subcommittee stands adjourned.

[Whereupon, the subcommittee was adjourned.]