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CRIME AND SECURITY ISSUES INVOLVING U.S. SEAPORTS

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

JULY 24, 2001

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ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

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CRIME AND SECURITY ISSUES INVOLVING U.S. SEAPORTS

TUESDAY, JULY 24, 2001

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 9:45 a.m., in room SR–253, Russell Senate Office Building, Hon. Ernest F. Hollings, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. ERNEST F. HOLLINGS, U.S. SENATOR FROM SOUTH CAROLINA

The CHAIRMAN. The hearing will come to order pending Senator Graham's attendance here. We can have our opening comments by myself and Senator McCain. I will file my statement in the record. If I were in the drug business down in the country of Colombia, I would load up 10 of those containers that come into the ports of America, knowing that only one of the 10 would be inspected. Nine would go through clear and free, and I would have around 450,000 tons of cocaine in on the market.

I am fascinated, because I live at a port and we always find in concrete posts and big, 55-gallon asphalt drums, cocaine, small amounts secured. But my point is that we do not have port security. Port operations are very complex. You have got all kinds of entities involved.

The captain of the port is in charge of the security, and this observation by not having security is no criticism of the Coast Guard. If I had to list one entity in my years up here that has done a most creditable job, it would be the United States Coast Guard.

They have been limited financially. The bill I introduced, along with Senator Graham last week, is limited financially. Everyone in the Administration wants to endorse it. There are no real objections to it until they get to OMB and then OMB says "hold up, do not say anything." So it is really a money problem. Understanding that, we have got to go about it in a deliberate fashion.

The bill calls for a survey of all the ports, so they are wanting the Coast Guard to come in and look at their particular plans at 50 ports in the United States as to their security plans and then go with a team and start the implementation. This cannot be done overnight. It is a start, and particularly favored to have authorities from the various entities all ready to tell us about their concerns and their suggestions.

I yield to Senator McCain.

[The prepared statement of Senator Hollings follows:]

PREPARED STATEMENT OF HON. ERNEST F. HOLLINGS,
U.S. SENATOR FROM SOUTH CAROLINA

Today, the Committee will examine the state of security at our Nation's seaports, and for those that have yet to study this issue, I think they may be surprised at what they hear. Despite the massive volume of cargo that moves through our Nation's ports, there are no Federal security standards, guidelines or otherwise, and the Federal Government does not provide the resources to obtain the technology to adequately screen the cargo moving through, leaving our seaports vulnerable to criminal activity—from smuggling to terrorism to cargo theft. The safety and security of our national borders is a Federal responsibility, and given the security that we help to provide at our Nation's land and air borders, we must do more for our seaports.

On Friday, Senator Bob Graham and I introduced the Port and Maritime Security Act of 2001. This legislation is long overdue. It is needed to facilitate future technological advances and increases in international trade, and ensure that we have the sort of security control necessary to ensure that our borders are protected from drug smuggling, illegal aliens, trade fraud, threats of terrorism as well as potential threats to our ability to mobilize U.S. military force. We introduced similar legislation in the last Congress, but time did not allow us to proceed any further with the legislative process. However, this is just too important an issue to let go by, and I intend to work with Senator Graham, and others, to try and craft a policy to help protect our maritime borders.

The Department of Transportation recently conducted an evaluation of our marine transportation needs for the 21st Century. In September 1999, then-Transportation Secretary Slater issued a preliminary report of the Marine Transportation System (MTS) Task Force—*An Assessment of the U.S. Marine Transportation System.* The report reflected a highly collaborative effort among public sector agencies, private sector organizations and other stakeholders in the MTS.

The report indicates that the United States has more than 1,000 harbor channels and 25,000 miles of inland, intracoastal, and coastal waterways in the United States which serve over 300 ports, with more than 3,700 terminals that handle passenger and cargo movements. These waterways and ports link to 152,000 miles of railways, 460,000 miles of underground pipelines and 45,000 miles of interstate highways. Annually, the U.S. marine transportation system moves more than 2 billion tons of domestic and international freight, imports 3.3 billion tons of domestic oil, transports 134 million passengers by ferry, serves 78 million Americans engaged in recreational boating, and hosts more than 5 million cruise ship passengers.

The MTS provides economic value, as waterborne cargo contributes more than $742 billion to U.S. gross domestic product and creates employment for more than 13 million citizens. While these figures reveal the magnitude of our waterborne commerce, they don't reveal the spectacular growth of waterborne commerce, or the potential problems in coping with this growth. It is estimated that the total volume of domestic and international trade is expected to double over the next 20 years. The doubling of trade also brings up the troubling issue of how the U.S. is going to protect our maritime borders from crime, threats of terrorism, or even our ability to mobilize U.S. armed forces.

Security at our maritime borders is given substantially less Federal consideration than airports or land borders. In the aviation industry, the Federal Aviation Administration (FAA) is intimately involved in ensuring that security measures are developed, implemented, and funded. The FAA works with various Federal officials to assess threats directed toward commercial aviation and to target various types of security measures as potential threats change.

Currently, each air carrier, whether a U.S. carrier or foreign air carrier, is required to submit a proposal on how it plans to meet its security needs. Air carriers also are responsible for screening passengers and baggage in compliance with FAA regulations. We made sure that airports, the FAA, air carriers and law enforcement worked together to protect the flying public.

At land borders, there is a similar investment in security by the Federal Government. TEA-21 approved $140 million a year for 5 years for the National Corridor Planning and Development and Coordinated Border Infrastructure Program. These funds will help facilitate the law enforcement functions of the Federal Government, and are in addition to funds that we invest in border patrol operations.

By way of contrast, at U.S. seaports, the Federal Government invests nothing in infrastructure, other than the human presence of the U.S. Coast Guard, U.S. Customs Service, and the Immigration and Naturalization Service, and whatever equipment those agencies have to accomplish their mandates. Physical infrastructure is provided by State-controlled port authorities, or by private sector marine terminal

operators. There are no controls, or requirements in place, except for certain standards promulgated by the Coast Guard for the protection of cruise ship passenger terminals. Essentially, where seaports are concerned, we have abrogated the Federal responsibility of border control to the State and private sector.

I think that the U.S. Coast Guard and Customs Agency are doing an outstanding job, but they are outgunned. There is simply too much money in the illegal activities they are seeking to curtail or eradicate, and there is too much traffic coming into, and out of the United States. For instance, in the latest data available, 1999, we had more than 10 million TEUs imported into the United States. For the uninitiated, a TEU refers to a twenty-foot equivalent unit shipping container. By way of comparison, a regular truck measures 48-feet in length. So in translation, we imported close to 5 million truckloads of cargo. According to the Customs Service, seaports are able to inspect between 1 percent and 2 percent of the containers, so in other words, a drug smuggler has a 98 percent chance of gaining illegal entry.

It is amazing to think, that when you or I walk through an international airport we will walk through a metal detector, our bags will be x-rayed, Customs will interview us, and may check our bags. However, at a U.S. seaport you could import a 48 foot truckload of cargo, and have at least a 98 percent chance of not even being inspected. It just doesn't seem right.

In my own State, the Port of Charleston, which is the fourth largest container port in the United States, just recently we got our first unit even capable of x-raying intermodal shipping containers, and we have the temporary deployment of a canine unit. By way of comparison, the Dallas/Fort Worth Airport is the fourth largest airport in the United States. It would be inconceivable that an airport of this magnitude have just one single canine, and one piece of screening equipment. This is simply not sufficient.

The request to evaluate our system of seaport security came from Senator Graham, and I would like to commend him for his persistent efforts in addressing this issue. Senator Graham has had problems with security at some of the Florida seaports, and although the State has taken some steps to address the issue, there is a great need for considerable improvement. Senator Graham laudably convinced the President to appoint a Commission, designed much like the Aviation Security Commission, to review security at U.S. seaports.

The Commission visited 12 major U.S. seaports, as well as two foreign ports. It compiled a record of countless hours of testimony and reviewed the security practices of the shipping industry. It also met with local law enforcement officials to discuss the issues and their experiences as a result of seaport related crime.

For instance, the Commission found that the 12 U.S. seaports accounted for 56 percent of the number of cocaine seizures, 32 percent of the marijuana seizures, and 65 percent of heroin seizures in commercial cargo shipments and vessels at all ports of entry nationwide. Yet, we have done relatively little, other than send in an undermanned contingency of Coast Guard and Customs officials to do whatever they can.

Drugs are not the only criminal problem confronting U.S. seaports. For example, alien smuggling has become increasingly lucrative enterprise. To illustrate, in August 1999, INS officials found 132 Chinese men hiding aboard a container ship docked in Savannah, Georgia. The INS district director was quoted as saying, "This was a very sophisticated ring, and never in my 23 years with the INS have I seen anything as large or sophisticated." According to a recent GAO report on INS efforts on alien smuggling (RPT-Number: B-283952), smugglers collectively may earn as much as several billion dollars per year bringing in illegal aliens.

Another problem facing seaports is cargo theft. Cargo theft does not always occur at seaports, but in many instances, the theft has occurred because of knowledge of cargo contents. International shipping provides access to a lot of information and a lot of cargo to many different people along the course of its journey. We need to take steps to ensure that we do not facilitate theft. Losses as a result of cargo theft have been estimated as high as $12 billion annually, and it has been reported to have increased by as much as 20 percent recently. The FBI has become so concerned that it recently established a multi-district task force, Operation Sudden Stop, to crack down on cargo crime.

The other issues facing seaport security may be less evident, but potentially of greater threat. As a Nation in general, we have been relatively lucky to have been free of some of the terrorist threats that have plagued other nations. However, we must not become complacent. U.S. seaports are extremely exposed. On a daily basis many seaports have cargo that could cause serious illness and death to potentially large populations of civilians living near seaports if targeted by terrorism. Most of the population of the United States lives in proximity to our coastline.

The sheer magnitude of most seaports, their historical proximity to established population bases, the open nature of the facility, and the massive quantities of haz-

ardous cargoes being shipped through a port could be extremely threatening to the large populations that live in areas surrounding our seaports. The same conditions in U.S. seaports that could expose us to threats from terrorism, could also be used to disrupt our abilities to mobilize militarily. During the Persian Gulf War, 95 percent of our military cargo was carried by sea. Disruption of sea service could have resulted in a vastly different course of history. We need to ensure that it does not happen to any future military contingencies.

As I mentioned before, our seaports are international borders, and consequently we should treat them as such. However, I am realistic about the possibilities for increasing seaport security, the realities of international trade, and the many functional differences inherent in the different seaport localities. Seaports by their very nature, are open and exposed to surrounding areas, and as such it will be impossible to control all aspects of security, however, sensitive or critical safety areas should be protected. I also understand that U.S. seaports have different security needs in form and scope. For instance, a seaport in Alaska, that has very little international cargo does not need the same degree of attention that a seaport in a major metropolitan center, which imports and exports thousands of international shipments. However, the legislation we are introducing today will allow for public input and will consider local issues in the implementation of new guidelines on port security, so as to address such details.

Substantively, the Port and Maritime Security Act establishes a multi-pronged effort to address security needs at U.S. Seaports, and in some cases formalizes existing practices that have proven effective. The bill authorizes the Department of Transportation to establish a task force on port security and to work with the private sector to develop solutions to address the need to initiate a system of security to protect our maritime borders.

The purpose of the task force is to implement the provisions of the act; to coordinate programs to enhance the security and safety of U.S. seaports; to provide long-term solutions for seaport safety issues; to coordinate with local port security committees established by the Coast Guard to implement the provisions of the bill; and to ensure that the public and local port security committees are kept informed about seaport security enhancement developments.

The bill requires the U.S. Coast Guard to establish local port security committees at each U.S. seaport. The membership of these committees is to include representatives of the port authority, labor organizations, the private sector, and Federal, State, and local government officials. These committees will be chaired by the U.S. Coast Guard's Captain-of-the-Port, and will be used to establish quarterly meetings with local law enforcement and attempt to coordinate security and help facilitate law enforcement.

The bill also requires the Coast Guard to develop a system of providing port vulnerability assessments for U.S. seaports. After completion of the assessment, the seaport would be required to submit a security program to the Coast Guard for review and approval. The assessment shall be performed with the cooperation and assistance of local officials, through local port security committees, and ensure the port is made aware of and participates in the analysis of security concerns. The legislation does not include provision for allowing the Coast Guard to conduct criminal background checks of transportation workers to reveal potential threats to facilitate crime or terrorism. It had been my intent to include such a provision, but the need to get it introduced in advance of a hearing scheduled on the subject of seaport security precluded it from being included in the bill. I intend to address this issue as we move the bill through the process, and feel that I can work with interested parties to craft something that will help address legitimate law enforcement concerns, while at the same time, protecting individual rights and defining security risks to avoid unnecessary and needless security review.

The bill authorizes MarAd to provide loan guarantees to help cover some of the costs of port security infrastructure improvements, such as cameras and other monitoring equipment, fencing systems and other types of physical enhancements. The bill authorizes $8 million, annually for 4 years, to cover costs, as defined by the Credit Reform Act, which could guarantee up to $320 million in loans for security enhancements. The bill also establishes a grant program to help cover some of the same infrastructure costs. Additionally, the bill provides funds for the U.S. Customs Service to purchase screening equipment and other types of non-intrusive detection equipment. We have to provide Customs with the tools they need to help prevent further crime.

The bill requires a report to be attached on security and a revision of 1997 document entitled "Port Security: A National Planning Guide." The report and revised guide are to be submitted to Congress and are to include a description of activities undertaken under the Port and Maritime Security Act of 2001, in addition to anal-

ysis of the effect of those activities on port security and preventing acts of terrorism and crime.

The bill requires the Department of Transportation, to the extent feasible, to coordinate reporting of seaport related crimes and to work with State law enforcement officials to harmonize the reporting of data on cargo theft, or alternatively, the feasibility of utilizing private data on cargo theft. Better data will be crucial in identifying the extent and location of criminal threats and will facilitate law enforcement efforts combating crime. The bill also requires the Secretaries of Agriculture, Treasury, and Transportation, as well as the Attorney General to work together to establish shared dockside inspection facilities at seaports for Federal and State agencies, and provides $1 million, annually for 4 years, to carry out this section. Currently, there are some U.S. ports that do not have inspection space in the organic port area. It is crucial that inspections occur as close to the point of entry as possible.

The bill also establishes a program to train personnel involved in maritime transportation and maritime security. A better prepared security force will help enable us to more effectively combat potential threats of crime and terrorism. The bill also requires the Customs Service to improve reporting of imports at seaports to help ensure that Customs will have adequate information in advance of having the entry of cargo, and to do so in a manner consistent with their plans for the Automated Commercial Environment (ACE) program.

Finally, the bill reauthorizes an extension of tonnage duties through 2006, and makes the proceeds of these collections available to carry out the Port and Maritime Security Act. These fees currently are set at certain levels, and are scheduled to be reduced in 2002. The legislation reauthorizes and extends the current fee level for an additional 4 years, but dedicates its use to enhancing our efforts to fight crime at U.S. seaports and to facilitating improved protection of our borders, as well as to enhance our efforts to ward off potential threats of terrorism.

I look forward to hearing the testimony from our witnesses today.

STATEMENT OF HON. JOHN McCAIN, U.S. SENATOR FROM ARIZONA

Senator McCAIN. I thank you, Chairman Hollings, for holding this hearing today and, in light of recent world events and problems here at home, I know that we can all agree that ensuring the security of our nation's seaports is a necessity.

The bombing of the USS Cole and the ongoing problems with drug and alien smuggling, while highlighting the need for action, also show the complexity of this issue.

In our efforts to increase our nation's seaport security, we must ensure to take into account not only the wide range of threats and crimes surrounding our seaports, but also the unique nature of our ports.

I know today's witnesses are going to share their views on the Interagency Commission Report on Crime and Security in U.S. Seaports. As we found out last year, the commissioners determined that seaport crime encompasses a broad range of crimes. These include the importation of illicit drugs, contraband, prohibited or restricted merchandise, stowaways and alien smuggling, trade fraud and commercial smuggling, environmental crimes, cargo theft, and the unlawful exportation of controlled commodities and munitions, stolen property and drug proceeds.

I once again want to thank all the members of the Commission for their efforts in bringing their concerns to our attention. I am interested in hearing from our witnesses, who I understand share many of the concerns raised by the Commission about what is needed to address security concerns. I hope they will offer recommendations that can be utilized in advancing a legislative resolution.

I am also interested in hearing their views on S. 1214, the Port and Maritime Security Act, which was introduced by Chairman

Hollings last Friday. Specifically, I hope our witnesses can shed some light on how they believe the provisions of that bill could be implemented, what they believe would be the cost to both the public and private sector, and how the flow of commerce would be affected.

As I stated earlier, we must not ignore the need for increased attention to the security of our nation's seaports and we can ill afford to put clamps on ports that would degrade their ability to facilitate the movement of commerce.

I thank you, Mr. Chairman, for taking the lead on this issue for many years. I note our colleague, Senator Graham is here, who has also been heavily involved. I look forward to working with you and Senator Graham as we attempt to address a very serious challenge that I think has been identified. The question is how we go about it. I congratulate you, Senator Hollings, on the introduction of your legislation to address this challenge.

[The prepared statement of Senator McCain follows:]

PREPARED STATEMENT OF HON. JOHN MCCAIN,
U.S. SENATOR FROM ARIZONA

I want to begin by thanking Chairman Hollings for holding this hearing today. In my capacity as Chairman, I held a similar hearing last fall. In light of recent world events and problems here at home, I know that we can all agree that insuring the security of our nation's seaports is a necessity. The bombing of the USS Cole and ongoing problems with drug and alien smuggling, while highlighting the need for action, also show the complexity of the issue.

In our efforts to increase our nation's seaport security, we must ensure that we take into account not only the wide range of threats and crimes surrounding our seaports, but also the unique nature of our ports. A "one-size-fits-all" approach will not work. Our ports are complex and diverse in both geography and infrastructure. It is essential that we keep this in mind as we go forward with legislation to improve security.

I believe that we must proceed with caution in the development of new programs to address problems of lax seaport security. In some cases, the problems we face today in our seaports are not due to a lack of programs to address them, but result more from a lack of attention both in funding and hard assets for the agencies who are currently responsible for seaport security.

I know today's witnesses are going to share their views on the Interagency Commission's Report on Crime and Security in U.S. Seaports. As we found during last year's hearing, the Commissioners determined that seaport crime encompasses a broad range of crimes. These include: the importation of illicit drugs, contraband, and prohibited or restricted merchandise; stowaways and alien smuggling; trade fraud and commercial smuggling; environmental crimes; cargo theft; and the unlawful exportation of controlled commodities and munitions, stolen property, and drug proceeds.

I want to once again thank all the members of the Commission for their efforts in bringing their concerns to our attention.

I am interested in hearing from our witnesses, whom I understand share many of the concerns raised by the Commission, what is needed to address security concerns and hope they will offer recommendations that can be utilized in advancing a legislative resolution. I am also interested in hearing their views on S. 1214, the Port and Maritime Security Act of 2001, which was introduced by Chairman Hollings last Friday.

Specifically, I hope our witnesses can shed some light on how they believe the provisions of that bill could be implemented, what they believe would be the cost to both the public and private sector, and how the flow of commerce would be effected. As I stated earlier, we must not ignore the need for increased attention to the security of our nation's seaports, but we can ill afford to put requirements on the ports that will degrade their ability to facilitate the movement of commerce.

The CHAIRMAN. Thank you. We both join in congratulating Senator Graham because he is the real leader here on this question of port security. Very interesting, he served here in Washington when

everybody talks about a surplus and there isn't any. Everyone talks about the ABM Treaty and there is no treaty, and now everyone is now all wound up about space-based threats when it is port-based threats. That is the real threat at the present and earlier on.

There is no one better equipped than our distinguished colleague here from Florida, Senator Graham. We recognize you at this time.

STATEMENT OF HON. BOB GRAHAM,
U.S. SENATOR FROM FLORIDA

Senator GRAHAM. Thank you very much, Mr. Chairman, and Senator McCain. I very much appreciate your holding this hearing so promptly on this important legislation relative to the security of America's seaports. Just a little personal background.

I became interested in this years ago when we were receiving weekly, even daily reports of crime, narcotics, human trafficking through seaports in Florida. I took occasion in October 1997 to spend a day working with Customs at Port Manatee, one of the ports serving the Tampa Bay area, and saw the extent to which not only were crimes coming into the United States, but crimes that had been committed inside the United States such as auto theft were being exported through our ports.

At that time, I became very concerned that the seaports lacked the advanced security procedures and equipment that are necessary to prevent acts of theft, drug trafficking, even acts of terrorism.

What impressed me was the stark contrast between the security levels at our seaports and the security levels at our nation's airports. I also learned that seaport security suffered from some severe communication deficiencies.

Although seaports conduct the vast majority of our international trade, about 95 percent of our international trade flows in and out of our seaports, the activities of law enforcement and trade processing agencies such as the Coast Guard, Customs, Department of Agriculture, FBI, and State and local agencies are often uncoordinated, fragmented.

Taken together, this lack of security and lack of interagency coordination in U.S. seaports presents an extremely attractive target for criminals and a variety of criminal activities. The severity of the problem will dramatically increase over the next 20 years as the total volume of imported and exported goods at U.S. seaports is expected to more than double.

The variety of trade and commerce carried out in the seaports has greatly expanded. Everything from bulk cargo, containerized cargo, passenger cargo, tourism, intermodal transportation, present targets of opportunity for illicit activities at our seaports.

The continued expansion of activities at the seaports has increased these opportunities. Now is the time for the United States in coordination with Federal, State, local, and users of the ports and others who support the port activities to come together in an effective effort to begin to suppress the level of crime being conducted at America's seaports.

Some of the proposals which are contained in this legislation, most of those proposals are a direct result of a Commission entitled the Interagency Commission on Crime and Security in U.S. Sea-

ports, which was established by President Clinton on April 27th, 1999. This Commission conducted onsite surveys of 12 U.S. ports. At each location interviews and focus group sessions were held with representatives of governmental agencies and the trade community.

In August of last year, the Commission issued its final report which identified many of the common security problems that were discovered in U.S. seaports. The report also issued 20 recommendations for improving security at U.S. ports.

To highlight a few of those recommendations which are contained in the legislation you are considering today, the creation of a national level Security Subcommittee of the Interagency Committee on Maritime Transportation System with the specific goal of developing voluntary minimum security guidelines for seaports and a model port concept that would include detailed site plans and procedures that could be adopted by all ports in America to improve their security; the establishment of local port security committees with Federal, State, local and private sector membership; the preparation of an annual interagency crime threat assessment for each seaport; the development of a 5-year crime and security technology deployment plan to identify and evaluate advanced investigative technologies that can be deployed at seaports.

If I could, Mr. Chairman, that is an area of particular interest to me because in my visits to seaports outside the United States, particularly Rotterdam in Holland, I was impressed with how further advanced they were in the application of technology to deal with seaport crime.

Next, the establishment of interagency Federal inspection stations at seaports to facilitate cooperation among Federal agencies and to expedite the flow of legitimate trade and commerce; and finally, an analysis of future Federal personnel resource requirements at seaports based upon future projections of seaport crime, trade volume, and technology improvements.

Mr. Chairman and Senator McCain, I believe it is important to note that not all these actions with regard to seaport security will be taken at the Federal level. Our seaports have had a long tradition, preceding by a century the American Revolution, of local control of those seaports. That is one of the things that distinguishes seaports from airports, airports being a product of the 20th Century, started with a much higher level of Federal involvement.

I would bring to the Committee's attention that at the State level, several legislatures are now involved with this issue. The Florida Legislature recently passed legislation that calls for the development and implementation of security plans within the seaports of our State. I believe this is indicative of the kind of initiative that this Federal legislation could prompt elsewhere.

Mr. Chairman, the publication of the Commission's final report should be viewed as only the initial chapter in our efforts to improve the safety and security of U.S. seaports.

I would hope that the passage of the Port and Maritime Security Act of 2001 would be another chapter.

Seaports play one of the most critical roles in expanding our international trade and protecting our borders from international incidents. Both the report of the Commission and this legislation

recognized the important role in our seaports and advocate the use of appropriate resources to move our ports into the 21st Century.

Mr. Chairman, I look forward to working with you, Senator McCain, and other Members of your Committee in the early consideration and adoption of this legislation.

The CHAIRMAN. Thank you very much, Senator Graham. It may be well to note at this point that most of that Seaport Commission's recommendations went to the Collector of the Customs. But since the turn of the century, the Seaport Security Act fixes the responsibility to the captain of the port.

Now, the reason that the captain of the port hadn't taken over more of that responsibility has been budgetary. I remember when we extended, back in the 1980s, the Continental limits out 200 miles—the economic zone. We increased the size of the United States by one-third, gave the jurisdiction and responsibility to the Coast Guard, and then promptly cut their budget. Senator Stevens and myself, working on both the authorization and the Department of Defense, we've been robbing function 050, the Department of Defense, about $320 million each year to supplement the Coast Guard budget. And we are going to work hard to repair that situation.

But what needs to be known is that by Congress, the authority and the responsibility is with that captain of the port. I am confident that we are on the right track with Admiral Loy and his team, because they will oversee it, we will finally get plans, and begin to implement it. We can't do this thing overnight. We couldn't buy the Rotterdam screener for every one of the 378 ports in America and we wouldn't want to.

But there are 50 secure ports that have been designated by the Coast Guard that need that kind of security.

Let me yield to Senator McCain.

Senator MCCAIN. Thank you, Senator.

The CHAIRMAN. Thank you very much, Senator Graham, for your leadership on this thing. We will follow it on through.

Senator GRAHAM. Thank you very much, Mr. Chairman.

The CHAIRMAN. We have our first panel, Charles Winwood, the Acting Commissioner of Customs; Admiral Loy, the United States Coast Guard Commandant; Bruce J. Carlton, the Acting Deputy of the Maritime Administration; and Admiral James W. Underwood, Director of the Office of Intelligence and Security, Department of Transportation. All of your full statements will be included in the record and we will ask to you summarize as best you can.

We will start with Commissioner Winwood.

STATEMENT OF CHARLES WINWOOD, ACTING COMMISSIONER OF CUSTOMS

Mr. WINWOOD. Thank you, Mr. Chairman, and thank you for the opportunity to testify on the security of our nation's seaports. Before I begin, let me express my appreciation to the Members for your support of the United States Customs Service and other Federal agencies involved in the effort to strengthen seaport security. Your assistance, of course, is vital to any success we will have.

As you know, last year Customs took part in the Interagency Commission on Crime and Security in U.S. Seaports and that Commission issued its report in October of 2000. The report has men-

tioned, cited the presence of key risks in the seaport environment including weaknesses in physical security, jeopardizing our fight against drug smuggling, exposure to international conspiracy, trade fraud, cargo theft, illicit export of vehicles and other serious crimes.

The good news is that the Commission also judged partnership between the Federal and private sectors at the 12 major seaports it surveyed to be productive. It also found coordination among Federal law agencies and State and local to be strong. Customs is also an active participant in the harbor safety committee that has been formed at major seaports.

Committee meetings serve as key advocacy channels through which our personnel can stress the priority of port security needs.

Clearly, the basis for cooperation exists to improve conditions in our seaport environment. Our challenge now is to focus that cooperation and provide proper resources to make it effective. A boom in activity in our nation's seaports poses unique challenges for the United States Customs Service and the other agencies involved. We have to process an ever-expanding stream of commerce with an eye toward protecting America from crime. Our employees are continuing with this increasing volume of trade to the best of their abilities.

But today's environment demands that we supplement their efforts with an effective balance of technology and risk management strategies. Through the principles of risk management, we are conducting a more rigorous analysis of trade data that we collect and are using that information to spot trends and anomalies. This strategy is essential in helping us to direct resources to where they are needed most.

Our electronic targeting systems, which include automated targeting systems and ACS, the Automated Commercial System, are important tools to help us to select incoming shipments for examination. They have played a key role in many of our most significant drug seizures at our seaports. Likewise, we are also cognizant of the threat in the export environment.

Customs' use of the Automated Export System—or AES—now covers 90 percent of the outbound filings made by maritime shippers. That offers us a powerful means to interpret compliance with U.S. export laws.

We also look forward to the day in the near future when we can employ Customs' new automated system in the effort to strengthen seaport security. The Automated Commercial Environment—or ACE—represents one of the agency's most crucial infrastructure needs. ACE's powerful applications will revolutionize the way we select cargo and process the nation's trade.

I want to take the opportunity to thank the Members for their support of ACE and ask for your continued assistance as we work to obtain the funds to complete the system on time.

Customs is also relying heavily on new non-intrusive inspection technologies to protect America. We are using powerful new x-ray systems capable of examining entire trucks and rail cars at one time. These systems have been used very effectively along our Southwest border and hold great promise in the seaport environment as well.

Tighter security practices at seaports will help us to eliminate threats that technology alone cannot. In that regard, Customs welcomes the Interagency Commission's recommendations to improve physical security and to tighten controls on movement of goods within ports, restrict access to sensitive areas and implement other practical security measures.

Finally, I would like to stress that despite the gains technology and better information offer us, our personnel continue to be our most valuable resource. There is no replacement for the dedicated work of our special agents, inspectors, canine enforcement officers and other Customs staff in protecting our nation's seaports.

Thank you again for this opportunity to testify and I look forward to answering questions you might have at another time.

[The prepared statement of Mr. Winwood follows:]

PREPARED STATEMENT OF CHARLES WINWOOD,
ACTING COMMISSIONER OF CUSTOMS

Chairman Hollings, Senator McCain, Members of the Committee, thank you for this opportunity to testify on security in our nation's seaports.

Before I begin, let me express my appreciation to the Members for your support of U.S. Customs and other Federal agencies involved in the effort to strengthen seaport security. Your assistance is vital to our success.

As you know, last year Customs took part in the Interagency Commission on Crime and Security in U.S. Seaports. That Commission issued a report in October of 2000. The report cited the presence of key risks in the seaport environment, including: weaknesses in physical security jeopardizing our fight against drug smuggling; exposure to internal conspiracies; trade fraud; cargo theft; illicit export of stolen vehicles; and other serious crimes.

The good news is that the Commission also judged partnership between the Federal and private sectors at the 12 major seaports it surveyed to be productive. It also found coordination among law enforcement agencies at the Federal, State, and local levels to be strong.

Customs is also an active participant in the Harbor Safety Committees that have been formed at major seaports. Committee meetings serve as a key advocacy channel through which our personnel can stress the priority of port security needs.

Clearly, the basis for cooperation exists to improve conditions in our seaport environment. Our challenge now is to focus that cooperation, and provide the proper resources to make it effective.

Booming activity at our nation's seaports poses unique challenges for the Customs Service. We have to process an ever-expanding stream of commerce with an eye toward protecting America from crime.

Our employees are contending with this increasing volume of trade to the best of their abilities. But today's environment demands that we supplement their efforts through an effective balance of technology and risk management strategies.

Through the principles of risk management, we are conducting a more rigorous analysis of the trade data we collect. We are using that information to spot trends and anomalies. This strategy is essential in helping us to direct limited resources where they're needed most.

Our electronic targeting systems—which include ATS and ACS—are important tools that help us to select incoming shipments for examination. They have played a key role in many of our most significant drug seizures at seaports.

Likewise, we are also cognizant of the threat in the export environment. Customs' use of the Automated Export System, or AES, now covers 90 percent of the outbound filings made by maritime shippers. That offers us a powerful means to ensure compliance with U.S. export laws.

We also look forward to the day, in the near future, when we can deploy Customs new automated system in the effort to strengthen seaport security. The Automated Commercial Environment, or ACE, represents one of the agency's most crucial infrastructure needs.

ACE's powerful applications will revolutionize the way we select cargo and process the nation's trade. I want to take this opportunity to thank the Members for their support of ACE and ask for your continued assistance as we work to obtain the funds to complete the system on-time.

Customs is also relying heavily on new non-intrusive inspection technologies to protect America. We are using powerful new x-ray systems capable of examining entire trucks and railcars at a time. These systems have been used very effectively along our Southwest border and hold great promise in the seaport environment as well.

Tighter security practices at seaports will help us to eliminate threats that technology alone cannot. In that regard, Customs welcomes the Interagency Commission's recommendation to improve physical security and tighten control on the movement of goods within ports, restrict access to sensitive areas, and implement other practical security measures.

Finally, I would highlight the need for added manpower to implement the Commission's recommendations. The fact remains that despite the gains technology and better information offer us, we must have the personnel available to contend with our spiraling workload.

Thank you again for this opportunity to testify. I look forward to answering any questions you have.

The CHAIRMAN. Thank you.

Admiral Loy.

STATEMENT OF ADMIRAL JAMES M. LOY, COMMANDANT, UNITED STATES COAST GUARD

Admiral LOY. Good morning, Mr. Chairman. First let me thank Senator Graham, as you and Senator McCain noticed there, for his leadership and direction on having the Commission happen to begin with, and following the recommendations and the results of the Commission to your Committee, and certainly for your leadership, Mr. Chairman, and direction for this very important issue.

Many of us have been working very hard these past 3 or 4 years seeking to place the maritime dimension, if you will, of our national transportation system on the same level as our land and air systems as you described. TEA-21 and Air 21 have directed attention and resources toward badly-needed improvements in all facets of our land and aviation systems.

In September 1999, Secretary Slater submitted a carefully crafted report to the Congress on the U.S. Maritime Transportation System (MTS). Port security was a very key part of that report. The MTS report also addressed safety in the environment, infrastructure, investment, among many other things.

The report culminated 2 years of listening by the Department of Transportation team joined by 24 other Federal agencies and countless representatives from State, local, industry, academic, labor and other interests around the country's ports and waterways.

I continue to think it is among the most important products I have personally been associated with in the 3-plus years I have had this job. My concern is that we may have sent too much too fast for the Congress to consume. Last year, the Crime Security in U.S. Seaports Commission broke out port security as a more consumable challenge. The Commission's report is solid, and I think the Committee's recent legislation is a strong and supportive step in the right direction.

Recent history shows us—and should frighten us to the degree that throughout the world, terrorists target transportation systems. All of us remember the terrorist bombing of Pan Am 103; the sarin gas attack on a Tokyo subway; and deliberate derailment of Amtrak's Sunset Limited, each an example of an attack on a transportation target.

Ridership on cruise ships has increased exponentially over the past 10 years. Two years ago, a cruise ship of 70,000 gross tons was the largest in the world. Today we have an entire class of cruise ships exceeding 140,000 gross tons. These new megaships carry upwards of 5,000 passengers and crewmembers. A successful terrorist attack on any one of these ships could result in a catastrophic number of casualties and threaten the economic viability of that entire industry. Just last week, the Coast Guard and the Customs Service units in Miami, along with the FBI, responded to a bomb threat against a cruise ship capable of carrying 3,000 passengers and 1,000 crewmembers.

The ship implemented their security plan, a plan, by the way, required by the Passenger Vessel Safety Act to prevent the threat from being realized. We successfully ensured the safety of the passengers, the crew and the vessel, and the port as a whole. Who can say what would have happened had we not responded as we did, or if the cruise line personnel had followed their well-prepared plan in a different manner.

Examples, unfortunately, abound in anyone's imagination where dire consequences can result in our ports from illicit activity associated with drug smuggling, cargo theft, environmental crime and others that we've heard about already this morning.

I am even concerned, as you know, sir, about the terrorist acts associated with nuclear, biological or chemical threats of mass destruction. These are not fantasies. Many of these illegal activities are actually going on in U.S. ports as we speak this morning.

In the interest of time, I'd just like to offer sort of a menu of things I remain very concerned about and that I believe are worth our attention and I'll be happy to address any of these during our questions.

First of all, our notion is, sir, and I think you have reinforced it, that our ports are low threat at the moment, but enormously high vulnerability targets. Again, 95 percent of our global trade goes through our ports. Protecting our ports requires the significant coordination that Commissioner Winwood has already described. Federal, State and local, industry, labor, all those involved must be part of the solution.

Third, the threat information that we have has to be developed and it has to be shared. Knowledge in this instance is power and we have to translate data collection efforts to become usable knowledge that we, the captain of the port, and others can deal with constructively at the port scene.

I have a sense of three things in a sequence that have to occur. First, this notion of developing what we consider to be the attributes of a generic model port. I do not mean a specific port that we pick out that we think is the best. Rather, a generic model port and what the attributes of that port ought to be. Then when we make, as the legislation will require, vulnerability assessments, we can gauge each port against this generic model to see where the shortfalls lie in that particular port. Then that would allow the local harbor safety committee or port security committee to develop an adequate action plan to close those shortfalls.

So that sequence of events, understanding what the model port ought to be, assessing the vulnerability of all those ports in ques-

tion and then developing action plans that follow is a sequence of events that I think is enormously important for us to understand.

Mr. Chairman, every port is different, leading to this notion that harbor safety committees and/or port security committees are the right places for us to leave the development of the action plans. There may be some sense of low, medium, and high categories of threat that might be helpful to that thinking process, but the notion that it needs to be done locally is, I think, an imperative.

The Seaport Commission recommendations, Mr. Chairman, are sound. They represent a good place to start, and we must recognize that the security issue is just one dimension of that larger report that we sent to the Congress back in September, 1999. The others will eventually need people's attention.

We must find a way to balance the seemingly conflicting notions of security on one hand, and commercial flow on the other. The Hart-Rudman Commission discussed that very carefully and very thoroughly and we have been working on a concept called Maritime Domain Awareness that may be the key to success in that issue. Again, knowledge is power if we can take data, convert it to knowledge and act on it in local ports.

In closing, Mr. Chairman, I find the latest draft of the Maritime and Port Security Act a solid step forward. It discusses vulnerability assessments, a task force to make things happen, shared dockside facilities to expedite commercial flow and perhaps more importantly, this notion of calling for better data collection on which we can build analytically sound action.

Mr. Chairman, as we consider the bigger picture, the national dialog on homeland security is underway.

Commissions, think tanks and the Pentagon's QDR are all talking about it. This hearing goes right to the heart of that discussion. The Seaport Commission and the President's Task Force on the Coast Guard Roles and Missions both reaffirm our responsibility as the lead agency for port security, and when properly resourced, we are ready to get on with that important work.

I look forward to your questions and thank you, Mr. Chairman.

[The prepared statement of Admiral Loy follows:]

PREPARED STATEMENT OF ADMIRAL JAMES M. LOY,
COMMANDANT, UNITED STATES COAST GUARD

Good morning, Mr. Chairman and distinguished Members of the Committee. As Commandant of the U.S. Coast Guard, I want to thank you for the opportunity to appear before you today to discuss the Coast Guard's views regarding seaport security.

As a multi-mission, maritime, military service within the Department of Transportation, the Coast Guard is a leader in ensuring America's maritime security. As a lead agency for seaport security, we provide a valuable service to the American people by making the nation safer, cleaner, more mobile, and more secure.

As you may know from the September 1999 Report to Congress on the U.S. Marine Transportation System (MTS), U.S. trade is expected to more than double by the year 2020. The Interagency Commission on Crime and Security in U.S. Seaports identifies a lack of adequate security for our critical MTS infrastructure, which can potentially affect our entire economy. We don't think often enough of our maritime ports as security threats. But, as indicated in the Interagency Report on Crime and Security in U.S. Seaports, our maritime borders are more porous and have lower security levels when compared to our airports and land borders.

Recent history shows us that, throughout the world, terrorists target transportation. All of us remember the terrorist bombing of Pan Am Flight 103, the sarin gas attack on the Tokyo subway, and the deliberate derailment of Amtrak's Sunset

Limited—each an example of an attack against a transportation target. Ridership on cruise ships has increased exponentially over the past 10 years. Ten years ago, a cruise ship of 70,000 gross tons was the largest in the world. Today, we have an entire class of cruise ships that exceed 140,000 gross tons. These new mega-ships carry upwards of 5,000 passengers and crewmembers. A successful terrorist attack on any one of these ships could result in a catastrophic number of casualties, and threaten the economic viability of the entire industry. Just last week, Coast Guard units in Miami, along with the FBI, responded to a bomb threat against a cruise ship capable of carrying approximately 3,000 passengers and 1,000 crewmembers. The ship implemented their security plan—a plan required by the Passenger Vessel Safety Act—to prevent the threat from being realized. We successfully ensured the safety of the passengers, crew, vessel, and port as a whole. Who can say what would have happened had we not responded as we did, or if the cruise line personnel had not followed their well-prepared plan?

The same security activities used to prevent a terrorist attack also aid in preventing criminal acts such as smuggling of illicit drugs, contraband and stowaways; trade fraud and commercial smuggling; environmental crimes; cargo theft; and the unlawful exportation of controlled commodities, munitions, stolen property, and drug proceeds. This same security provides for secure ports in support of military deployments and national defense.

In addition to the traditional physical security threats, the information age brings with it new vulnerabilities. We need to protect our critical information systems as well as our physical infrastructure. As we modernize our transportation infrastructure by integrating technology with automation, we also make their associated information systems more interdependent and interconnected. These systems become declared targets for attacks by hackers and cyber-terrorists. Someone intent on disruption, or destruction, of the flow of sensitive operational information contained in our transportation management systems will cause crippling damage. Consequently, we face a significant challenge to ensure our information systems are protected from those who would cause harm, *and* yet remain accessible to our customers—the traveling public, commercial transportation operators and government agencies alike.

The MTS is especially vulnerable to crime and terrorism because of the scale, complexity, and pace of activity in our ports. The task of protecting our transportation system is complex and requires close coordination between our regulatory, intelligence, and law enforcement organizations. Effective deterrence, prevention and response activities affecting U.S. transportation assets and programs must be coordinated between Federal law enforcement authorities, the Coast Guard, State and local officials, and the transportation community. The willingness of intelligence and law enforcement agencies to share threat information with the Coast Guard greatly enhances our ability to work with the transportation industry to increase security awareness and, if necessary, implement security countermeasures.

The reports from the Interagency Committee on the Marine Transportation System (ICMTS), the Marine Transportation System National Advisory Committee (MTSNAC), the 1999 Report to Congress on the U.S. Marine Transportation System (MTS), and the Interagency Commission on Crime and Security in U.S. Seaports contain recommendations for improving security that will require additional resources for implementation. Both the ICMTS, chaired by the Coast Guard, and MARAD's MTSNAC are discussing many of these security issues and beginning to coordinate efforts ranging from national defense and terrorism to theft and our economic security. Examples include implementing infrastructure improvements to allow for interagency systems integration, and pursuing the "model port concept" through which best practices by marine terminal operators are shared, and voluntary minimum-security guidelines are developed. These groups are working to balance security imperatives and the increasing need for a fast and efficient U.S. transportation system, a key contributor to the country's overall economic prosperity. To the extent there are resource implications, they must be weighed against other priorities in the context of the overall budget.

In summary, the Coast Guard is encouraged that seaport security concerns are receiving national attention. It is not my intent to instill fear or alarm in anyone today. But the sobering reality is, because we live in a country that prides itself on the openness of its democracy, we are always at risk of a terrorist attack. Therefore, it is very important that we address the issues of security and crime in seaports now. If we do, we can assure our national security and our ability to keep our nation's transportation system the very best in the world.

The CHAIRMAN. Very good.

Mr. Carlton.

STATEMENT OF BRUCE J. CARLTON,
ACTING DEPUTY, MARITIME ADMINISTRATION

Mr. CARLTON. Thank you very much, Mr. Chairman. Good morning. It is a pleasure to be here to talk to you about the issue of port and maritime security and I'd like to begin by joining my colleagues in thanking you and this Committee for your leadership on efforts to improve in this area.

The security of our ports is vital to our economic and national security. A disruption of the flow of cargo through our ports would have a significant negative impact on our economy and our military readiness. Security lapses at port facilities can cause cargo handling delays or losses and jeopardize personal safety and society at large. Security weaknesses in and around our ports reduce competitiveness, threaten military readiness and degrade our quality of life.

The movement of military cargoes through our commercial ports is standard practice, and the security of commercial ports during times of military mobilization is critical to national defense. Ports around the world are contending with security issues such as alien smuggling, cargo theft, drug smuggling and terrorist activities.

Simply having the ability to move large quantities of cargo through a port in a short period of time is no longer enough in order to remain both safe and competitive.

Government cooperation with industry to identify and correct security weaknesses, while at the same time maintaining or improving upon the efficiencies for the movement of cargo, is the basis upon which all port security measures should be approached.

Because we are focused on the development and maintenance of a strong maritime industry for both economic and national security purposes, my agency, the Maritime Administration, is well positioned to help ensure that both objectives continue to be met while concurrently focusing on new security measures. We would be very happy to offer this Committee any assistance it may need in the area of developing this legislation on improved port security. Many factors contribute to the need for increased port and maritime security.

As the Interagency Commission on Crime and Security in U.S. Seaports pointed out in its 1999 report, thefts of high technology cargoes alone from U.S. manufacturers and their customers may exceed $5 billion annually in direct and indirect costs. But theft costs also include lost productivity, lost time, lost resources spent with the police, attorneys and claims adjusters. Theft results in increased insurance premiums, greater liability exposure, lost trade, erosion of goodwill and damaged reputations. Billions of dollars per year are stolen from us at the hands of thieves in and around our port areas as well as on various intermodal systems going to and from our ports.

In an extreme case, unchecked theft could retard the expansion of international trade. In the end, the annual multi-billion cost of cargo theft is borne by you and me and all Americans as taxpayers and consumers. As my colleagues have already noted, alien smuggling and stowaways continue to be a major seaport security challenge. Aside from the risks of harm to stowaways and mariners, their discovery aboard a vessel can cost the ship operator hundreds

of thousands of dollars in route diversion costs and result in the disruption of cargo services and expensive delays.

Vessel operators are responsible not only for the complete cost of repatriating the stowaways, but are generally subject to fines for violating our immigration laws. The financial cost to steamship companies in a highly competitive global market would be very significant. Efforts to eliminate this practice will not only save money but more importantly will save lives. Recognizing the need for heightened seaport security is essential. Strict control of access to port areas, containers and ships is critical, yet without better international cooperation, immigration crimes will continue to plague our ports and hinder international trade.

As Admiral Loy has already mentioned, drug smuggling is the most prevalent crime affecting seaport security. It also results in a significant negative economic impact.

Inspections of arriving passenger and cargo ships must be sufficiently effective to deter smugglers, yet not so intrusive as to hinder the smooth flow of cargo to and from our port areas.

Terrorism is yet another area of concern for seaport security. Our seaports are generally seen as relatively low threat areas for terrorist actions. Addressing port vulnerabilities is key to ensuring that our ports are not targeted for terrorist and criminal activity. It is very reasonable for the Federal Government to achieve coordination among the various agencies concerned with port and maritime security and to work with the ports to explore ways to minimize criminal activity.

However, achieving appropriate levels of security in our seaports is not just a matter of heightened diligence. Port security infrastructure improvement is an important aspect of modern port security needs, both here, in the United States and in foreign countries. We recognize that each port is different and that a one size security plan does not fit all.

Partnering with the maritime industry and the port industry on a voluntary basis is, we believe, the key to progress.

Let me close by noting two areas of work at the Maritime Administration which I believe illustrate some useful outreach efforts. We chair a national port readiness network, which is a group focused on planning and coordinating military mobilization security at each of the 13 commercial ports around the country designated as strategic ports. We also serve as chair of the technical advisory group in the Organization of American States to develop multilateral approaches to improving port security throughout the Western Hemisphere.

Again, Mr. Chairman, thank you for this opportunity to appear. I look forward to any questions you have.

[The prepared statement of Mr. Carlton follows:]

PREPARED STATEMENT OF BRUCE J. CARLTON,
ACTING DEPUTY, MARITIME ADMINISTRATION

Mr. Chairman and Members of the Committee: I welcome the opportunity to be here today to discuss the important issue of port and maritime security on behalf of the Maritime Administration (MARAD). I would first like to thank the Committee for your continued efforts in this area. The security of our ports is vital to our nation's economic and national security. A disruption of the flow of cargo through our ports could have a significant negative impact on our economy and our military readiness.

Ports around the world contend with security issues such as alien smuggling, cargo theft, drug smuggling and terrorist activities. Simply having the ability to move large quantities of cargo through a port in a short period of time is no longer enough in order to remain both safe and competitive. Security lapses at port facilities can cause cargo handling delays or losses, and jeopardize personal safety and society at large. Security weaknesses in and around our ports reduce competitiveness, threaten military readiness and degrade our quality of life.

Government cooperation with industry to identify and improve security weaknesses, while at the same time maintaining or improving upon the efficiencies for the movement of cargo, is the basis upon which all port security measures should be approached. Because we are focused on the development and maintenance of a strong maritime industry for both economic and national security purposes, MARAD is uniquely positioned to help ensure that both objectives continue to be met while concurrently focusing on new security measures.

THE NEED FOR HEIGHTENED PORT SECURITY

In April 1999, an Executive Memorandum established an Interagency Commission on Crime and Security in U.S. Seaports (The Commission). The Commission's objective was to undertake a comprehensive review of seaport crime, the state of seaport security and the ways in which Government is responding to the problem. The Commission report, completed in August 2000, specifically identified threats to seaports and makes recommendations intended to reduce the vulnerability of maritime commerce, national security and the infrastructure that supports them.

Many factors contribute to the need for increased port and maritime security. As the Commission pointed out in its report, thefts of high technology cargoes alone, from U.S. manufacturers and their customers, may exceed $5 billion annually in direct and indirect costs. The cost of cargo theft is not limited to the manufacturer's expenses to produce a certain product. Among other things, theft costs include lost productivity, lost time and resources spent with police, attorneys, and claims adjusters. Theft also results in increased insurance premiums, greater liability exposure, lost trade, erosion of goodwill and damaged reputation. Billions of dollars per year are stolen from us at the hands of thieves in and around our port areas as well as on various intermodal systems going to and from the ports. Underwriters are increasingly unwilling to insure high value cargo. Some view the problem as an impediment to the expansion of international trade. In the end, the annual multi-billion dollar cost of cargo theft is borne by you and me, as taxpayers and consumers.

Immigration crimes including alien smuggling and stowaways continue to be a major seaport security challenge. Stowaways, in particular, are a significant concern for many U.S. ports. Vessels arriving in the U.S. from Third World countries frequently carry stowaways hiding on the ship or in empty containers. Ship's crews spend precious time inspecting the ship and empty containers prior to departure from foreign ports seeking to ensure that stowaways are not aboard. These same crewmembers also jeopardize their safety by confronting determined stowaways desperate to seek a better life. The discovery of stowaways aboard a vessel can cost the operator hundreds of thousands of dollars in route diversion costs. The discovery of stowaways in port can result in a disruption of cargo services and expensive delays. Vessel operators are responsible not only for the complete costs of repatriating the stowaways but are generally subject to fines for violating immigration laws. The financial costs to steamship companies in a highly competitive global market can be very significant.

Even so, the financial aspects of this issue pale in comparison to the toll in human life that is levied upon stowaways each year. In one of the most shocking incidents, 54 Chinese nationals were found dead in a truck last year that had crossed from Belgium to the United Kingdom. Efforts to eradicate this practice will not only save money but, more importantly, will save lives.

The problems created by stowaways domestically also point directly to the shortcomings of port security abroad and security aboard merchant vessels generally. International seaport cooperation and recognition of the problem is essential to the eradication of this problem. Strict control of access to port areas, containers and ships is critical. Without international cooperation, immigration crimes will continue to plague our ports and hinder international trade.

Drug smuggling is the most prevalent crime affecting seaport security, and results in a significant economic impact. Inspections of arriving passenger and cargo ships must be sufficiently effective to deter smugglers, yet not so intrusive as to hinder the smooth flow of cargo to and from port areas. In an era where "just-in-time" logistics allows companies to maintain their competitive edge, undue delays to prevent

the importation of contraband can upset entire supply chains with a ripple effect of negative consequences across the globe.

Terrorism is also a concern for seaport security. The threat of such activity and the vulnerability of seaports are the reasons for concern. While U.S. airports and land border crossings have well structured security measures, our ports do not enjoy the same level of security even though they offer unparalleled intermodal access to our nation's interior. Addressing port vulnerabilities is key to ensuring that our ports are not targeted for terrorist and criminal activities. Moreover, most of the serious crimes that take place in our seaports are in fact violations of Federal law. For this reason, it makes good sense for the Federal Government to achieve coordination among the various agencies concerned with port and maritime security and to work with the ports to explore ways to minimize criminal activity.

MARAD'S ROLE IN CONTRIBUTING TO PORT SECURITY

Infrastructure

Achieving appropriate levels of security in our seaports is not just a matter of heightened diligence. Port security infrastructure improvement is a critical aspect of modern port security needs. There exists a need for more secure port infrastructures both at home and abroad, and we support potential progress in this area.

Industry Relations

MARAD is well situated to help carry out many of the objectives of the seaport Commission's report, by working with industry and the ports to develop and implement meaningful voluntary guidelines on port security. We believe that partnering with industry on a voluntary basis is the key to progress. We also recognize that each port is different and that one size security plan does not fit all. That is why cooperation between Government and industry is necessary to achieve our common goal of secure ports while promoting marine transportation.

National Security

The movement of military cargoes through our commercial ports is standard practice. Because of our dual mission, MARAD works closely with both the maritime industry and the Department of Defense (DOD). As the Commission's report noted, forward deployment of U.S. troops and equipment overseas in this post cold war era is declining. Ongoing base closure and realignment initiatives have resulted in the closure of several military owned and operated ports. As a result, U.S. commercial ports have become critical centers for military mobilizations. The security of commercial ports during times of military mobilization is therefore critical to national defense.

In developing port security standards MARAD continues to work to bridge the gap between military requirements and industry concerns. A National Port Readiness Network was established between MARAD, Coast Guard and various DOD Commands to ensure, in part, the readiness of commercial seaports in the event of a mobilization. MARAD, as the chair of the National Port Readiness Network (NPRN), also continues its effort to strengthen the NPRN in planning and coordination for military mobilization security at each of 13 commercial ports around the country designated as Strategic Ports.

Domestic Training

The United States Merchant Marine Academy's (USMMA) Global and Maritime Transportation School (GMATS) has teamed with the National Cargo Security Council as well as other key transportation and trade associations to offer leading edge training for professionals in the transportation industry. Among other courses, USMMA's continuing education program offers a comprehensive cargo security training program. The program consists of an intensive 4-day training period using top industry, law enforcement, and Government instructors. Program highlights include instruction in the areas of asset protection, organized crime threats, vulnerabilities of the freight transportation system, industry best practices for minimizing cargo theft and site visits to three major cargo handling facilities representing air, marine and rail modes. Participants also learn how to develop a cargo security management plan and to deal with losses efficiently.

GMATS has also developed customized security programs for Government agencies needing a better understanding of maritime security issues. The school also trains senior level merchant marine officers and naval reservists in pertinent maritime security issues as they relate to shipboard and port security. The intensive program is part of the 2-week national sealift training program designed to improve readiness in the Ready Reserve Fleet and aboard American flag vessels in general.

MARAD has also been instrumental in developing a maritime and terrorism course for the Federal Law Enforcement Training Center. Over the last 5 years, MARAD has conducted training sessions for Gulf Coast port authorities on bomb threats to determine best practices and capabilities of various government agencies and bomb squads. Over 100 port personnel have been trained in this effort.

International

MARAD serves as Chair and Secretariat of the Technical Advisory Group (TAG) on Port Security of the Organization of American States (OAS) Inter-American Committee on Ports. The purpose of the port security TAG is to develop solutions and coordinate multilateral approaches to improving port security in the Western Hemisphere. The TAG seeks to: (1) develop a hemispheric approach to improving the security of the Inter-American maritime trade corridors; (2) develop a common port security strategy; (3) devise basic guidelines and minimum standards of security for ports of member countries of the OAS; and (4) organize and conduct annual courses planned under the Inter-American Port Security Training Program, managed by MARAD.

MARAD has had an on-going port security program with the Organization of American States (OAS) since the 1980s, including port security outreach. Since 1995, MARAD has been conducting port security training courses in the Western Hemisphere. Over 300 commercial port authority police and security personnel from the 34 member countries of the OAS have been trained.

MARAD engages in outreach to foreign countries and their port authorities to enhance the efficiencies of global commerce, which in turn benefit our own maritime industry. By its very nature, trade is an international business in which U.S. companies rely upon the security and efficiencies of foreign ports. For example, MARAD and the Port Authority of Argentina signed a bilateral document on June 24, 1999, declaring their intention to: (1) promote improved security of seaports and waterways, (2) exchange information in matters related to crime and security in seaports and waterways, and (3) develop and coordinate training programs for personnel responsible for seaport operations and security. This bilateral declaration began in multilateral sessions through the OAS Inter-American Committee on Ports.

Publications

MARAD has also played a lead role in developing DOT security publications. These include *Port Security: A National Planning Guide* and *Port Security: Security Force Management*. These guides provide local governments and the commercial maritime industry with a common basis upon which to establish port security standards and the outcomes expected from meeting those standards. MARAD also publishes a report entitled the *"Maritime Security Report"*. The report is an unclassified periodic publication prepared to inform the commercial maritime industry and senior Maritime Administration officials of international criminal activity and security issues which could pose a threat to U.S. commercial maritime interests and the movement of civilian cargoes in foreign trade. The *Maritime Security Report* is intended to increase awareness of the scope and severity of economic crime affecting U.S. maritime commerce in order to deter criminal exploitation of the maritime transportation system and improve port and cargo security in international trade corridors.

Conclusion

Mr. Chairman, we recognize the urgent need for better port security. We heartily support the recommendations of the port security Commission. We look forward to the opportunity to work with other agencies, the industry, and this Committee to improve port security in order to maintain the flow of cargo that is so important to our economy and our military readiness. We appreciate your willingness to consider our views on this topic. I would be happy to answer any questions you or the other Committee members may have at this time.

The CHAIRMAN. Very good.

Admiral Underwood.

STATEMENT OF REAR ADMIRAL JAMES W. UNDERWOOD, DIRECTOR, OFFICE OF INTELLIGENCE AND SECURITY, DEPARTMENT OF TRANSPORTATION

Admiral UNDERWOOD. Good morning, Mr. Chairman and distinguished Members of the Committee. I too would like to thank you and Senator Graham for your leadership in this effort to improve

port and maritime security and for inviting me to discuss the importance of transportation security in our ports and its nexus toward strengthening national security.

As the national security advisor to the Secretary of Transportation, my job is to focus attention on land, sea, and air transportation security issues that protect the safety of the traveling public, ensure the movement of the nation's cargo and preserve the transportation system's critical infrastructure.

Within the department, the Office of Intelligence and Security attempts to identify physical and cyber-vulnerabilities of the nation's transportation system, while working to protect it from asymmetric threats of criminals, terrorists and rogue states bent on attacking Americans here at home.

The Aviation Security Act of 1990 mandated increases to aviation security, including the use of advanced technology, training and awareness to prevent terrorist acts like the bombing of Pan Am Flight 103. The capacity of the aviation industry in the United States has grown since enactment and thankfully, security measures on aircraft and within airport terminals have kept pace.

This is not the case with maritime port security. While the amount of cargo shipped through the U.S. ports has significantly increased during the same period, security resources and measures have not kept pace.

The Interagency Commission on Crime and Security in U.S. Seaports signaled the need for comparable and sustained effort focused on improving maritime transportation and set the groundwork by which multi-jurisdictional government and law enforcement bodies in an industry may fully cooperate with one another.

The Office of the Secretary has taken the lead in bringing together various groups to examine threats to the transportation system infrastructure and we are learning from each other. Our nation's maritime transportation system has been designated as a critical infrastructure essential to both national security as well as economic security.

As our transportation systems become increasingly complex, extensive and interdependent, America's need to move people and cargo quickly and efficiently depends on a transportation infrastructure that will function continuously without serious interruption or delays. Challenging the reliability of the system is an evolving set of asymmetric threats and physical and electronic vulnerabilities yet to be fully assessed.

We must protect against two broad types of threats. First, those that target our transportation system to inflict serious personal injury or disruption, and second, those that use our transportation system as a means to engage in criminal and hostile acts.

It is not necessary to live near or work in a port to be impacted by the threats of port crime. Ships, rail, trucks, and air transportation modes are linked and move cargo thousands of miles across the United States. A container loaded overseas may reach its Midwestern destination without ever being opened for inspection. I am concerned that border security controls and voluntary reporting currently in place are not enough to stop someone intent on causing severe harm to our seaports in the United States.

Prudent and practical measures must be taken to fundamentally improve our nation's security within our unprotected ports and maritime approaches. The risk of a weapon of mass destruction being deployed against the United States by such low tech means as a shipping container delivered to a seaport presents a difficult challenge, but one the United States cannot afford to ignore.

The Office of Intelligence and Security supports the Secretary's effort to coordinate transportation security measures through the department's operating administrations and other Federal, State, and local agencies. The Department of Transportation, through the Office of Intelligence and Security, has served the transportation industry as a source of intelligence and threat dissemination on terrorism.

Furthering the security of our ports requires the involvement of the Office of the Secretary and the United States Coast Guard, the Maritime Administration and other law enforcement agencies at all levels and especially industry.

Maritime transportation is an integral component of our nation's vitality and one of our greatest strengths supporting free markets, free trade and personal freedoms. To advance the safety and security of our ports and waterways requires us to be proactive in our approach, collaborative in our work with Federal, State authorities and private sector and resolute in our determination to diminish the threat of terrorism and crime within the critical maritime infrastructure. I welcome any questions that you have.

[The prepared statement of Rear Admiral Underwood follows:]

PREPARED STATEMENT OF REAR ADMIRAL JAMES W. UNDERWOOD, DIRECTOR, OFFICE OF INTELLIGENCE AND SECURITY, DEPARTMENT OF TRANSPORTATION

Good morning, Mr. Chairman and distinguished Members of the Committee. Thank you for inviting me to appear before you today to discuss the importance of transportation security in our ports and its nexus toward strengthening national security.

As National Security Advisor to the Secretary of Transportation, my job is to focus attention on land, sea and air transportation security issues that protect the safety of the traveling public, ensure the movement of the nation's cargo, and preserve the transportation system's critical infrastructure. Using a nautical analogy, the Office of Intelligence and Security (OIS) serves as the Secretary's lookout, scanning the horizon for the first signs of danger, and then recommending alternatives for safe passage in advance of reaching *extremis*. Within the Department, OIS attempts to identify physical and cyber vulnerabilities of the nation's transportation system, while working to protect it from the asymmetric threats of criminals, terrorists and rogue states bent on attacking Americans here at home.

The Aviation Security Improvement Act of 1990 created the Office of Intelligence and Security to protect the traveling public from terrorist incidents such as the December 1988 bombing of Pan AM 103 over Lockerbie, Scotland. In the years following the enactment of this legislation, increased and publicized security measures, employed technologies, training and awareness have bolstered the public's confidence to fly. And as the capacity of the aviation industry in the United States grew during this period, security measures on aircraft and within airport terminals thankfully kept pace.

This is not the case with maritime port security. The release of the Report of the Interagency Commission on Crime and Security in U.S. Seaports signaled the need for a comparable and sustained effort focused on improving maritime transportation security—especially our strategic and economically vital ports. As you are aware, this report prescribes numerous recommendations directed at preventing both crime and terrorism. Whether it is crime, involving cargo theft and trade fraud, or terrorism occurring either within the port or via weapons of mass destruction transshipped to anywhere in the United States, the Report's recommendations provide a firm foundation to improve maritime security and safety. And perhaps most importantly, the Report sets the groundwork by which multi-jurisdictional and authori-

tative government and law enforcement bodies and industry may fully cooperate with one another.

The Office of the Secretary has taken the lead in bringing together various groups to examine threats to the transportation system infrastructure. We are learning from each other. FAA's experience in improving security at airports offers valuable lessons for seaport security. For example, they have already developed a system for checking the criminal history of employees with access to sensitive areas. This is one of the recommended measures in the report of the Interagency Commission on Crime and Security in U.S. Seaports for which the aviation security model may be applicable.

Our nation's maritime transportation system has been designated as a critical infrastructure, essential to both national security as well as economic security. As our transportation systems become increasingly more complex, extensive, and interdependent, America's need to move people and cargo quickly and efficiently depends on a transportation infrastructure that will function continuously, without serious interruption or delays. Challenging the reliability of this system is an evolving set of asymmetric threats and physical and electronic vulnerabilities yet to be fully assessed.

We must protect against two broad types of threats: (1) those that target our transportation system to inflict serious personal injury or serious disruption, and (2) those that use our transportation system as a means to engage in or perpetrate criminal and hostile acts.

It is not necessary to live near or work in a port to be impacted by the threats of port crime. Ships, rail, trucks and air transportation modes are linked and move cargo thousands of miles across the United States. A container loaded overseas may reach its Midwestern destination without ever being opened for inspection. In light of the recent outbreak of Hoof and Mouth Disease in the United Kingdom and Europe, national border security was increased to thwart the introduction of this disease. However, I am concerned that border security controls and voluntary reporting would not be enough to stop someone *intent* on causing severe harm, by way of our seaports, to the United States.

Several recent studies and threat assessments have underscored the persistent nature of the threats that require U.S. attention as they relate to port security:

• *The December 2000 International Crime Threat Assessment* indicates that the threat to the U.S. from international crime continues to grow as criminals and terrorists exploit the globalization of trade and finance and rapid changes in technology. It further states that drug trafficking, illegal migration, and environmental crimes as well as international terrorism using both sophisticated and crude weapons will persist.

• *The CIA's Global Trends 2015 Report* identifies the propensity for present and potential adversaries to avoid U.S. military strengths and exploit perceived national weaknesses. Furthermore, this report notes that such asymmetric opportunism will "become the dominant characteristic of most threats to the U.S. homeland." A balanced national security strategy requires an effective and comprehensive action plan that addresses such traditional "low technology" threats.

Prudent and practical measures must be taken to fundamentally improve our nation's security within our unprotected ports and maritime approaches. Our attention could not be more appropriate given the concern expressed by President Bush in his 1999 speech at the Citadel, in which he noted: "weapons can be delivered, not just by ballistic missiles, but by everything from airplanes to cruise missiles, from shipping containers to suitcases." The risk of a weapon of mass destruction being deployed against the United States by such low-tech means as a shipping container delivered to a seaport presents a difficult challenge, but one the United States cannot afford to ignore.

The Office of Intelligence and Security supports the Secretary's effort to coordinate transportation security measures throughout the Department's operating administrations and other Federal, State and local agencies. The Department of Transportation, through the Office of Intelligence and Security has served the transportation industry as a source for intelligence and threat dissemination on terrorism. Furthering the security of our ports requires the involvement of the Office of the Secretary, the U.S. Coast Guard and the Maritime Administration, and other government law enforcement agencies at all levels, and *especially* industry.

Maritime transportation is an integral component of our nation's economic vitality, and one of our greatest strengths supporting free markets, free trade and personal freedoms. To advance the safety and security of our ports and waterways requires us to be proactive in our approach, collaborative in our work with Federal, State, local authorities and the private sector, and resolute in our determination to

diminish the threat of terrorism and crime within the critical maritime infrastructure.

The CHAIRMAN. I am pleased this morning to have Senator Edwards with us.

Admiral Underwood, we talk in terms of drugs. We talk in terms even of immigration. I noted last year I think it was, some of these containers actually had Chinese refugees—or whatever you want to call them—actually, when they opened the container, several were dead. They just piled into these containers.

So going right to your observation about reaching a Midwest destination, not immigration, not drugs, but hoof and mouth disease. They could be loaded on at some foreign destination and get all the way into the Midwest and spread the disease itself and we would be running around checking every airport and everything else of that kind and stepping up security. But, it might well get to Omaha, Nebraska and be unloaded with nobody looking around or anything else of that kind, couldn't it?

Admiral UNDERWOOD. It is a very good concern that we have and share. One example that I'm aware of was during the recent hoof and mouth outbreak of a rock band that was in Britain at the time and had its next concert in New Orleans and the shipping container that had its stage loaded on it was shipped through Charleston, South Carolina and fortunately, inspectors on the dock in Charleston stopped that container and found mud that was in on the stage inside the container.

The CHAIRMAN. Talking about Charleston, South Carolina, Admiral Loy, you described what happened down in Miami and an alert with respect to a passenger vessel and you had a plan on course and it was completed and engaged in. Do you have one for Charleston? I suppose if you had a similar kind of alert?

Admiral LOY. Yes, sir, we certainly do. There are several things important in play there. First of all, the Passenger Vessel Safety Act. Had the cruise ship been in Charleston or Savannah or any other port, we would have been able to exercise it because of two things. First of all, the local captain of the port has his own contingency plans to deal with a variety of different possibilities.

Second, in this case, the cruise liner itself and the ICCL, the International Cruise Line Association, imposes the requirement for them to be able to deal with those kind of events when they occur.

Now, are they even remotely foolproof? No, sir, they are certainly not. But in the instance of the Miami case, we were able—first of all, because we had the bomb threat, had the culprit simply planted the bomb and never made the threat, whether or not the activation process would have been adequate is a very different story.

The CHAIRMAN. That is for the vessel, but not the port itself. For example, the captain of the port there in Charleston, how often does he check, not just with the Coast Guard and his own troops, seamen you can call it, but rather Customs, the DEA, the actual local authorities and everything else? Has he enunciated a plan of security for the Port of Charleston and everybody knows about it and everybody is ready to go to war if something occurs and so forth?

Admiral LOY. No, sir. I don't believe those are in place and the reality there is that we would hope that in the wake of vulner-

ability assessments taken on our ports we could depend on the captain of the port's led harbor safety committees and port security committees to produce precisely those action plans, to tabletop exercise them and to, in fact, field exercise them in some kind of frequency over the course of the future.

The CHAIRMAN. This is rather new, but at the Coast Guard Academy, are these graduates all inculcated in port security?

Do they know, I mean, other than just going on the vessel and everything else, which is the usual 95 percent or 99 percent of the work out at sea, and so forth like that, would they know about port security?

Admiral LOY. Not at the level that you would want them to know to be a good operator in your port, sir. Those are, if you will, on-the-job training kinds of opportunities that one gets specialized in either through our marine safety track as a marine safety professional or in our shore operations track, where they would populate the stations and groups to be supportive when necessary to the local captain of the port.

So not focused training at the academy, no.

The CHAIRMAN. How about the Port and Maritime Security Bill updating the 1936 Act that we introduced last week? Do you have any criticisms, misgivings about it or suggestions that we can do to improve on it?

Admiral LOY. Sir, as I indicated in my sort of menu that I wanted to leave with my verbal statement, I am convinced that the Act is a terrific step in the right direction.

I was trying to paint the picture of 2 years ago when we sent the Marine Transportation System Report from the Department to the Congress, it talked about safety, security, environmental issues, infrastructure, investment issues and many, many other things. I am convinced that tactically we did not have our act together very well then, and we sent up something that was sort of unconsumable by the Congress.

The Commission that Senator Graham and others influenced, in reality last year broke the security piece out from that bigger picture and said "let's focus on this first and get about the business of improving security." I think both the results of the Commission and the recommendations now found in the law that you found in the bill that you have offered, take us exactly in the directions that we should be going, sir.

The CHAIRMAN. Very good.

Mr. Carlton, what about the Maritime Administration. Do you have any suggestions?

Mr. CARLTON. Mr. Chairman, I would join Admiral Loy in just commenting very briefly that we believe that you and the Committee have done us all a great service by turning on the bright light on this issue. That has been missing.

We devoted a tremendous amount of resources in our Federal budget and through our other activities in aviation in particular. The shortcomings that the Commission and other studies have highlighted, bring this into sharper focus and what I believe the draft bill does is it is going to stimulate this discussion, stimulate this debate and we look forward to working with you and your staff to move this on.

The bill is a massive undertaking. I note that in passing the bill has grown in size substantially. It is broad, comprehensive and it has a very extensive reach. In all truth, I have not digested all of its content, but I am looking forward to a full and thorough look through it.

We will be back to talk to your staff about the details, but it is absolutely, as Admiral Loy has just said, it is absolutely a major step in the right direction to bring appropriate national level, Congressional level attention to this issue.

The CHAIRMAN. That is exactly what we need is that media, friends in the media, to bring attention to the American public, the Congress in particular, that we have got to do something about maritime. I know at the beginning of Desert Storm, we were recruiting retired 85-year-old ship captains, broken down vessels. For a while, they thought we were invading Seville, Spain, with all of them limping in there rather than getting all the way to the Gulf. I have been, for 34 years now, meeting, meeting, meeting, and "this is an emergency and we've got to do something," but nothing ever happened.

Mr. Winwood, with respect to the budget, your budget has been cut back, too, because I will never forget in the debate on NAFTA, my colleague on the House side gave up his vote in favor of NAFTA when he was promised 500 extra Customs agents.

You folks have testified it was $5 billion in textiles, in violation of Customs, just trans-shipped through Customs that you weren't able to check. So we got supposedly 500 extra agents and they never were hired.

I went back to you folks in Customs and you said "well, what do you want me to do, stop textiles or stop drugs?" I said "Well, obviously, stop drugs." Are you still short agents over there?

Mr. WINWOOD. I'll tell you, Senator, thanks to a lot of good support of the Congress in general, and the Senate specifically, if you look at the year 2001, we had an influx of a tremendous amount of personnel. I am pleased to say that all the salary moneys we received in the budget year of 2001, we have hired every position. We have added several hundred people to the rolls this year and I think we are doing a much better job in bringing balance, not only to commercial fraud and trade responsibilities, but also heavy emphasis on our narcotics responsibilities to include the influx of technology.

I would like to make one more mention, if I may. We're continuing to get great support in the Congress and, I must say, Senator Edwards, I appreciate very much the letter that you sent to our Subcommittee on Postal, Treasury on ACE funding. In the automated commercial environment which will take us to the next generation of the proper type of automation necessary to take what Admiral Loy has been referring to, is you take a stream of data, you turn that into knowledge and you turn that into tactical information. The influx of money and the building of this new modern ACE infrastructure will go a long way to totally supporting the future of the government's effort in this area and the Customs Service specifically.

The CHAIRMAN. You stated in the prepared statement: "We are using powerful new x-ray systems capable of examining entire

trucks and rail cars at a time." I take it this is down at the Southwest border?

Now, we had a transportation hearing just last week. We found out that 27 checkpoints coming up from Mexico, only two of them are really manned for trucks. Is that the two of them where you have got this x-ray equipment?

Mr. WINWOOD. Well, we have the x-ray equipment in several locations along the Southern border. If I may just digress for a second.

The CHAIRMAN. I want this kind of equipment at Charleston. We do not care about Wilmington.

Mr. WINWOOD. We are trying to get it there.

Senator EDWARDS. You don't care.

Mr. WINWOOD. We had what we call an NII, or Non-Intrusive technology 5-year plan that we put together in 1997. Thanks again to the Senate and Congress, we received $134 million 2 years ago to have this plan put into place.

This plan allows us to buy, either through research and development or through existing equipment, buy what we call high-tech equipment, x-ray, Vax machines, gamma machines that we started on our southern tier.

The good news is we are putting it in our seaports and we are putting in our high threat seaports first. For instance, we already have 15 pieces of this high technology in 13 seaport locations.

The CHAIRMAN. Is that the equivalent they have at Rotterdam where they can scan or screen an entire container?

Mr. WINWOOD. Yes, sir. As a matter of fact, we have 22 more pieces coming online to be placed in the other seaports between now and fiscal year 2003, and based on some additional money you are trying to get us, we have plans to put another 22 pieces of equipment to put into 20 locations at our seaport locations. So the good news is we got a good start. The additional news is we have a long way to go.

But we are using high-tech equipment. We have a plan to increase the use of high-tech equipment at our seaports and we are demonstrating the value of that high-tech equipment at our seaports right now.

We did start at our Southern tier because of the massive influx of trucks and the fast movement, but we are using those systems at our seaports for container examinations that have been quite successful. We have tremendous success with this technology for narcotics interceptions.

The CHAIRMAN. Obviously in the 20s, the plan, is Charleston included in that 20?

Mr. WINWOOD. I will have to go back and check our sheet and then let you know. I don't know for sure, but we are definitely putting it in high threat areas.

The CHAIRMAN. Well, we have got $68 million in our bill, too. We are watching that transportation bill because we include extra moneys in it. It is really getting ahead of the authorization, which is fine business with me.

Senator Edwards.

STATEMENT OF HON. JOHN EDWARDS, U.S. SENATOR FROM NORTH CAROLINA

Senator EDWARDS. Thank you, Mr. Chairman.

Mr. Chairman, thank you very much for your work in this area and I hope we will be able to work with you on this seaport security legislation that I know you are leading the way on. I also want to thank my other Chairman, Senator Graham for his leadership as the Chairman of the Intelligence Committee and also thank the witnesses for all the work you do, how important it is to our national security, how important it is to controlling criminal activity at our seaports. And we have a seaport in Wilmington, North Carolina that we are very proud of and we thank you very much for the work that you do.

I want to focus if I can this morning specifically on the issue of terrorism and potential terrorism at the seaports. I have become convinced during the time I have been on the Intelligence Committee that the most serious national security risk that we face over the course of the next decade is terrorism. In response to that, I had been working on a set of comprehensive ideas and proposals to address the terrorism issue, and how it affects our national security here in this country.

But today, I want to focus specifically on terrorism at seaports. Now, some of the things, some of the ideas and proposals I have are things that you all have talked about or made reference to.

Mr. Woodward just made reference to the ACE during his testimony. But let me just mention these ideas, if I can, to you. I have got basically five proposals.

First is that we need to improve our ability to detect chemical, biological, nuclear weapons, weapons of mass destruction. I know that you are aware of the fact that there are very promising new technologies available out there and my belief is that we need to invest in these new technologies and begin to use them as soon as we possibly can, as soon as it becomes practical. We also need to make better use of these so-called "smart containers" that places these GPS tracking devices on cargo.

Second is to streamline the movement of legitimate commerce through our ports so we can focus more on high-risk cargo and carriers. That sounds kind of counterintuitive to some people, but I think if we can move more quickly, the cargo that we know is low risk, deal with the shippers that we know are reliable and good citizens, then I think it allows us to focus more of our resources and attention on those that we need to be most concerned about.

Third is to just strengthen and modernize the Coast Guard and to improve its ability to interdict potential threats to our seaports before they get to our shores.

Fourth, to improve the coordination between law enforcement and trade agencies and at the Federal, State, and local level. Like so many of our efforts to fight terrorism, lack of effective communication can sometimes be an enormous obstacle and I think we need to integrate this effort, make sure that these folks are working together and that they are communicating, and communicating efficiently.

Finally, to help our allies and our trading partners improve security at their seaports. Obviously, that is a critical component of try-

ing to avoid terrorism and protect our national security. I know some of these you all have made reference to during the course of your testimony, but I would like for you, if you would, to comment on these ideas and proposals.

Mr. Winwood, we will just start with you.

Mr. WINWOOD. Well, first of all, Senator, I think this is a great list and I agree wholeheartedly with these actions. I'm sure the Admiral will be glad to hear me say I support the increased support to the Coast Guard.

But I would like to make a couple of comments on something that we've already started and I'll start at the bottom of the list. You talk about help our allies. I won't speak to Europe and some of the other places, but I will give you one example of where cooperation with a foreign government and our counterparts can be very productive. If somebody would have the opportunity to take a look at the advancement in security issues that have been handled in Cartagena, Colombia, which is a major threat to the United States as far as the movement of illicit narcotics, etcetera, coming into this country.

Cartagena, based on a combination of working, or a program we've started in the Customs Service called BASC, the Business Anti-Smuggling Coalition, which is a partnership between the business community and the government to look at ways to help educate those people to take care of themselves to improve security to avoid them being victims of crime. Between that and the security measures that Cartagena has put in for additional security controlling access and egress, special background checks of their employees who work on the seaport, control of who works there, they have done a tremendous job in securing that particular port which makes our life easier for that type of activity coming into the United States.

Coordination with the trade and the Federal, State and locals. I think there's some good news there and I think it could be even better. So I wholeheartedly support that. The more we can talk together, the more we can share information, the more we can work on a common goal, the more effective we will be.

If I may say something about the legitimate cargo, which is one of the areas that we consider ourselves to be an expert in, we have some great programs going in that area. For instance, we have, through our risk management strategy that we have established in the Customs Service, we have come up with a methodology to divide our world into three parts: that which is low risk through 3 or 4 years worth of continued analysis; cooperation with the business community and examinations to prove our case; to high risk, those which we need to be more focused on or we do not know much about.

We now have a series of 160 major importers that bring goods into the United States that we have classified as low risk, which means we can divert our attention away from those types of companies and their commodities and their containers and focus on the unknown and high risk.

Now, that doesn't sound like a lot, 160, but what that represents is 20 percent of the volume and value of goods coming into the United States. It means that next year we can avoid approximately

25,000 exams that we won't have to do because we have already identified these particular companies and we are going to expand on that strategy, very detailed, very comprehensive approach. I think it is the only way.

It is not how many you examine, it is what you examine. You have to examine the right—it is not the percentage, it is are you examining the right ones and that is what we are trying to focus on.

And of course, I can't say more about technology. I mean, it is critical that we have the technology and as we get available to us the types that help us discern chemical and biological, we will most definitely try it.

If I may add one thing, I misspoke, Senator. If you have the opportunity, we do have a mobile Vax truck in the port of Charleston, South Carolina, and it is one of our high-tech pieces of equipment. I'm sorry I didn't mention earlier, but I'd welcome you to take a look at it sometime at your convenience.

The CHAIRMAN. It has got to be mobile because it has to go from Columbus Street to the North terminal and back again.

Mr. WINWOOD. That's why we made it mobile.

Senator EDWARDS. Admiral Loy, would you mind responding?

Admiral LOY. Yes, sir, I would certainly agree with Chuck that the list you have offered us here as a set of challenges is right on target. There are a couple of thoughts with respect to several of those things that we are working on very hard.

This notion of being able to differentiate between the low threat and high threat, whether it is a shipper, whether it is an owner, whether it is a ship, whether it is a person on that ship, a master or a member of the crew, whether it is cargo destinations or cargo, where it began. We have entered into a memorandum of agreement with the National Security Council, with INS, with the State Department, with DOD, with the Department of the Navy. The notion here is this idea of maritime domain awareness, that knowledge, in fact, is power and we have got to get a better handle on where data becomes actionable for us to actually separate the suspicious from the non-suspicious.

Chuck's discussion of their efforts in that regard are, I think, right on target. We are attempting to do the same thing simply coming from the premise that we are dealing with either vessels, people or cargo one way or the other. And if we can get an integrated set of data that we can fuse together such that the national databank on people fused with the national databank on vessels fused with the national databank on cargo, would allow any of us in the business to access that fused package and make a better set of decisions as to which container to inspect. Or in our instance, as we execute our port State control evolutions day after day after day in every port in the United States, which ones of those vessels are we going to stop and scrub to their keel before we allow them continued entry into our ports.

So the waterside side of that as well as shoreside of that has to be a hand-in-glove kind of operation. The Customs Service has been very aware what we are doing with this maritime domain awareness notion. We are centering the effort at the Coast Guard Intelligence Center here in Suitland, Maryland. I think it is about

at the level, sir, where perhaps even a visit so as to gain an appreciation of what we are trying to do there would be of value to you.

Second, I would go back to this notion of a model port.

I want to make sure that folks like you will hear from in the second panel are not turned away from the notion because what it is, is a generic set of attributes that we would like to see reach whatever the minimum thresholds are with respect to not only security, but safety, environmental protection and lots of other dimensions of any given port's work.

If we can have that set of standards determined by a group of people that will be gathered together to form them and then when we on our teams go and assess the vulnerability of any one of those ports we have an index against which to measure the assessment.

We can determine gaps and we can encourage them, the harbor safety committees and port security committees in those local ports to build the action plan that will close the gap to get us to the acceptable level of security and safety that we want in our ports.

Risk management, a phrase that the Customs Service uses an awful lot these days because of the volume of challenge we have, is a rather simple notion. It is about probability times consequences; the probability of an event occurring times the consequences if it occurs. That is what a risk management evolution and thought pattern is all about. We want to be able to identify those risk management solutions that offer us the very best opportunity to have the most impact with the resources that we can devote to the issue.

So I think this streamlining notion that you have is right on target, sir. Certainly, the technological end with our partners in the FBI and DOD who are doing an awful lot of good work with respect to the sensors dealing with weapons of mass destruction is right on target, and we have to be joined hand-in-glove with them to do that as well.

Improved coordination was the most straightforward and simple recommendation that emerged from our Maritime Transportation System Report to the Congress that we submitted in September 1999. It is no less important today as it was then and the opportunity for to us do better is very, very real.

Last comment, on international seaports. I too, have visited the Hong Kongs and the Singapores and Rotterdams of the world and watched both the technological innovations there, a sea-land port in Rotterdam which is totally robotic. You pull that ship up to the pier, you don't see a person anywhere, but a computer-controlled set of access to deal with which container is going to go where. The process end of it is one thing. The security dimension can be built right into that same system if we are careful of what we do.

The Hart-Rudman Commission in its first report said, sir, two things. One, we have two phenomena going on in this world that are very real: globalization of the economy and this notion of homeland security and a widening threat to the security of the nation, of the United States. They appear to be conflicting things that if we wanted to deal only with facilitating commerce, we would open the security valves at our ports and let the commerce flow. But if we are concerned about homeland security, we have to tighten those valves down to restrict access to the ports. We think this do-

main awareness notion is the umbrella that can allow both of those things to go on as constructively as we can.

Senator EDWARDS. Thank you, Mr. Chairman.

The CHAIRMAN. That is exactly what we are concerned about, Admiral Loy. I guess the port officials, the local folks, there's a culture that we let the cargo go. Do not worry about it, it moves if it comes through our particular port. And that culture has got to be indoctrinated to deal with security.

Admiral LOY. Absolutely.

The CHAIRMAN. There is no question that is really badly needed and how to get them to move and cooperate is the tough part. That is why we are going in a gradual fashion. There is also the question of labor. If you want a job out here with the captain of police, you have got to get a polygraph.

I find that on the Intelligence Committee. Maybe you can get the staff checked. When I was on it, they had all kinds of leaks. So I figured it was the staff and we learned in the world that you never ask a man to do anything that you are not going to do yourself first. So I went over there to get me a lie detector test, and the first question, I started my answer: "In my humble opinion"; and the needle just went right straight across over there. So I don't know how to comment, whether he got the same kind of test or not. But that is what we have to do.

Now, we want to get something done, and we did not want just a roadblock. And our good labor friends that really run these ports, and just nothing happened. We have to work out some way to check those in particularly secure positions and we will look for a recommendation from each of you on that particular score because that was left out of the bill.

We have got a very important second panel here. The Committee is indebted to each of you and the record will stay open for questions by the Members. Thank you very much, and we will ask panel two to come forward as quickly as possible.

Mr. Michael Leone, the Port Director of the Port of Massachusetts; Basil Maher, the President and Chief Operating Officer, Maher Terminals; John L. Miller, the Executive Vice President of International Transportation Service; James M. Craig, the Vice President of the American Institute of Marine Underwriters; and Kim E. Petersen, the Executive Director of the Maritime Security Council.

Mr. Petersen, thank you very much. I understand Mr. Petersen has got to catch a plane, so we will start over here on my right.

Mr. Peterson, we welcome you and we are glad to hear from you at this time. The full statements will be included in the record and we will ask you to summarize as best you can.

STATEMENT OF KIM E. PETERSEN, EXECUTIVE DIRECTOR, MARITIME SECURITY COUNCIL

Mr. PETERSEN. Thank you, Mr. Chairman and Members of the Committee. As the Executive Director of the Maritime Security Council, I am pleased to have this opportunity to address the Committee today to relate the views and concerns of our membership on the proposed Port and Maritime Security Act of 2001. With your

indulgence, I would like to provide you with a thumbnail sketch of the Maritime Security Council.

The MSC was created in 1988 to address the many security concerns of the U.S. and international and maritime community. The MSC is a member-driven organization that works closely with United States Government agencies concerned with maritime security and counterterrorism.

Our mission is to advance the security interests of the international merchant marine community against terrorist and criminal threats. The MSC represents maritime interests before government bodies, works in partnership with industry and government, disseminates timely information to its members, encourages the development of industry-specific technologies and convenes conferences and meetings for the membership. The MSC has established partnerships with a number of these agencies to prevent illegal drug trafficking, stowaways, theft, piracy, terrorism and hijackings.

Our membership consists of 65 percent of the world's commercial ocean carrier fleet, including cruise lines, numerous maritime services companies and port authorities. We work with many agencies, including the UN's International Maritime Organization, U.S. Customs, U.S. Coast Guard, INS, State Department, U.S. Navy, Drug Enforcement Agency, the U.S. intelligence agencies, the Federal Law Enforcement Training Center, as well as government bodies in the United Kingdom and Canada.

With regard to the Port and Maritime Security Act of 2001, the MSC finds laudable the steps taken by the Committee and Senators Hollings and Graham and their efforts to establish minimum and effective security standards for U.S. and foreign ports. This last decade has seen shipowners invest significant amounts in security infrastructure in operations improvements. But the sad fact is that port authorities have failed to keep pace. Rarely has this been due to oversight by port directors; rather, it is the unfortunate byproduct of shortsighted budget cuts, departmental downsizings and the lack of Federal leadership in financial assistance.

The past year has demonstrated it is incumbent upon many ports to review, analyze and implement improvements in physical, personnel and information security, particularly now as the range of threats has expanded. Unlike 10 years ago, the U.S. now faces an amalgam of threats that have heretofore been more likely the subject of "Rambo" movies than reality. Weapons of mass destruction, chemical and biological agents, nuclear devices, sophisticated human smuggling schemes, high-tech approaches to narcotics smuggling are all at the top of the list.

Many shipowners have made huge strides to protect their vessels, employing state-of-the-art access control devices, electronic narcotics and explosives detectors, and even devices that detect stowaways by way of CO_2 concentrations in their intermodal containers.

Equal resolve has not been shown by many ports who have been relying upon shipowners to do the heavy lifting. Clearly, the efforts of the Interagency Commission on Crime and Security in the United States Seaports demonstrated that it is incumbent upon ports to match this effort in the protection of their perimeters and

facilities. Additionally, the MSC believes there has been a systemic failure to adequately address security awareness within the maritime community.

Security has become an integral part of the operational fabric within the aviation industry, as an example, with strong messages of security awareness broadcast both publicly and internally—and with the consequent effect of heightened deterrence and employee participation. A similar approach must be taken by the maritime industry, and as an industry we look to the government to support such an effort with funding, research and long-term commitment.

While the MSC applauds the efforts of the President's Seaport Commission, it also recognizes the intrinsic weakness of its mandate: providing a critical review of United States ports as they relate to maritime security. The MSC would like to underscore that, no less important, and arguably more so than U.S. ports, are the relative standards of security found in foreign ports that are a direct sources of merchant shipping bound for U.S. ports. Whether it is WMDs, stowaways, or drugs, the fundamental fact is that each of these threats will likely have as their source some port outside the United States. So long as the emphasis is on interdiction rather than prevention at the source, the U.S. will remain vulnerable. We applaud this legislation for addressing this issue.

In 1999, the MSC launched an initiative that recommends a partnership between key Federal agencies and the MSC to first quantify the scope of the problem associated with the lack of internationally recognized minimum standards of security for all international ports, (that is, ports with merchant traffic that have points of origin or destination outside their own national boundaries), and second, to develop and recommend tiered standards pegged to the cargo/passenger throughput, GNP, et cetera, that would codify such standards much like what was previously done with international airports.

We hope that this initiative, and the Maritime Security Council's unique ability to assist in such efforts, will not be lost in the scramble to accomplish the goals of this legislation.

While we applaud the intent of the legislation, we nevertheless have reservations about the key elements of its provisions. For example, we concur that intelligence and information sharing among law enforcement agencies needs to be improved and coordinated at many seaports. Most seaports have little or no idea of the threats they face from crime, terrorism, stowaways, and other illegal activities, due to lack of coordination and cooperation between law enforcement and intelligence agencies and the sea carriers themselves.

It is vital for the Members of this Committee to understand that the lion's share of intelligence relating to maritime crime comes from the industry itself. Just like the seaports, the sea carriers, which include cargo ships, cruise ships and other merchant vessels, are victims in these illegal activities, and as such, they work tirelessly to identify threats, minimize vulnerabilities and reduce their risk.

If you ask the Office of Naval Intelligence or the Central Intelligence Agency or the Coast Guard where the bulk of their intel-

ligence comes from, they will certainly tell you it is the industry and the shippers themselves.

Many are not aware of the fact that there exists today an ad hoc working group that is composed of key Federal agencies, including the Defense and intelligence groups and industry representatives from the Maritime Security Council and the ICCL. The MSC and ICCL members have U.S. security clearances and the technical means to communicate classified information in order that they and the government agencies represented in the working group can share information and, if necessary, discuss raw intelligence findings so as to jointly propose reasonable actions to take so as to protect innocent lives and property. The reason that this unique and effective partnership exists is that the government agencies involved in maritime security recognize that much of the expertise and the intelligence from the field resides in the sea carrier community and not in the government. Any effort to improve the standard of communication between law enforcement and other government agencies and seaports must also include provisions for industry participation. Absent such provisions, the efforts to strengthen U.S. seaport security is doomed to failure.

The same participation by industry is also essential for the establishment of Port Security Task Force and the local port security committees recommended in this legislation. Umbrella non-profit organizations representing sea carriers must be included to ensure that their resources and concerns are not overlooked. Indeed, we can only assume it to be an oversight that membership in the proposed seaport committees is limited to the port authorities, Federal, State and local government and their law enforcement agencies, labor organizations and transportation workers, and those private sector representatives whose inclusion is deemed beneficial by the Coast Guard Captain of the Port. I do not believe it was the intention of the Committee to have seaport security issues reviewed by stevedore's unions, but not by the sea carriers as well.

Seaport security and vulnerability assessments are vital for conducting risk assessments of U.S. and foreign ports. The U.S. Coast Guard has done an admirable job in performing such assessments of foreign ports of what can only be described as ridiculously low funding.

Funding for these assessments is anemic. Despite hundreds of thousands of U.S. citizens visiting ports around the world, the risks of which are little known to the government. In some years, less than five assessments are performed—in some cases the assessments are canceled altogether due to the ports being deemed too hazardous for military personnel to visit. Yet these same ports are visited by American tourists on a regular basis, not knowing the potential risks.

The Committee should know that the maritime industry itself is committed to improving the safety of foreign ports, particularly those visited by cruise ships. As the former Director of Security for both Princess and Renaissance Cruises, I performed security audits in over 160 ports in 106 countries. If a port had problems, the industry would assist the port authority in identifying weaknesses and those low-cost or no-cost measures that could reduce their exposure to risk. Mind you, none of this is mandated by legislation

or done with U.S. assistance. It is just good business to protect the lives and property of our passengers and cargo. But there needs to be Federal help to do this correctly.

The Act also recommends the use of the FBI's Integrated Automated Fingerprint Identification System for port authority background checks. The MSC recognizes the sensitivity of this issue, particularly given the volatility of any form of background checks with various unions and waterfront organizations. While the majority of dock workers are honest and absent a criminal background or criminal ties, it is nevertheless recognized by government agencies, port authorities and sea carriers that the majority of crimes committed within the ports are by those employees that have access within their confines. Access controls, coupled with background checks of all those port employees that have access to restricted areas, which by definition includes docks and ships, would have a significant effect in reducing the over $1 billion lost in cargo theft annually, as well as minimizing overall criminal risks within these ports. There also needs to be effective visitor controls, using state-of-the-art technologies such as Fast Pass and A-Pass.

The Act recommends an International Seaport Security Initiative designed to encourage the development and adoption of seaport security standards under international agreements in other countries. This, and the follow-on Port Accreditation Program, were first proposed in an international conference on maritime security hosted by the Maritime Security Council in 1998.

In 2000, I met with the UN's International Maritime Organization in London and discussed this issue. The IMO expressed interest in working with the MSC and United States Government in the creation of a tiered set of standards of port security that could be used to increase the security in Third World countries to acceptable levels. It is important to recognize that by itself, the United States would be hard put to see such far-reaching an effort succeed without the assistance of the international sea carrier community.

The MSC's constituents are both familiar with the ports of concern and work with these port authorities on a regular basis. For reasons previously articulated, and due to its extant efforts in this pursuit, we believe that the MSC must be an integral partner in the Act's International Seaport Security Initiative.

The Act proposes the creation of a Maritime Security Institute to develop standards and procedures for training and certification of maritime security professionals. The MSC is flattered that such an initiative is being proposed, as the MSC created the Maritime Security Institute in 2000 for the same purposes as detailed in the Act. It was also the intention of the MSC to combine efforts with the U.S. Treasury's Federal Law Enforcement Training Center, which is already recognized for its outstanding course work in seaport security and counterterrorism. The MSC stands ready to work with the U.S. Merchant Marine Academy and the International Association of Airport and Seaport Police to further develop the Maritime Security Institute.

However, the MSC recommends that the Maritime Security Institute be based in Charleston, South Carolina, not at the U.S. Merchant Marine Academy, as is recommended in the legislation. The Federal Law Enforcement Training Center already has estab-

lished in Charleston a training facility that sees nearly 30,000 students per year. While the U.S. Merchant Marine Academy is undoubtedly one of the finest merchant marine training centers in the world, the Maritime Security Institute will focus more on law enforcement than it will merchant marine training. Given the quality of maritime security, law enforcement, and criminal investigation training that already takes place at the Charleston facility, plus the added benefits of its proximity to a major U.S. port, a mild climate that lends itself to year-round outdoor training, and greater accessibility to the majority of sea carriers which tend to be located in the southern United States, Charleston is a better choice and the MSC recommends a change.

The Act recommends that loans and grants be made available for port security infrastructure improvements, which the Maritime Security Council applauds. Under eligible projects, the MSC would recommend including conferences and seminars which aim is to educate and improve maritime security in the U.S. and overseas. The role of education should be seen as a predicate to hardware improvements at our seaports and such inclusion under this section of the Act would help to ensure that.

Finally, Mr. Chairman, the Act recommends that the revision of the Department of Transportation's Port Security Planning Guide be made available over the Internet. The MSC believes that the dissemination of information, including guides of this sort, that provide detailed security planning guidance regarding the nation's seaports, is best done through official sources. Placing such information on the Internet could place sensitive security guidelines in the hands of terrorists or criminals that could derive benefit from their contents. It is not likely that those ports and other end-users who have a legitimate need for security planning information, would not have access to it through the U.S. Coast Guard, U.S. Department of Transportation, MARAD or other official sources. The Port Security Planning Guides should be treated as "For Official Use Only" documents and promulgated as such.

I'd like to thank the Committee and its Members for this opportunity to address this important legislative effort. The proposed Port and Maritime Security Act of 2001, with the modifications we have put forward to you today, as well as the details and budgetary changes spelled out in my prepared remarks which I asked to be included in the record, stands to be one of the most important steps taken by any government to protect its ports and sea carriers from an amalgam of unchecked risks.

We at the MSC stand prepared, as we always have, to assist this Committee and its staff in this important undertaking. The Maritime Security Council will be dedicating a significant portion of its annual conference here in Washington to the issues raised in this hearing. I invite each of you to attend on the 18th and 19th of September to help us find new ways to improve maritime security.

Mr. Chairman, I look forward to answering any questions you may have.

[The prepared statement of Mr. Petersen follows:]

PREPARED STATEMENT OF KIM E. PETERSEN, EXECUTIVE DIRECTOR, MARITIME SECURITY COUNCIL

Thank you Mr. Chairman and Members of the Committee. As the Executive Director of the Maritime Security Council, I am pleased to have this opportunity to address the Committee today to relate the views and concerns of our membership on the proposed Port and Maritime Security Act of 2001.

BACKGROUND

The Maritime Security Council was created in 1988 to address the many security concerns of the U.S. and international maritime community. The MSC is a member-driven organization that works closely with United States government agencies concerned with maritime security and counterterrorism.

Our mission is to advance the security interests of the international merchant marine community against criminal and terrorist threats. The MSC represents maritime interests before government bodies; works in partnership with industry and government; disseminates timely information to its members; encourages the development of industry-specific technologies; and, convenes conferences and meetings for the membership. The MSC has established partnerships with a number of these agencies to prevent illegal drug trafficking, stowaways, theft, piracy, terrorism, and hijacking.

The MSC's international membership includes over 65 percent of the world's commercial ocean carrier fleet (by tonnage), cruise lines, numerous maritime service companies, port authorities, P&I clubs, shipping groups, ships' agents, maritime law firms, and technical and engineering firms serving the maritime industry. The MSC works with many agencies, including the U.N.'s International Maritime Organization, the U.S. Customs Service, U.S. Coast Guard, U.S. Immigration and Naturalization Service, U.S. Department of State, U.S. Navy, U.S. Maritime Administration (MARAD), U.S. Drug Enforcement Agency, U.S. intelligence agencies, Federal Law Enforcement Training Center, U.K. Department of the Environment, Transportation and the Regions, and the U.K. Ministry of Defense.

In addition to being the principle clearinghouse for the exchange of information between its carrier members, the MSC also acts as a liaison with regulators and governments offering vital intelligence on crimes at sea. As a consequence of this role, the MSC assisted in the development of the U.S. Sea Carrier Initiative and Super Carrier Programs and participates in international activities with the U.S. Drug Control Program, World Customs Organization, and the Baltic and International Maritime Council. The MSC also maintains an extensive library of information and training aids on maritime security.

The Committee should know that the Maritime Security Council is the proud recipient of the Vice President's National Performance Review or "Hammer Award" and has been a consultant to The White House, National Security Council, U.S. Customs, U.S. Department of Transportation, U.S. Coast Guard, and many other government entities. In 2000, the Maritime Security Council was asked to become maritime security advisors to both the U.S. State Department, through its Overseas Security Advisory Council, and Interpol, the international police agency.

The Maritime Security Council was the first maritime organization to work with the President's Interagency Commission on Crime and Security in United States Seaports. In fact, MSC executives provided a confidential state-of-the-industry briefing to key staff of the Commission at the White House prior to its actual authorization by the President in the Fall of 1999.

PORT AND MARITIME SECURITY ACT OF 2001

The MSC finds laudable the steps taken by the Committee and Senators Hollings and Graham in their efforts to establish minimum and effective security standards for U.S. and foreign ports. The last decade has seen shipowners invest significant amounts in security infrastructure and operations improvements, but the sad fact is that port authorities have failed to keep pace. Rarely has this been due to oversight by port directors; rather, it is the unfortunate byproduct of shortsighted budget cuts, departmental downsizings, and lack of Federal leadership and financial assistance.

The past year has demonstrated that it is incumbent upon many ports to review, analyze, and implement improvements in physical, personnel, and information security, particularly now as the range of threats has expanded. Unlike 10 years ago, the U.S. now faces an amalgam of threats that have heretofore been more the subject of Rambo movies than reality: weapons of mass destruction (WMD); chemical and biological agents; sophisticated human smuggling schemes; and, hi-tech ap-

proaches to narcotics smuggling are at the top of the list. Many shipowners have made huge strides to protect their vessels, employing state-of-the-art access control devices, electronic narcotics and explosives detectors, and even devices that detect stowaways by way of CO_2 concentration. Equal resolve has not been shown by many ports, who have relied upon shipowners to do the heavy lifting; clearly, the efforts of the Interagency Commission on Crime and Security in United States Seaports demonstrated that it is incumbent upon ports to match this effort in the protection of their perimeters and facilities.

Additionally, the MSC believes there has been a systemic failure to adequately address security awareness within the maritime community. Security has become an integral part of the operational fabric within the aviation industry, as an example, with strong messages of security awareness broadcast both publicly and internally—and with the consequent effect of heightened deterrence and employee participation. A similar approach must be taken by the maritime industry, and as an industry we look to the government to support such an effort with funding, research, and long term commitment.

The MSC feels that an impediment to holistic improvements in the area of maritime security can be traced to a confusing array of would-be agency ownership of this issue. It is a daunting task, to say the least, for a maritime director of security to weigh which agency to report an incident to or request guidance from, when the sheer numbers of these agencies exceed that which can be counted on two hands and a few toes thrown in for good measure. If not outright consolidation of responsibility, the industry would benefit from greater articulation of agency responsibility on issues involving security.

While the MSC applauded the efforts of the President's Seaport Commission, it also recognized the intrinsic weakness of its mandate: providing a critical review of U.S. ports as they relate to maritime security. The MSC would like to underscore that no less important, and arguably more so than U.S. ports, is the relative standards of security found in foreign ports that are direct sources of merchant shipping bound for U.S. ports. Whether it is WMDs, stowaways, or drugs, the fundamental fact is that each of these threats will likely have as a source some port outside the United States. So long as the emphasis is on interdiction rather than prevention at the source, the U.S. will forever remain vulnerable. We applaud this legislation for addressing this issue.

In 1999, the MSC launched an initiative that recommends a partnership between key Federal agencies and the MSC to first quantify the scope of the problem associated with the lack of internationally recognized minimum standards of security for all international ports (i.e., ports with merchant traffic that have points of origin or destination outside their own national boundaries); and second, to develop and recommend tiered standards pegged to cargo/passenger throughput, GNP, etc. that would codify such standards much like what has previously been done with international airports. We hope that this initiative, and the Maritime Security Council's unique ability to assist in such efforts, will not be lost in the scramble to accomplish the goals of this legislation.

While we applaud the intent of this legislation, we nevertheless have reservations about key elements of its provisions. For example, we concur that intelligence and information sharing among law enforcement agencies need to be improved and coordinated at many seaports. Most seaports have little or no idea of the threats they face from crime, terrorism, stowaways, and other illegal activities due to a lack of coordination and cooperation between law enforcement and intelligence agencies and the sea carriers themselves.

It is vital for the Members of this Committee to understand that the lion's share of intelligence relating to maritime crime comes from the industry itself. Just like the seaports, the sea carriers (which includes cargo ships, cruise ships, and other merchant vessels) are victims in these illegal activities, and as such they work tirelessly to identify threats, minimize vulnerabilities, and reduce their risk. If you ask the Office of Naval Intelligence or the Central Intelligence Agency or MARAD or the Coast Guard where the bulk of their intelligence comes from, they will certainly tell you it is the industry and the shippers themselves.

Many are not aware of the fact that there exists today an ad hoc working group that is composed of key Federal agencies, including the defense and intelligence groups, and industry representatives from the Maritime Security Council and the International Council of Cruise Lines. The MSC and the ICCL members have U.S. security clearances and the technical means to communicate classified information in order that they, and the government agencies represented in the working group, can share information and, if necessary, discuss raw intelligence findings so as to jointly propose reasonable actions to take so as to protect innocent lives and property. The reason this unique and effective partnership exists is that the government

agencies involved in maritime security recognizes that much of the expertise and the intelligence from the field resides in the sea carrier community, and not in the government. Any effort to improve the standard of communication between law enforcement and other government agencies, and seaports, must also include provisions for industry participation. Absent such provisions, the efforts to strengthen U.S. seaport security is doomed to failure.

The same participation by industry is also essential for the establishment of a Port Security Task Force and the local Port Security Committees recommended in this legislation. Umbrella non-profit organizations representing sea carriers, such as the Maritime Security Council, must be included to ensure that their resources, and concerns, are not overlooked. Indeed, we can only assume it to be an oversight that membership in the proposed Seaport Security Committees is limited to the port authority; Federal, state, and local government and their law enforcement agencies; labor organizations and transportation workers; local management organizations; and those private sector representatives whose inclusion is deemed beneficial by the USCG Captain of the Port. Can it really be the intention of the Committee to have seaport security issues reviewed by stevedores' unions but not by the sea carriers themselves?

Seaport security and vulnerability assessments are vital for conducting risk assessments of U.S. and foreign ports. The U.S. Coast Guard has done an admirable job in performing such assessments of foreign ports with what can only be described as ridiculously low funding. Despite hundreds of thousands of U.S. citizens visiting ports around the world, the risks of which are little known to the government, funding for these assessments is anemic. In some years less than five such assessments are performed—in some cases the assessments are canceled altogether due to the ports being deemed "too hazardous" for military personnel to visit. Yet American tourists will visit such ports regularly not knowing the potential risks.

The Committee should know that the industry itself is committed to improving the safety of foreign ports, particularly those visited by cruise ships. As the former Director of Security for both Princess and Renaissance Cruises, I performed security audits in over 160 ports in 106 countries. If a port had problems, the industry would assist the port authority in identifying weaknesses and those low-cost or no cost measures that could reduce their exposure to risk. Mind you, none of this is mandated by legislation or done with U.S. assistance. It's just good business to protect the lives and property of our passengers and cargo. But there needs to be Federal help if we are to do it right.

The Act recommends the creation of Maritime Transportation Security Programs for the purpose of prescribing regulations to protect the public from threats originating from vessels in a U.S. seaport against an act of crime or terrorism. The Maritime Security Council again urges the Committee to include organizations such as the MSC in these programs to ensure that all relevant voices are heard. Without the MSC, a significant percentage of maritime security expertise, experience, and information will be unavailable to those most in need of it.

The Act also recommends the use of the FBI's Integrated Automated Fingerprint Identification System for port authority background checks. The MSC recognizes the sensitivity of this issue, particularly given the volatility of any form of background checks with the various stevedoring and other waterfront labor unions. While the majority of dock workers are honest and absent a criminal background or criminal ties, it is nevertheless recognized by both government agencies, port authorities, and sea carriers, that the majority of crimes committed within the ports are by those employees that have access within their confines. Access controls coupled with background checks of all those port employees that have access to restricted areas, which by definition includes docks and ships, would have a significant affect in reducing the over $1 billion lost in cargo theft, as well as minimizing overall criminal risk.

The Act proposes Security Program Guidance for the development of voluntary security recommendations that will serve as a benchmark for the review of security plans. The Maritime Security Council and its members have experience in depth in the development of security policies and procedures. In areas covering general security, access to sensitive areas, vehicular access, firearms restrictions, and private security guards, the sea carriers themselves have experience extending beyond U.S. borders, thereby giving a global perspective.

The Act recommends an International Seaport Security initiative designed to encourage the development and adoption of seaport security standards under international agreements in other countries. This, and the follow-on Port Accreditation Program, were first proposed in an international conference on maritime security hosted by the Maritime Security Council in 1998. In 2000, I met with the U.N.'s International Maritime Organization in London and discussed this issue. The IMO expressed interest in working with the MSC and the U.S. Government in the cre-

ation of tiered standards of port security that could be used to increase security in Third World countries to acceptable levels. It is important to recognize that by itself, the United States would be hard put to see such far reaching an effort succeed without the assistance of the international sea carrier community. The MSC's constituency is both familiar with the ports of concern, and works with these port authorities on a regular basis. For reasons previously articulated, and due to its extant efforts in this pursuit, we believe the MSC must be an integral partner in the Act's International Seaport Security initiative.

Furthermore, the MSC believes that, given the gravity of the problem associated with foreign port security standards, and the magnitude of this effort, the proposed budget of $500,000 per year for 3 years is entirely inadequate. An amount of $1,000,000 per year would be a minimum amount necessary to accomplish this goal of the Act.

The Act proposes the creation of a Maritime Security Institute to develop standards and procedures for training and certification of maritime security professionals. The Maritime Security Council is flattered that such an initiative is being proposed, as the MSC began the creation of a Maritime Security Institute in 2000 for the same purposes as detailed in the Act. It was also the intention of the MSC to combine efforts with the U.S. Treasury's Federal Law Enforcement Training Center, which is already recognized for its outstanding course work in seaport security and counterterrorism. The MSC stands ready to work with FLETC, as well as the U.S. Merchant Marine Academy and the International Association of Airport and Seaport Police to further develop the Maritime Security Institute.

However, the funding recommended is woefully inadequate given the demand for such training and certification. I believe the Committee has underestimated the number of persons involved in seaport and sea carrier security, and a budget of $2,500,000 for the first 2 years and $1,000,000 for the following 2 years, is simply unrealistic and setting the program up for failure. The MSC and its members strongly believe that a budget of $3,750,000 for the first year, $2,500,000 for the next 3 years, and $1,750,000 each following year would be the minimum necessary to accomplish the goal of establishing a U.S.-based Institute, coupled with an ability to send Mobile Training Teams to foreign governments and ports in concert with the Port Accreditation Program.

The MSC further recommends strongly that the Maritime Security Institute be based in Charleston, South Carolina and not at the U.S. Merchant Marine Academy. The Federal Law Enforcement Training Center already has established in Charleston a training facility that sees nearly 30,000 students per year. While the USMMA is undoubtedly one of the finest merchant marine training centers in the world, the Maritime Security Institute will focus more on law enforcement than it will merchant marine training. Given the quality of maritime security, law enforcement, and criminal investigation training that already takes place at the Charleston facility, plus the added benefits of proximity to a major U.S. port, a mild climate that lends itself to year round outdoor training, and greater accessibility to the majority of sea carriers which happen to be located in the southern United States, this location is a superior choice and the MSC encourages a change.

The Act recommends that loans and grants be made available for port security infrastructure improvements, which the Maritime Security Council applauds. Under eligible projects, the MSC would recommend including conferences and seminars which aim is to educate and improve maritime security in the U.S. and overseas. The role of education should be seen as a predicate to hardware improvements at our seaports and such inclusion under this section of the Act would help to ensure that.

Finally, the Act recommends that the revision of the Department of Transportation's Port Security Planning Guide be made available on the Internet. The MSC believes that the dissemination of information, including guides of this sort, that provides detailed security planning guidance regarding the nation's seaports, is best done through official sources. Placing such information on the Internet could place sensitive security guidelines in the hands of terrorists or criminals who could derive benefit from their contents. It is not likely that those ports and other end-users who have a legitimate need for security planning information would not have access to it through the U.S. Coast Guard, Department of Transportation, MARAD, or other official sources. The Port Security Planning Guides should be treated as "For Official Use Only" documents and promulgated as such.

The Maritime Security Council thanks the Committee and its Members for this opportunity to address this important legislative effort. The proposed Port and Maritime Security Act of 2001, with the modifications we have put forward to you today, stands to be one of the most important steps taken by any government to protect its ports and sea carriers from an amalgam of unchecked risks. We at the MSC

stand prepared, as we always have, to assist this Committee and its staff on its important efforts. The Maritime Security Council will be dedicating a significant portion of its Annual Conference to the issues raised in this hearing. I invite each of you to attend on the 18th and 19th of September here in Washington as we work to find new ways to improve maritime security.

I will make a copy of my remarks available to your staff and will remain to answer any of your questions.

Thank you.

The CHAIRMAN. Thank you very much, Mr. Petersen. You favored the Committee by your appearance and we understand if you have got to catch a flight and be excused.

Mr. Craig.

STATEMENT OF JAMES M. CRAIG, VICE PRESIDENT, AMERICAN INSTITUTE OF MARINE UNDERWRITERS

Mr. CRAIG. Thank you, Mr. Chairman. My name is James M. Craig and I am Vice President of the American Institute of Marine Underwriters. AIMU is the national association of U.S.-based insurance and reinsurance companies which insure vessels of all types, the cargoes they transport and the liabilities they face. Our membership also includes brokers, claims adjusters, surveyors and attorneys. I am here to testify that cargo crime is a huge national problem which the private sector is trying very hard to make a dent in. Cargo insurers strongly support enactment of the Port and Maritime Security Act. We believe that our efforts to combat the problem of cargo theft can be greatly assisted by applying more and better coordinated Federal resources as the proposed legislation would do. The views expressed in my statement are also shared by the Inland Marine Underwriters Association. IMUA members insure cargoes transported domestically, while AIMU members cover cargoes moving by sea or transported internationally by any mode. Both AIMU and IMUA are members of the National Cargo Security Council, which has labored for many years on this issue.

Cargo theft represents a costly drain on our economy, beginning with the impact on the victimized companies and spreading to their employees who may become unemployed when bankruptcy results, or, even worse, can be killed in a violent robbery. Then there is the cost to the consumer. An independent study conducted by one of our member companies estimated that theft of high-tech cargo adds $150 to the cost of an average computer. All of this is just part of an even bigger picture. We are told by the FBI that stolen computer components are often accepted in place of cash in drug deals. The same criminals involved in cargo theft have been linked to money laundering, counterfeiting, illegal gambling, illegal immigration, smuggling, all kinds of business frauds, narcotics and weapons violations. Resources applied to preventing cargo crime will have a ripple effect in helping to combat terrorism and other national security concerns and vice versa.

Several key features of the legislation are important to the insurance companies and their customers, which include all of corporate America. These provisions would improve the collection of data to document the problem of cargo theft, increase criminal penalties for cargo thieves, and provide training in maritime security to law enforcement professionals. We discussed these same matters with the Interagency Commission on Crime and Security in U.S. Seaports

which addressed them in their final report. Your legislation incorporates most of what we recommended to the Commission, and our list of key provisions also comprises most of the priorities on the agenda of the National Cargo Security Council. We appreciate the work of all who have brought us to this point and thank you for the opportunity to testify today.

[The prepared statement of Mr. Craig follows:]

PREPARED STATEMENT OF JAMES M. CRAIG, VICE PRESIDENT, AMERICAN INSTITUTE OF MARINE UNDERWRITERS

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DATA COLLECTION

Several independent studies discussed in the Seaport Commission's report—including one by the John A. Volpe National Transportation Systems Center and another by the RAND organization—place the losses due to cargo theft near $10 billion annually. However, we need to improve the collection of data so that law enforcement efforts can be better focused. Statistics currently available are seriously deficient for a variety of reasons. Your legislation would mandate an evaluation of existing governmental data bases in an effort to ensure the collection of data on cargo theft occurring in the ports or anywhere else in the intermodal chain of transportation. We understand that the current unified Federal crime reporting system suffers from a lack of resources on the State and local levels. The bill requires an outreach program to help channel resources to State and local law enforcement agencies to improve their information systems and harmonize them with the Federal system. In addition, we strongly recommend that a requirement be added for officials to report cargo theft as a separate crime so this data may be easily retrieved.

CRIMINAL PENALTIES

We have observed that cargo criminals are not being adequately deterred by the existing penalties. In fact, indications are that those who once specialized in other types of crime are turning to cargo theft because the rewards are lucrative and the threat of prosecution is minimal. We strongly support the provision in your bill which directs the U.S. Sentencing Commission to amend the Federal sentencing guidelines to provide a sentencing enhancement of not less than two levels for a violation of the Federal cargo theft law.

SECURITY TRAINING

The legislation addresses an important need by building on the good work already being done at the United States Merchant Marine Academy's Global Maritime and Transportation School (GMATS) at Kings Point, New York. A new Maritime Security Institute to be established at this Federal facility will expand the current offerings and enable the training and certification of maritime security professionals in both the law enforcement and private sectors. With a better understanding of the intricacies of the shipping business, law enforcement officials will be better equipped to do their jobs.

TEAMWORK

The problems addressed by the legislation are multidimensional, and they are best approached through interagency cooperation and the sharing of information and resources. We are pleased that the Port Security Task Force proposed in the bill will have a subcommittee comprised of Federal, State and local government law enforcement agencies. This "Law Enforcement Subcommittee" will have the ability to collaborate with public and private entities. We would like to call your attention to a group of interagency task forces which have already been established in various regions of the country to combat cargo theft. They were organized as a result of a speech made in 1994 by the Attorney General, but they have never had a sufficiently high profile to make an appearance in the Federal budget and thus suffer from a lack of resources. Ideally, each of the task forces should be funded and include representatives of the U.S. Attorneys, the FBI, Customs Service, DEA, INS, the Coast Guard, and State and local prosecutors and law enforcement officials. Due to budget constraints, agencies are sometimes unable to participate in the task forces. We would appreciate the opportunity to work with Committee staff to ensure that the most critical cargo theft task forces are able to benefit from your legislation.

PRIVATE SECTOR'S WORK TO PREVENT CARGO CRIME

Those involved in cargo transportation know they have a responsibility to do as much as they can to address security issues. AIMU recently surveyed its members to determine what advances are being made by the private sector in cargo loss prevention. We would like to share with the Committee the following findings:

- Increased use of video and digital cameras and videotape.
- Trailer satellite GPS/tracking systems including temperature monitoring and door monitoring.
- Electronic seals and locks on trailers and containers.
- Tamper indicating tape for use on cartons and pallets, pallet brands and seals.
- Trailer/chassis anti-theft devices that disarm the ignition or lock the brakes.
- Use of security escorts on high valued loads within the United States and some overseas areas.
- Increased documentation of proven packaging methods, including the elimination of brand markings and labels from the outside packages.
- Increased use of packing, loading and discharge surveys.
- Closer vetting of all modes of transportation involved in high-valued loads.
- Greater use of independent security experts and surveyors.

The CHAIRMAN. Very good. Thank you a lot.

Mr. Miller.

Mr. MILLER. Mr. Maher is going to speak first.

STATEMENT OF BASIL MAHER, PRESIDENT AND CHIEF OPERATING OFFICER, MAHER TERMINALS, INC.

Mr. MAHER. Good morning, Mr. Chairman and Members of the Committee. I am Basil Maher, President and Chief Operating Officer of Maher Terminals, Inc., Jersey City, New Jersey. Maher Terminals is the largest container terminal operator in the port of New York and New Jersey, handling about 900,000 containers annually. We have operated in this port in excess of 50 years, and I have been personally involved in every aspect of terminal operations for 28 years.

I am here today on behalf of the National Association of Waterfront Employers, or NAWE, and the United States Maritime Alliance, or USMX. The former is the national trade association representing the U.S. terminal and stevedoring industry; the latter is management's collective bargaining representative that consists of ocean carriers, marine terminal operators and port associations to negotiate with the ILA on the East and Gulf coasts. I sit on the board of NAWE and on its special committee on port security.

Mr. John Miller, another NAWE board member who also sits on our special committee on port security joins me today. John will elaborate on the general points contained in my remarks.

NAWE and USMX appreciate the opportunity you have extended to us to testify on this all-important issue. Given the fact that we only recently received a copy of your bill, we ask for additional time beyond this hearing to get input from a large cross-section of the industry. I ask that both NAWE and USMX be permitted to submit more detailed comments for the record. Hopefully this can be done within the next 4 weeks or so.

By way of background, NAWE and USMX members have always cooperated with the Federal law enforcement agencies having jurisdiction over marine terminals. Normally, this is done on a local basis, and occasionally on a national basis. We will, of course, continue to do so when this legislation becomes public law.

Unquestionably, marine terminals are subject to the maritime jurisdiction of the United States, and NAWE and USMX members readily understand that the security of our borders is a fundamental responsibility of the Federal Government. When the Interagency Commission on Crime and Terrorism in the U.S. Seaports conducted its fact-finding mission last year, the commissioners observed many terminal operations. Clearly, the Federal law enforcement agencies comprising the Commission became quite concerned with security, and recommended legislative changes designed to make marine terminals acquire the look and security practices of airport terminals.

When the Interagency Commission's recommendations were first made public last fall, the NAWE board also became uncomfortable. Our discomfort was due less to the nature of recommendations, but rather centered on the broad and unconstrained delegation of new enforcement powers sought by the law enforcement agencies.

After a thorough review, the NAWE board believes security procedures established by this bill must be successfully implemented without creating port terminal congestion and new, expensive mandates on private businesses. The following specific principles should

guide any port security legislation and the security plans to be created by the provisions of this bill.

These principles are: legislation must not shift Federal law enforcement obligations to private terminal operators; legislation must not duplicate any present State or local statutory legal practices or laws which substantially address similar security requirements; legislation must be flexible to the maximum extent possible, i.e., security measures must be taken on a port-by-port basis after considering as much local input as possible. No two ports are the same; therefore, their unique operational characteristics and existing security programs must be considered when implementing this legislation; legislation must not assess fees or tax terminal operators for costs properly borne by the Federal Government.

Your legislation, Mr. Chairman, appears to have generally adopted these principles. It is the implementation that concerns us.

Should this legislation be implemented without the guidance of these principles, it could seriously impact container terminal operations and the $400 billion in goods that are annually imported or exported through these terminals.

Therefore, the private terminal industry asks that the legislation—in the clearest possible terms—contain guidance to the implementing authorities consistent with these principles. The legislation should also clearly emphasize the importance of local input and discussion well in advance of the implementation of the bill's requirements.

That said, Mr. Chairman, the marine terminal industry pledges to work with this Committee and its staff, as well as the Federal law enforcement agencies, to implement the provisions of this legislation in a timely manner with a minimum of disruption to terminal operations and the commerce it supports.

Mr. Miller will now address in more detail some of the specific concerns shared by marine terminal operators. We will then be happy to answer any questions from the Committee.

[The prepared statement of Mr. Maher follows:]

PREPARED STATEMENT OF BASIL MAHER, PRESIDENT AND CHIEF OPERATING OFFICER, MAHER TERMINALS, INC.

Good morning, Mr. Chairman, and Members of the Committee. I am Basil Maher, President and Chief Operating Officer of Maher Terminals, Inc, Jersey City, N.J. Maher Terminals is the largest container terminal operator in the port of NY/NJ, handling about 900,000 containers annually. We have operated in this port in excess of 50 years, and I have been personally involved in every aspect of terminal operations for 28 years.

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I am joined today by Mr. John Miller, another NAWE board member who also sits on our Special Committee on Port Security. John will elaborate on the general points contained in my remarks.

NAWE AND USMX appreciate the opportunity you have extended to us to testify on this all-important issue. Given the fact that we only recently received a copy of the latest draft of your bill, we ask for additional time beyond this hearing to get input from a large cross section of the industry. I ask that both NAWE and USMX be permitted to submit more detailed comments for the record. Hopefully this can be done in the next 4 weeks or so.

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Unquestionably marine terminals are subject to the maritime jurisdiction of the U.S., and NAWE members readily understand that the security of our borders is a fundamental responsibility of the Federal Government. When the interagency commission on crime and terrorism in U.S. seaports conducted its fact-finding last year, the commissioners observed many terminal operations. Clearly the Federal law enforcement agencies comprising the commission became quite concerned with security, and recommended legislative changes designed to make marine terminals acquire the look and security practices of airport terminals.

When the interagency commission's recommendations were first made public last fall, the NAWE board became uncomfortable. Our discomfort was due less to the nature of the recommendations, but rather centered on the broad and unconstrained delegation of new enforcement powers sought by the law enforcement agencies.

After a thorough review, the NAWE board believes security procedures established by this bill must be successfully implemented without creating port terminal congestion and new, expensive mandates on private businesses. The following specific principles should guide any port security legislation and the security plans to be created by provisions of this bill.

These principles are:

• Legislation must not shift Federal law enforcement obligations to private terminal operators.

• Legislation must not duplicate any present State or local statutory legal practices or laws which substantially address similar security requirements.

• Legislation must be flexible to the maximum extent possible. I.e., security measures must be taken on a port-by-port basis after considering as much local input as possible. No two ports are the same; therefore their unique operational characteristics and existing security programs must be considered when implementing this legislation.

• Legislation must not assess fees or tax terminal operators for costs properly borne by the Federal Government.

Your legislation, Mr. Chairman appears to have generally adopted these principles. It is the implementation that concerns us.

Should this legislation be implemented without the guidance of these principles, it could seriously impact container terminal operations, and the $400 billion in goods that are annually imported or exported through these terminals.

Therefore, the private terminal industry asks that the legislation—in the clearest possible terms—contain guidance to the implementing authorities consistent with these principles. The legislation should also clearly emphasize the importance of local input and discussion well in advance of the implementation of the bill's requirements.

That said, Mr. Chairman, the marine terminal industry pledges to work with this committee and its staff, as well as the Federal law enforcement agencies, to implement the provisions of this legislation in a timely manner with a minimum of disruption to terminal operations and the commerce it supports.

Mr. Miller will now address in more detail some of the specific concerns shared by marine terminal operators. We will then be happy to answer any questions from the committee.

The CHAIRMAN. Mr. Miller.

STATEMENT OF JOHN L. MILLER, EXECUTIVE VICE PRESIDENT, INTERNATIONAL TRANSPORTATION SERVICE, INC.

Mr. MILLER. Good morning, Mr. Chairman. I am John Miller, Executive Vice President of International Transportation Service of Long Beach, California. ITS, as we are called, is a wholly-owned subsidiary of K Line, a Japanese flag carrier, and operates three container terminals on the West Coast. Like Mr. Maher, I have spent over 30 years in this industry, and hopefully believe I can impart some of that experience to the Members of the Committee.

As Mr. Maher noted, I am also a NAWE board member and a member of NAWE's special committee formed to review and com-

ment on port security legislation. Mr. Maher has addressed NAWE's general concerns; I will address some of NAWE's specific concerns with any port security legislation.

As an initial matter, I would like to state that the West Coast terminal operators also recognize the concerns of the Federal law enforcement agencies. We recognize that preventing marine-related terrorism is a fundamental responsibility of the Federal Government and that this legislation is really a defense of the borders issue. We, too, will also do our best to carry out any statutory directives required by this legislation in conjunction with the port authorities and other affected parties on a port-by-port basis.

Mr. Chairman, let me briefly state what this legislation cannot be allowed to become.

This bill must not become a vehicle for regulations converting private sector industry employees into a federalized police force with—or without—authority to carry firearms. Terminals employ gatekeepers, commonly known as watchmen or guards. Watchmen are expected to do many things, but law enforcement is not one of those things. Nor should the Federal law enforcement agencies expect industry watchmen to become surrogate policemen. If a beefed-up police presence is necessary at any given port complex, that needs to be entirely a function of the Federal Government or the port authority.

This bill must not become authority for any agency to issue regulations requiring procedures that impede the flow of intermodal movements. For example, to the extent that credentialing of truck drivers or other service personnel is deemed necessary, the credentials process must not be done in a manner that slows down terminal productivity. In order to minimize the risk of converting a credentialing requirement into an operational impediment, the government agencies making these determinations—whether Federal, State or local—must recognize that every affected private sector party must be consulted in a timely manner, and that sufficient lead time must be provided to ensure the smooth flow of terminal operations. Provision also must be made for drivers who will only occasionally visit a terminal.

Mr. Chairman, a nightmare is having thousands of containers backed up at a marine terminal due to a poorly implemented credentialing process. This concern, I might add, is equally valid for any new regulatory requirements issued by the Customs Service based on the technology to be developed by this legislation. Another nightmare is having ships miss their departure time because some new Customs inspector is insisting on x-raying every import container as it comes under the hook of the container crane. While I think there is little likelihood of this ever occurring, the agency—and its new inspection technology—need keep pace with industry technology and operating procedures.

This bill cannot arbitrarily require marine terminal employers to drop experienced members of our workforce for long-past or non-serious violations of the criminal laws. This Committee, as well as the Federal law enforcement agencies which are granted regulatory authority, needs to give careful thought to the specifics of any requirement to conduct criminal background checks of terminal personnel, whether management or labor. Nobody wants to employ

workers at risk of committing a terrorist act or cargo-related crime, but neither do we wish to weed out solid workers because of past youthful indiscretions. I presume the representatives of our workforce share this concern.

I note, Mr. Chairman, that there is language in your latest draft which addresses these concerns. I suggest that many others in the industry need to look at these proposed standards to see if they need further work. If this section is not carefully thought out, we risk creating a real injustice to our workforce.

Finally, Mr. Chairman, I would like to point out that any final Coast Guard/MARAD regulations issued under the authority of this legislation must be uniform as applied to the 50 ports affected by this bill. This is the tricky part, because Federal regulation of the ports must be consistent as required by the customary uniformity requirement of Federal maritime law. This must be done while granting the industry, as your legislation now does, considerable leeway to implement the provisions of the legislation on a port-by-port basis. It is important, I believe, for the Committee not to underestimate the difficulties that will be encountered in many of these ports as the provisions of this bill become effective. None of this will be easy. It is going to take considerable goodwill and a lot of hard work by every party to accomplish the goals of this legislation.

With that, Mr. Chairman, I will conclude my remarks and I will be pleased to answer any questions.

[The prepared statement of Mr. Miller follows:]

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With that, Mr. Chairman, I will conclude my remarks, and I will pleased to answer any questions.

The CHAIRMAN. Very good.

Mr. Leone.

STATEMENT OF MICHAEL LEONE, PORT DIRECTOR, MASSACHUSETTS PORT AUTHORITY

Mr. LEONE. Good morning, Mr. Chairman and Members of the Committee. I am Mike Leone. I am the Port Director of the Massachusetts Port Authority and Chairman of the American Association of Port Authorities Task Force on Seaport Security. I am here today representing the U.S. delegation of AAPA.

AAPA port members are public entities that have invested billions of dollars of public and private funds to expedite the transportation of people and cargo. Ports have invested significant resources in improving security at seaports and continue to make improvements.

Security at seaports involves multiple State, local, and Federal Government jurisdictions as well as the private sector. Addressing seaport security requires a strong commitment of Federal resources, a partnership between all parties involved and the flexibility to develop local security programs that consider the unique needs of each port.

The Association recognizes the need for the port industry to continue to make improvements in seaport security. However, AAPA does not believe the adoption of a new Federal program is the best approach. We agree that the Federal Government should play a larger role in maintaining security at these international borders by increasing resources, both monetary and manpower, for current law enforcement programs rather than establishing a new program. The report on the Interagency Commission on Crime and Security in U.S. Seaports concludes that the primary criminal activity at seaports is in violation of Federal laws for which Federal agencies are primarily responsible.

We have concerns that the bill as crafted places more responsibility on ports for solving seaport crime problems by instituting security guidelines and offering limited loan guarantees and grants for making infrastructure improvements. Issues such as terrorism, drug smuggling, illegal aliens, trade fraud and export crimes require significant Federal resources.

Confronting these challenges requires a national commitment and resources by all levels of government. More specifically, it means that Federal and non-Federal jurisdictions must share information and expertise, dedicated resources and work together to deter criminal activity.

Overall, the bill is an improvement from last year and we would like to thank the Committee staff for making the legislation more accommodating. It is narrow in focus, provides some more partnership opportunities as recommended in the Commission report, allows more flexibility to recognize the unique nature of ports and provides more funds to make security improvements.

We do, however, maintain some concerns with the legislation that I will highlight in my oral comments. In general, AAPA is concerned with the bill's requirements with regard to the development of security programs and security guidance and with the redundancy of creating a new Federal program on crime and terrorism.

We are pleased to see that the Committee adopted many of the AAPA's recommended changes, especially deletion of minimum standards. The bill, however, still outlines specific requirements for port security programs will give a priority to these areas rather than true risks identified in the vulnerability assessment.

It is our view that attempts to address seaport security at an individual port must be justified by security assessment so that improvements are made based on a proven need. The bill requires that the Coast Guard and the Maritime Administration develop a set of best practices that include a list of specific requirements to be used as a benchmark for the review of local security programs. Although port authorities are not required to comply with this list of security requirements, the bill does require them to be included in all seaport security programs, whether or not they are necessary.

The result will be programs that do not take into account the uniqueness of each port, or the findings from a vulnerability assessment. In addition, we recommend that local committees be charged with developing these security programs because port authority jurisdiction varies by port and does not include all privately owned areas.

Further, making improvements to security such as the ones listed in the bill can be very costly. Though the bill provides more funding than last year's version, AAPA is concerned that it is not enough to pay for the improvements that would be adopted in the guidance.

According to the Interagency Commission report, it could cost one port as much as $45 million to address the security issues outlined in the report. If new legislation policies require or warrant security improvements, the Federal Government must provide the resources necessary to address this issue.

To this end, AAPA is strongly opposed to unfunded mandates. The AAPA is also concerned about the redundancy of creating a new Federal program dealing with crime and terrorism. Security at seaports involves multiple State, local and Federal Government jurisdictions as well as the private sector. AAPA does not believe that the enactment of a new Federal program is the most effective means to increasing security.

We believe increased coordination and information sharing among these various agencies in the private sector combined with additional resources for current seaport law enforcement programs is the appropriate method to address these important issues.

For example, the Coast Guard has already instructed the captains of the port to develop local committees to facilitate information-sharing on crime and security issues. We support this initiative and believe that the information sharing that comes through these committees will result in stronger security programs that address actual problems.

Also, there are several agencies that coordinate terrorism prevention programs. In fact, recently there was a Federal directive through the Department of Justice that each State conduct a risk assessment to determine areas most vulnerable to a terrorism attack. Some seaports were identified as at-risk and are developing plans and exercises to prepare in the event of such an incident.

This is one of the many simultaneous, in many cases, redundant efforts by various Federal, State and local agencies to address terrorism. There must be better coordination to cut costs and ensure a better end result.

Finally, the bill should go farther in coordinating the efforts of the various agencies and groups involved in seaport security and should guarantee that the task force play a greater role in this capacity. Although we are pleased that the newest draft legislation requires the task force to partner in the development of voluntary security guidelines and the development of regulations, the bill should be clarified to require the task force to be consulted in the development of standards and procedures for conducting seaport security, vulnerability threat assessments.

Coordinating these efforts with all the groups involved in seaport security will ensure better results that take into account the needs of the stakeholders and agencies charged with implementing these programs. Since these vulnerability guidelines will be used as the basis for all assessments, the task force involvement in the process is critical.

With regard to security officer training and international cooperation, AAPA commends the legislation for its recommenda-

tions. Security officer training is important and AAPA encourages the development of an appropriate program for this purpose. We do, however, recommend that AAPA be listed in the bill as one of the groups to be consulted so we will have the opportunity to provide input in the development of the security officer training program.

AAPA is a leader in port security issues in the United States and the entire Western Hemisphere when it comes to international cooperation, enhanced crime and security information exchange provides an opportunity to reduce the flow of drugs and other illegal shipments. The bill appropriately gives the Maritime Administration new authority in this area and should consider requiring the State Department and other agencies to play a greater role in sharing information internationally.

In conclusion, AAPA believes that new Federal seaport security legislation is not necessary. There are more appropriate solutions to addressing this issue that do not include the establishment of a new program that duplicates many current efforts and could result in considerable cost to the agency. The Association remains committed to working closely with the Coast Guard and other agencies already charged with overseeing the security of our nation's international borders.

Through greater coordination at all levels and the necessary resources, we can build on the programs already in existence and enhance seaport security.

This concludes my remarks. I appreciate the opportunity to share the views of AAPA's U.S. members on this important issue.

[The prepared statement of Mr. Leone follows:]

PREPARED STATEMENT OF MICHAEL LEONE, PORT DIRECTOR, MASSACHUSETTS PORT AUTHORITY

Good morning. I am Mike Leone, Port Director of the Massachusetts Port Authority, representing the American Association of Port Authorities (AAPA) as Chairman of its Ad Hoc Task Force on Seaport Security. Founded in 1912, AAPA is an association of more than 150 public port authorities in the United States, Canada, Latin America and the Caribbean. In addition, the Association represents more than 250 sustaining and associate members, firms and individuals with an interest in the seaports of the Western Hemisphere. My testimony today reflects the views of AAPA's United States delegation.

AAPA port members are public entities, divisions or agents of State and local government mandated by law to serve public purposes. Public Port Authorities are charged with developing port facilities, facilitating waterborne commerce, and promoting economic development. Ports are key to this nation's ability to trade internationally, providing American consumers and businesses with the choices they demand for worldwide products and markets. Ports provide this connection to the world by handling 95 percent of all U.S. overseas trade by weight, and 75 percent by value. Ports also support the mobilization and deployment of U.S. Armed Forces.

Today, we are here to discuss legislation aimed at enhancing the security of U.S. seaports that are also international borders. U.S. port authorities do not condone illegal acts of any kind taking place in public ports. Ports believe that the protection of port cargo, passengers and facilities from pilferage, theft, terrorism and other criminal activity is critical to ports, their customers, as well as to the nation as a whole. In fact, AAPA has a long-standing port security committee focusing on these issues.

Ports have invested significant resources in improving security at seaports to prevent seaport crime from occurring, and continue to make improvements. Some ports spend millions of dollars on their own port police, as well as patrol vehicles, training, computer systems, etc. Also, many of our port members have and continue to invest in security infrastructure such as fencing, lighting and barriers. Some of these improvements have been based on State requirements, which address specific

problems in individual States. In addition to providing this infrastructure, our members work with local and Federal authorities to eliminate criminal activities and will continue to seek new avenues to stop crime at seaports.

Security at seaports involves multiple State, local and Federal Government jurisdictions as well as the private sector. The Federal Government should play a large role in maintaining security at these international borders. Addressing seaport security requires a strong commitment of Federal resources, a partnership among all parties involved and the flexibility to develop local security programs that consider the unique needs of each port. Ports are diverse, with a variety of security needs and concerns. There is no universal approach to security that would appropriately address the wide range of individual port requirements. Additionally, ports already devote significant resources to their security programs; therefore, any attempt to further address this issue should build on or strengthen the programs that are already in existence on the local level and should be supported with adequate Federal resources.

While the Association recognizes the need for the port industry to continue to make improvements in seaport security, AAPA does not believe the enactment of a new Federal program is the most effective means to increasing security. We believe increased coordination and information sharing among local/Federal agencies as well as the private sector, combined with additional resources for current seaport law enforcement programs, is the appropriate method to address these important issues. For example, the Coast Guard has already instructed the Captains-of-the-Port to develop local committees to facilitate information sharing on crime and security issues. We support this initiative and believe information sharing through these committees will result in stronger security programs that address actual problems.

While AAPA does not believe a new Federal program is needed, the remainder of our testimony will address specific comments regarding the "Port and Maritime Security Act of 2001." Overall, the bill is an improvement from legislation introduced last year (S. 2965). It is narrower in focus (covering only 50 ports), provides for more partnership opportunities with the non-Federal sector, allows more flexibility to address the unique nature of ports, and provides more resources to the Federal Government and the private sector to address crime. AAPA is pleased to see the changes in the bill, especially the deletion of minimum standards for security plans and security guidelines. AAPA remains strongly opposed to minimum standards and believes that any guidance on security provided in the bill must be flexible to reflect the actual security needs of a port.

The bill also provides more funding than last year's version; however, AAPA is concerned that it is not enough to pay for the improvements mentioned in the bill. According to the Interagency Commission report it would cost ports as much as $45 million to address the security issues listed in the model port concept. If new legislation or policies require or warrant security improvements, the Federal Government must provide the resources necessary to address this issue. (AAPA is strongly opposed to unfunded Federal mandates).

Below are more detailed comments on specific sections of the bill.

PORT SECURITY TASK FORCE AND OVERSIGHT

Section 3 of the legislation calls for the establishment of a Port Security Task Force to implement the Act and coordinate programs to enhance security and safety at U.S. ports. Last year, AAPA recommended that this Task Force be expanded to include the private sector, as recommended by the Interagency Commission on Crime and Security at Seaports. AAPA also recommended that the Task Force be consulted in the development of port security guidance and regulations. We are pleased to see that the new bill incorporates these changes.

The bill also should be clarified to indicate that the Task Force should be consulted by the Coast Guard in the development of standards and procedures for vulnerability threat assessments. These standards will serve as the basis for how all 50 vulnerability assessments will be performed. In the development of these standards, Section 5 (a) does provide that appropriate public and private sector organizations be consulted, which AAPA strongly endorses. We also, however, recommended that the Port Security Task Force specifically be included in the outside groups to consult with. This would require changes under Section 3, which describes the jurisdiction of the Task Force, and Section 5 (a), which discusses the vulnerability assessment. This change will ensure a partnership approach and is in line with the jurisdiction of the Task Force as outlined in the bill.

AAPA recommends that any discussions or decisions on seaport security made at the national level must be based on the recommendations of the Task Force that includes representation from the port industry. The Task Force could make rec-

ommendations; however, ultimately AAPA believes that tailored security plans should be coordinated at the local level in conjunction with the U.S. Coast Guard.

LOCAL SEAPORT SECURITY COMMITTEES

AAPA views information sharing at the local level as a key component in making improvements to seaport security. Information sharing on the actual crime and threats at a particular port will encourage better targeting of security efforts to address local issues. The local security committees, called for in the bill, are an excellent way to accomplish this goal of information sharing. The bill should be amended under Section 6 to give local security committees the authority to develop a security program for the port, rather than the port authority or marine terminal. Port authorities do not have jurisdiction over the entire port area, especially private areas of the port.

Ports already work closely with the local Coast Guard Captain-of-the Port (COTP) on a number of safety and security issues, and AAPA is pleased that the legislation states that these committees may use or augment existing harbor safety committees or seaport readiness committees. Under the Oil Pollution Act (OPA 90) many ports have set up an area committee to develop plans to handle catastrophic release into navigable waters. AAPA recommends that these committees also could be used to address security issues. These committees are headed by the COTP, include all elements of the local port industry and have resulted in the development of contingency plans, pre-deployment of equipment and conducting drills to test the validity of the plans. The bill also should ensure that these committees do not duplicate ongoing anti-terrorism programs, but complement them through coordination of efforts.

Section 4 of the bill calls for "an annual exercise to be conducted to verify the effectiveness of each port's security plan." The bill does not specify whether the exercise must be a "full scale" or a "table-top exercise" and therefore the requirement may be redundant to what is already taking place at the port. Ports conduct numerous exercises each year that include security elements, especially at strategic ports. It may be more appropriate to conduct a full-scale security exercise once every 3-5 years at the COTP's discretion to cover this need.

SECURITY PROGRAM GUIDANCE/SECURITY PROGRAMS

The bill requires that the Coast Guard and the Maritime Administration develop a set of guidance/best practices to be used as a benchmark for the review of the local security programs developed by local port authorities. AAPA is pleased to see that the bill now requires the Coast Guard to take into account the different nature and characteristics of U.S. seaports in developing this voluntary security guidance.

While AAPA believes these plans can be of value as a planning exercise, the bill as written still raises some challenges.

First, the legislation calls on the plans to be evaluated based on guidance in particular areas. For example, Section 7 notes that the guidance, and therefore the program, must include physical, procedural and personnel security; a credentials process for access to sensitive areas; restrictions on vehicular access; restrictions on firearms, and certification of private security officers. While we are pleased to see that these areas are no longer considered mandatory or minimum standards, AAPA still has concerns about the impact of these requirements. These areas will become priorities, rather than the true risks identified in a vulnerability assessment. It is our view that attempts to address seaport security at an individual port must be justified by a security assessment so that improvements are made based on a proven need, rather than on a list of areas outlined in a bill.

AAPA is also concerned about how the Coast Guard will develop this guidance. If it is based on the "model port" included in the Commission report, the cost of these improvements is very high. The report notes that the total estimated cost for maximum-level implementation is $44 million per port. While the bill does provide some financial assistance, it is not nearly enough to cover the "model port" recommendations. Ports should be given the opportunity to explain why they are not following the guidance. For example, if the guidance says all port facilities should be fenced and have security lights, the port could, in its security plan, be allowed to state why fencing is not needed.

AAPA believes that plans should be tied to the findings of vulnerability assessments. The bill does not require plans to be based on the findings of the assessment but only states that a port have a security program in place within 1 year of an assessment being completed. AAPA believes that once a vulnerability assessment is conducted, the local security committee should identify the security issues at the port and develop recommendations based on a broad set of "best practices." These

recommendations should then serve as the basis for port security plans. AAPA recommends that a "best practices" approach for the issues listed under minimum standards is better than requiring all plans to be judged against minimum standards.

The bill also calls for port authorities to develop the port security programs. We recommend that the local committees be charged with this duty, because port authority jurisdiction varies by port and does not include private areas. Since port authorities would participate on the local committee, they would continue to be involved. In addition, the bill should be amended to clarify that private areas of the port must be included in any port plan.

VULNERABILITY ASSESSMENTS

AAPA agrees that individual vulnerability assessments are important in determining a port's true risk; however, several improvements should be made to the bill. First, the development of standards and procedures for conducting seaport security vulnerability threat assessments should include advice from the Task Force. The Task Force must be consulted to ensure that these assessments are done in a manner that is helpful to port authorities and the private sector that are tasked with making improvements.

AAPA also recommends that the local committees be more involved in conducting individual port vulnerability assessments to ensure they are locally relevant. We recommend that the vulnerability assessments be conducted by the local Coast Guard in conjunction with the port authority and/or the local committee. It may be appropriate to use a consultant for these assessments because the Coast Guard's assessments may be too costly, may not be done in a timely manner, and may provide too little detail. There must also be cooperation from appropriate agencies to provide financial support and the threat information necessary to determine risk. Congress should also consider whether the assessments should be limited to cargo crime, since Federal agencies already conduct threat assessments on terrorism and weapons of mass destruction. Once the assessment is completed, it should be used as the basis for developing seaport security programs at each port. This connection is missing from the bill. Finally, these reports must be held in strict confidence with the local port authority and law enforcement agencies. A report to Congress may disclose security sensitive information and could create a competitive disadvantage.

INFORMATION SHARING

Another important aspect of partnering at the local level is the ability to share information. According to the Interagency Commission report, most ports/terminal operators are not aware of the crimes that are taking place. In many cases, information is not communicated to the ports/terminal operators by the Federal or local law enforcement agencies that have jurisdiction over these criminal areas. Agencies such as the Federal Bureau of Investigation and the U.S. Customs Service often provide little information to ports. Enhancing communication between these agencies and the seaport industry, including labor unions involved in day-to-day operations at the port, would allow local seaport security committees to better focus their efforts within the port area. Though a port has little control over internal conspiracies or drug interdiction, the local port committee can work closely with the Federal agencies that have jurisdiction over this criminal activity to address these issues.

SEAPORT SECURITY OFFICER TRAINING

AAPA commends the legislation for addressing the issue of seaport security officer training and encourages the development of appropriate programs for this purpose. Such programs could provide the kind of training specific to handling security on the waterfront. Upon completion, the security officer could receive certification that he/she has been officially trained as a seaport security officer. Existing training programs could serve as models. We recommend, however, that the bill be amended to include AAPA as one of the groups to be consulted with in establishing the program. Since port authorities are charged under the bill with security duties, and we have expertise throughout the Western Hemisphere on port security issues, we believe we can provide vital counsel in the development of this training program.

SUPPORT FOR CUSTOMS AND INTERNATIONAL COOPERATION

The issue of controlling imports and exports is something over which port authorities have little direct control. In order for the U.S. Customs Service to more closely monitor cargo flowing in and out of the country, and conduct more inspections without slowing the movement of commerce, they must have additional resources, both

in terms of personnel and equipment. Modernizing Customs resources, such as upgrading the Automated Commercial System, would greatly improve the Customs Service's ability to more closely monitor what is coming into and out of the country while ensuring the continuous flow of commerce. AAPA also is pleased to see that the new bill provides resources for Customs to purchase more non-intrusive screening and detection equipment.

With trade rapidly increasing, inspections must not interfere with a port's ability to move cargo; therefore, AAPA has some concerns with section 15 (2) of the bill. This section requires the same level of data for an in-bond entry as for a consumption entry to obtain a "release." More importantly, if all entries have to be made at the first seaport of entry, the congestion and time it takes to move freight would increase considerably. An undesired consequence could be diversion of transshipped cargo to Canada and the Caribbean, resulting in a loss of U.S. jobs. We urge the Committee to ensure that this section is crafted in a way that addresses both security issues and protects transshipping.

The United States has little control over what is being placed on a vessel in another country. However, AAPA believes that enhanced crime and security information exchange internationally provides an opportunity to reduce the flow of drugs and other illegal shipments. The bill appropriately gives the Maritime Administration new authority in this area. In addition, the State Department and other international organizations should play a greater role and take the lead in sharing information internationally to reduce the types of illegal shipments that are coming into the United States. Finally, AAPA is committed to coordinating with its member ports throughout the Western Hemisphere on seaport crime and security issues.

CONCLUSION

Overall, AAPA believes that legislation is not necessary to address seaport security; however, the Association is committed to working closely with the Coast Guard and the other appropriate Federal agencies to strengthen our nation's international borders. The Federal Government, however, must invest significant resources to ensure proper funding of essential programs and provide adequate personnel for addressing these serious issues. Through greater coordination at the local level and the necessary resources, AAPA believes we can build on the programs already in existence and enhance seaport security.

The CHAIRMAN. Mr. Leone, we appreciate your statement and your appearance. It is quite obvious that you folks, you said, do not favor a program or any legislation. On the contrary, you say you are the principal entity, the port authorities are the principal entities for security and, in fact, you all have had long-standing port security commissions and committees and everything else, and yet the reality is we don't have any security.

It ought to be somewhat of an embarrassment to port authority officials to say nothing is needed, certainly no legislation, when everybody else recognizes that is exactly what we have got to do. We have got to bring them together.

There is no arbitrariness of one way to get it done, but we are listening to everybody and we are beginning to coordinate.

This legislation is really a first step because it can be far more categorical in enforcement of its requirements. We are not trying to get it that way. We are trying to work with the port authorities because they have disregarded security, obviously.

I can go example after example. We have had hearings on this thing last year. Things come in and go to another terminal point and the truck is never seen again.

When you get 9 of 10 containers coming in unchecked, you do not have security, and so to say that you got good going, you got committees and what you ought to do is emphasize more coordination and everything else like that is just dancing around a fire.

We have got to do something about it and we have got to get the port authorities to get off the idea that they are there just to make

money and move cargo and not have any responsibility whatsoever for security.

You admit that you do have responsibility for security. You say you have got long-standing committees on security. You cannot go in two different directions in the same way at the same time. Any comments you would like to make, we would appreciate it.

Mr. LEONE. Mr. Chairman, I think the port authorities have made significant investments in security. I can go back to the Port of Boston, the Massachusetts Port Authority.

The CHAIRMAN. Do you think it is working?

Mr. LEONE. I believe that—go back to Admiral Loy's testimony this morning. The Federal program that was dealing with passenger vessel security worked in the particular case they had in Florida because there is a program in place for passenger terminal and passenger vessel security issues that was implemented, and in that particular case deterred—investigated and handled the bomb threat. In the Port of Boston, we have invested a significant amount of money in training of our watchmen. We have incorporated our watchmen into the port authority jurisdiction, have made them special State police officers, have trained them at the State Police Academy, and also have our own State Police barracks that is assigned to the seaport.

We have made investments in fencing. We have made investments in lighting. We have made significant investments. I know this is true in other ports in the United States as well. So there has been a significant amount of investment. We cooperate regularly with the captain of the port on harbor safety committees, work with them on security issues as well, and we participate in every one of these and share information with Federal, local and State law enforcement jurisdictions and continue to make investments in all the different programs and coordinate with all the different programs that are in place.

So it is not that we are not inactive. We are very, very active on this, making significant amount of investments and using investments of many of the private terminal operators, such as Maher Terminal and others, in using seaports of the United States to increase the amount of investment that has been made in these areas.

So it isn't that we put a blind eye. We think security is very, very important. We just think there are a significant amount of programs that are already in place, and the funding of those agencies, I believe, to a greater extent will enhance seaport security and deter seaport crime.

The CHAIRMAN. Well, we had a Commission study 17 agencies and departments of the Federal Government and they found that security ranges from fair to poor. I mean, that is their finding and no one really disputes it. You keep talking about investment and training and time and everything else, but it would be, to me, somewhat of an embarrassment to talk about that investment, training, time, and everything else like that, and have the result that we've got 9 out of 10 of those containers coming in unchecked, unlooked at, gone.

Mr. LEONE. If I recall, the Commission report did not know where the actual theft occurred and it occurred anywhere along—

or if it was hijacked, didn't have enough information to examine where cargo theft occurred in that particular case, and in those particular circumstances, had a very difficult time assessing exactly where some of these crimes were taking place. So in some of these circumstances, certainly the additional funding for Customs and the Coast Guard will help in these particular areas, but the port authorities and certainly local law enforcement jurisdictions have made investments as well, Mr. Chairman.

The CHAIRMAN. We know about investments. I can't seem to make the point. I understand about the investment. We appreciate it. We have got investments made at my own hometown, but we do not have security and everybody has found that.

Those containers come in and they are not checked and nobody wants to really assume the responsibility and right to the point, the captain of the port has not really been steeped in this kind of responsibility.

He has been out at sea and we have not given him the money, so you cannot fault him. Nobody is trying to find fault. We are trying to find a solution, and to say that no legislation is necessary and just let us all keep on talking to each other is not going to get us anywhere.

We have a dangerous situation with respect to the ports, much more like I stated in the initial comment about space-based dangers. It is port-based dangers. We do not have any semblance of port security as we do with airport security. I can go through both of them, but I'm checked at the airport. But you just come right in and tie up and walk away at the port. That is about the situation. All people—the port people—have put security last.

That is my observation from living, working. I used to be a lawyer for the port authority and I can tell you the last emphasis they had was on security. They had other things, solicitation and moving cargo. And you talk, Mr. Maher, but have got coming now, we know those containers are owned by somebody through Hong Kong, through London, back through somewhere else and so the port driver, he has to come 2 hours ahead of time to get a safe container. Because if he gets stopped, he gets charged on the highway for a defective container and he gets fined and his livelihood, poor fellow's working around the clock and everything else, while some rich guy up in some tower in some city somewhere in the world owns that container. You would have to be a detective to find out who owns it.

But it has got to be safe and we do not want—the port authority doesn't want to fix that responsibility. They want to put it on the poor driver who has no wherewithal to do it. So the only way he solves his problem is to come there 2 hours early and roam all around and everything else like that to finally get what he knows is a safe one, and then he takes it out and thank goodness, he doesn't get stopped. But if you get there late, if you do not find quite a safe one, your job, your livelihood is gone.

Those are the kind of things that are going on at these ports. It is not that we make an investment, we got lights, we got police, we got training. It is not working. I can tell you that.

But, be that as it may, Mr. Craig, you had some more testimony, I think, you wanted to elaborate on four points.

Mr. CRAIG. May I? Thank you.

Data collection: Several independent studies discussed in the Seaport Commission's report including one by the John A. Volpe National Transportation System Center and another by the Rand organization placed the losses due to cargo theft near $10 billion annually. However, we need to improve the collection of data so that law enforcement efforts can be better focused.

Statistics currently available are seriously deficient for a variety of reasons. Your legislation would mandate an evaluation of existing governmental databases in an effort to ensure the collection of data on cargo theft occurring in the ports or anywhere else in the intermodal chain of transportation.

We understand that the current unified Federal crime reporting system suffers from a lack of resources on the State and local levels. The bill requires an outreach program to help channel resources to State and local law enforcement agencies to improve their information systems and harmonize them with the Federal system.

In addition, we strongly recommend that a requirement be added for officials to report cargo theft as a separate crime so this data may be easily retrieved.

Criminal penalties: We have observed that cargo criminals are not being adequately deterred by the existing penalties. In fact, indications are that those who once specialized in other types of crime are turning to cargo theft because the rewards are lucrative and the threat of prosecution is minimal.

We strongly support the provision in your bill which directs the U.S. Sentencing Commission to amend the Federal sentencing guidelines to provide a sentencing enhancement of not less than two levels for violation of the Federal cargo theft law.

Security training: The legislation addresses an important need by building on the good work already being done at the United States Merchant Marine Academy's Global Maritime and Transportation School, (GMATS), at Kings Point, New York. A new maritime security institute to be established at this Federal facility will expand the current offerings and enable the training and certification of maritime security professionals in both the law enforcement and private sectors.

With a better understanding of the intricacies of the shipping business, law enforcement officials will be better equipped to do their jobs.

Teamwork: The problems addressed by the legislation are multidimensional, and they are best approached through interagency cooperation and the sharing of information and resources. We are pleased that the port security task force proposed in the bill will have a subcommittee comprised of Federal, State, and local government law enforcement agencies. This "law enforcement subcommittee" will have the ability to collaborate with public and private entities.

We would like to call your attention to a group of interagency task forces which have already been established in various regions of the country to combat cargo theft. They were organized as a result of a speech made in 1994 by the Attorney General, but they

have never had a sufficiently high profile to make an appearance in the Federal budget and thus suffer from a lack of resources.

Ideally, each of the task forces should be funded and include representatives of the U.S. Attorneys, the FBI, Customs Service, DEA, INS, the Coast Guard, and State and local prosecutors and law enforcement officials.

Due to budget constraints, agencies are sometimes unable to participate in task forces. We would appreciate the opportunity to work with Committee staff to ensure that the most critical cargo theft task forces are able to benefit from your legislation. The rest of my comments can be entered into the record.

The CHAIRMAN. Very good.

The Committee appreciates the appearance of each of you here this morning, and the record will stay open for any further comments that any of you have and any questions by the other Senators. Thank you very much.

The hearing will be in recess subject to the call of the chair.

[Whereupon, at 11:30 a.m., the hearing was adjourned.]

A P P E N D I X

NATIONAL CUSTOMS BROKERS AND FORWARDERS ASSOCIATION OF AMERICA

July 23, 2001

Hon. ERNEST F. HOLLINGS,
Chairman,
Senate Committee on Commerce, Science, and Transportation

Dear Senator Hollings:

The following represents the views of the National Customs Brokers and Forwarders Association of America (NCBFAA) with respect to S. 1214. Please incorporate these comments into the record of your hearing tomorrow, July 24.

As a general matter, NCBFAA supports legislation to improve security at the nation's ports. Customs brokers and ocean transportation intermediaries ("OTIs") have a stake in protecting cargo and in ensuring that the public has confidence in our ports' reputation. Our commercial viability depends on a dynamic domestic port system.

NCBFAA's litmus tests for support of the bill are threefold: Will cargo proceed to its ultimate destination in the most expeditious manner possible, moving just as quickly after this bill is enacted as before? Will cargo be encumbered with more cost and unnecessary regulation because of this legislation? Will the bill effectively provide security at the ports? In light of the foregoing, we believe that the bill makes many sensible additions to assessing and redesigning port security. There are several areas of the bill, however, where we suggest improvement.

First, however, let us tell you that we are gratified that you have responded favorably to our suggestion that freight forwarders be added to those serving on the port security task force. They will contribute considerable value added to the proceedings of that group, especially by bringing unique commercial considerations to their attention.

On the other hand, we continue to be concerned about a requirement in Section 16 that the Customs Service require information about in-bond entries at the same level of detail as is provided on a consumption entry. This information is not now required, particularly at this level of detail, for one important reason: *Customs does not need it.* Merchandise entering the U.S. under bond is *in transit* merchandise, destined for another port, or for export. Furthermore, much of the information required is not available from the carrier and instead would necessitate the provision of professional services. This would greatly encumber in-bond transactions, adding cost and delay. This in turn defeats the very purpose behind sending goods under bond. It imposes a layer of regulation where none now exists. In fact, we do not believe that it would be overstated to say that this would threaten the entire in-bond movement system, with dire consequences to "just-in-time" supply chain management. Because of this requirement and in order not to duplicate costs, importers would prepare entry data at the port of arrival. We think this would detrimentally affect ports such as Charleston, New Orleans and Portland.

We acknowledge changes made in the final draft, but believe that they are inadequate to resolve the basic problem: encumbering "in-bond" transactions. Furthermore we do not believe it is helpful to communicate to Customs that this should be done through regulation, even in the context of making it compatible with Automated Commercial Environment (ACE) requirements.

There are also sections within the bill that we believe will inevitably add to port congestion. For example, in the findings section (Section 2, paragraph 12), the bill refers to "securing entry points." This concerns us in that "controlling movements" of trucks is broad enough to result in measures that produce a major slowdown in the movement of goods. We would make a similar observation about Section 7(c)(3), providing guidance on vehicular access. Again, this is overly broad, might include *public access roads*, and could result in substantial delays to the movement of goods.

We are prepared to work with the Committee to address our concerns, as we have in the past. At present however, we view these as fundamental flaws in the legislation.

Sincerely,

PETER H. POWELL, SR.
President.

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