



Testimony of

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**I. Introduction**

America is a free nation that generally aspires to free trade. Our international transportation and trading system reflects that relative openness and freedom, and we all benefit from it. But today we face a serious, new challenge: How best to design and implement effective maritime security measures that will successfully defend our trading and transportation system from terrorism— while preserving the efficiencies and benefits which consumers, businesses and every national economy derive from today’s system.

Meeting that challenge is not a simple task. “Maritime security” covers a variety of different, distinct industries and elements, including: inland waterways, port facilities, marine terminals, non-maritime facilities located on navigable waters, bridges, cruise ships, tankers of various types, and the liner industry. This testimony will address only the *liner shipping*<sup>1</sup> aspects of this agenda, which, while representing only a portion of the issues this Committee is reviewing, are substantial enough to have produced multiple “container security” initiatives within the Executive Branch.

In 2001, the international liner shipping industry carried approximately 18 million TEUs (twenty-foot equivalent units) of containerized cargo in America’s international trade – roughly \$480 billion dollars worth of goods. That represents slightly over two-thirds of the

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<sup>1</sup> Unlike bulk carriers or “tramp” ships that operate for hire on an “as needed, where needed” basis, liner vessels operate in regular, scheduled services on fixed routes.

value of all of the nation's oceanborne commerce. It represents approximately 4.8 million containers of U.S. export cargo and 7.8 million containers of import cargo.<sup>2</sup>

Over 800 ocean-going liner vessels, mostly containerhips and roll-on/roll-off vessels, make more than 22,000 calls at ports in the United States each year. That's more than 60 vessel calls a day – providing regular scheduled services to and from virtually every country in the world. Liner shipping makes it easier and cheaper for U.S. exporters to reach world markets, and provides American businesses and consumers with inexpensive access to a wide variety of goods from around the world – strengthening our economy and enhancing our quality of life. The members of the liner shipping industry who comprise the World Shipping Council<sup>3</sup> carry over 90 percent of this volume. They truly are “Partners in America's Trade”, and they recognize that this partnership requires the industry to work effectively with the government to address the new threat that terrorists might try to use or attack our transportation system.

The immediate challenges are (1) to design the security process and deploy the capabilities necessary to minimize, detect and intercept security risks as early as possible – before they are loaded aboard a ship for delivery to their destination, and (2) to have the systems and international protocols in place to ensure the efficient flow of international commerce during all possible security conditions. We must protect the system that facilitates world trade, and prevent transportation assets from becoming means of delivering destruction. We must protect the lives of people who make the international trade system operate and who work and reside in areas through which trade flows. We must protect the nation's ability to continue its trading relations in the event terrorists do attack. And, we must recognize that this terrorist threat is not going to go away, but only become more challenging to address as world trade volumes grow.

For that reason, what is at issue is not just maritime security, or the even the global, intermodal transportation system, but the flow of international trade and the world's economic health.

Government officials have clearly stated their concern over the possibility that our international transportation system might be used as a conduit for terrorism. Accordingly, governments must devise and implement effective strategies to reduce and manage such risks, and carriers, shippers, ports, marine terminals, importers and third parties need to support what is necessary to achieve those objectives.

At the same time, government officials have indicated that, if terrorists were to attack this system, the government response might be to shut down trade.<sup>4</sup> That, however, would allow the

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<sup>2</sup> Containers are different sizes, including 40 foot (most common), 45 foot, and 20 foot. For that reason a specific number of TEUs does not equal that number of containers, as a 40 foot container equals two TEUs.

<sup>3</sup> The membership of the Council is attached as Appendix A.

<sup>4</sup> Customs Commissioner Bonner last month stated that “the shipping of sea containers would stop” if a nuclear device were detonated in a container. One can only agree with his comment that this would be “devastating”, would cause “massive layoffs” in the economy, and that “we must do everything in our power to establish a means to protect the global sea container trade, and we must do it now.” Speech of Commissioner Robert C. Bonner, before the Center for Strategic and International Studies, January 17, 2002, Washington, D.C.. Coast Guard officials have made similar comments.

terrorist threat to strangle international trade. It would be extremely damaging to the American and world economy. The government must have a strategy and the capability to ensure that trade continues to flow, even if there is an incident. The alternative would create an even greater incentive for terrorists to target the transportation industry, because the consequences would be so destructive.

There is no single solution for this problem. No single government agency that can solve this problem. No single government that can solve this problem on its own. Every commercial party involved in the transportation of goods has a role to play. Every government has a role to play.

Shippers, consignees, carriers, ports and terminal operators all fear that in the endeavor to address these security concerns, the free and efficient flow of commerce will be impeded, and that requirements may be imposed that unnecessarily impede commerce and raise operating costs, but do little to improve security. This is an entirely legitimate concern. The answer, however, is not to delay action. What is needed is for the government to clearly identify the new security requirements, and for the industry to work cooperatively and quickly with the government to determine the best, most efficient way to meet them.

After September 11, the World Shipping Council established a Security Advisory Committee in order to consider how the liner industry could assist the government in the effort to improve security and protect the flow of commerce. On January 17, the Council issued a White Paper, which was provided to the Department of Transportation, the Customs Service and this Committee. Based on that paper and the continuing commitment of the liner industry to help the government develop effective responses to these challenges, I'd like to offer the following comments to the Committee.

## II. The Challenges

Designing and implementing an effective maritime security program will require cooperation, information sharing, and coordination between government and industry. At the outset, the Council recommends that the federal government's strategy and actions should be consistent with certain principles.

First, there must be a unified, coordinated strategy to address the issue. We recognize that the Department of Transportation oversees transportation and the Customs Service oversees trade, but improving the security of intermodal, containerized cargo shipments requires a tightly integrated approach and clear responsibilities. This is particularly true when considering information requirements for cargo shipments, which I will discuss later. It also requires government agencies to effectively share the information that they require.

Second, there should be clear, mandatory rules informing each responsible person in the transportation chain what is required of them. Voluntary programs designed to provide enhanced security levels and to expedite the transportation of low risk cargo are important and should be pursued. But, effective security against terrorist threats also requires clear minimum requirements, with clear accountabilities, which are uniformly applied and enforced.

Third, the security regime must allow for the efficient flow of trade. Efficient transportation and secure transportation are not incompatible.

Fourth, international cooperation is necessary to effectively and comprehensively extend enhanced security to international supply chains. We all recognize that there are both

- legitimate concerns about unilateral U.S. actions that have international implications and about the need for international standards on many of these issues, rather than a crazy quilt of differing national laws, and
- legitimate concerns that the international community may not act with the urgency and determination that the U.S. government regards as essential.

This tension may be unavoidable, but it need not be destructive. It requires sensitivity and effective communication on all sides. For example, a recent Customs Service proposal to set up close security relations with a select number of large, non-U.S. ports, including the Port of Rotterdam, caused concern in Belgium because the ports of Antwerp and Zeebrugge, which compete with Rotterdam, felt that the proposal might effectively disadvantage them in their trade with the United States. That was clearly not the intent of the proposal; however, the reaction to it illustrates the importance of effective, broad-based international cooperation and sensitivity to actions that are not uniformly applied.

### III. Various Aspects of Containerized Cargo Shipping

A. Ships: On the issue of ship security, we fully support the various initiatives undertaken by the Coast Guard to address vessel security, both using their existing authority and in leading the initiative at the International Maritime Organization to obtain international agreement.

The Coast Guard immediately after September 11<sup>th</sup> implemented several measures to improve tracking vessels destined for U.S. ports and the crews and passengers onboard these vessels. Through its sea marshal program, implementation of safety and security zones around vessels and escorting certain types of vessels, the Coast Guard is also taking steps to prevent vessels from becoming terrorist targets or from being used by terrorists as weapons.

The Coast Guard has submitted to the International Maritime Organization (IMO) additional proposals pertaining to vessel security. Among the proposals are the designation of security officers on every vessel and in every company that owns or operates vessels; the availability of alarms or other means on a vessel to notify authorities and other ships of a terrorist hijacking; and the expedited installation on all vessels of the Automatic Identification Systems (AIS) by July 1, 2004, instead of the existing target date of 2008. AIS provides, among other things, a ship's identity, position, course and speed. The Coast Guard has also proposed to the IMO an international system for the issuance of verifiable seafarers' documents and background checks of individual seafarers.

These and other proposals were discussed at a U.S. initiated working group meeting of the IMO that ended last week. Additional IMO meetings are scheduled for later this spring and

summer with a view to approving new international vessel security measures at a special IMO session in December.

It is too early to assess which measures may be approved later this year by the IMO and thus become internationally binding requirements. As an international industry operating liner vessels with multinational crews, and under the jurisdiction of many different flag administrations, and calling ports in many different countries, the Council's member companies would prefer that, to the greatest extent possible, mandatory vessel security measures be agreed to at the international level. Clear and uniformly applied and enforced rules would create certainty and clarity for our vessels and their crews and help protect against breaches in, and of, the international supply chain.

One final point about ships and security: Concerns have been expressed about terrorist organizations using shell businesses to obtain ownership of vessels to provide a source of income and for logistical purposes. It is very important for flag administrations to work cooperatively with U.S. authorities to track any such terrorist ownership, and we understand that these concerns are being addressed.

B. Marine Terminals: The security of ports and marine terminals in this country was analyzed in the Report of the Interagency Commission on Crime and Security in U.S. Seaports (Fall 2000) and found wanting. This issue has been discussed at previous Committee hearings, and that report provided an impetus for your legislation (S.1214), Mr. Chairman, which is now before the House of Representatives, and which we support.

The Coast Guard, using existing statutory and regulatory authority and working with terminal owners and operators, has already implemented certain measures to increase security in and around waterfront facilities.

Earlier this year, the U.S. Coast Guard Commander for the Pacific Area issued guidelines for the individual Captains of the Port for the inspection and maintenance of adequate security measures for waterfront facilities in the Pacific Area. Developed in cooperation with industry stakeholders, these guidelines are intended for all types of maritime terminals and facilities. They cover areas such as physical property security, personnel security, passenger security, vehicle access and rail security, and are differentiated according to three risks levels. As guidelines, they do not replace or supersede existing regulations. Rather they are intended to assist the individual Captains of the Port and the operator of a facility in evaluating the security of that facility and taking corrective measures, if necessary. The guidelines are a constructive first step, but further actions are needed. For example, these guidelines do not address the issue of credentials and access controls for people at marine terminals.

The U.S. Coast Guard included in its submission to the IMO a proposal that all port facilities be required to develop and maintain security plans, and that these plans would have to be approved by the government in whose jurisdiction the facility is located according to internationally agreed standards. In addition to this proposal, the Coast Guard has also proposed that IMO agree to a mandatory requirement that every port undergo, by the government in whose jurisdiction it is located, periodic port vulnerability assessments based on internationally agreed

vulnerability assessment standards. We fully support the efforts of the Coast Guard to raise enhanced terminal security at the IMO. The Coast Guard has also begun the process of preparing to conduct vulnerability assessments of U.S. ports, and, towards that objective, is developing a so-called “Model Port” security concept.

C. Personnel: We support S.1214 and the Department of Transportation efforts to establish a national credentialing program, with uniform, minimum federal standards for credentialing, with a federal background check process using criminal history and national security data, and “smart card” technology for the credentialing of appropriate transportation workers. It should cover people with access to restricted marine terminal areas and to vessels, the truckers hauling the container, and other security sensitive positions. America’s seaports should have systems to ensure and record that only approved people who are supposed to be there are there, and only when they are supposed to be there.

S.1214 appropriately instructs the Department of Transportation to work to enhance the security at foreign ports. To be credible, the United States needs to do the same. Many foreign ports have more developed security procedures than U.S. ports, and the institution of credentialing, background checks, and positive access controls at U.S. ports would be a constructive step to show the U.S. government’s resolve.

We also support the Coast Guard’s initiative at the IMO to establish an international credentialing and background check system for seafarers of all nations. The Coast Guard estimates that 200,000 seafarers a year come to the United States. The agency’s IMO proposal is a good-faith proposal to establish an internationally accepted system that would provide enhanced security and ensure the desired freedom of movement for seafarers.

D. Containerized Cargo: Containerized cargo transportation presents distinct and clearly complex challenges from a security perspective (1) because of the number of different entities in different jurisdictions involved in a shipment – those involved in loading and sealing the container, documentation of the shipment, storage, trucking, railroads, inland terminals, marine terminals, and the ocean carrier, (2) because of the current lack of a clearly defined and coordinated information system to receive, analyze and act on the data determined by the government to be necessary to pre-screen containerized shipments before they are loaded aboard a ship, and (3) because of the lack of an established or coordinated global capability to inspect containers before they are loaded aboard ships. Accordingly, we believe that it may be helpful to look at separate, but complementary, aspects of addressing this issue.

1) Operations: We support the government establishing:

- a legal requirement that the shipper must seal a container originating in or destined for the United States upon stuffing it, and record the seal number on all shipping documents;
- the standards that such seals must meet (preferably an internationally accepted standard);
- a requirement that the party receiving the container at each interchange (e.g., trucker, railroad, ocean carrier) check and record the seal and its condition upon receipt;

- a requirement that when persons having custody must break the seal for legitimate reasons, they be responsible for affixing a new one, noting the reason, and recording the new seal number on the documentation;
- procedures for when a container is received with no seal, a broken seal, or a seal discrepancy; and
- a requirement that no loaded container be stowed aboard a vessel without an intact, conforming seal.

While the industry recognizes that seals will not by themselves solve security concerns, the Council believes the above requirements would be an appropriate step to ensure a more secure chain of custody.

- 2) New Equipment Technologies: Council members have offered their support for government efforts in the research, testing, development and evaluation of cost-effective new technologies that could help provide enhanced security, such as electronic seals, and container tracking and intrusion detection technology. While such technologies have not yet been sufficiently proven to have government standards and be required, carriers will continue to work with the government in testing and evaluating such possibilities. Because there are roughly 11 million existing containers serving as instruments of international commerce involving multiple national jurisdictions, it is very important that any technology standards or devices be internationally available and accepted.
- 3) Cargo Documentation and Government Information Requirements: Customs Commissioner Bonner and Admiral Loy have both spoken clearly about the need for container security initiatives to “push” the nation’s borders out, so that the government can acquire essential cargo shipment data in time to analyze the information and determine if further inspection of that container is needed *before* it is loaded aboard ship. The logic is clear and unarguable. The port of discharge is not the place or the time to check for terrorism.

If the vision of earlier, more effective container security is to become a reality, it requires better, earlier information about cargo shipments, and the capability to effectively inspect containers before they are loaded aboard ships. Let me turn to these issues.

The government’s objective is to obtain and analyze shipment information early enough to implement more timely and effective screening. The first step is for the government to establish its information requirements – specifically, what information does it need, from whom, when, electronically delivered to what information system?

Each person in the shipping process has a role and an appropriate set of requirements: the importer who has ordered and is purchasing the goods, the shipper who is loading the goods into the container, the carriers who are transporting the goods, and the brokers and forwarders who assist in the cargo information process. Today, the earliest information *required* by the government is the ocean carriers’ cargo manifests,

which are electronically transmitted 48 hours in advance of arrival.<sup>5</sup> Importers are not required by law to provide cargo information and make entry of the goods until five days after they have been unloaded (even more time is allowed if the goods are moving “in bond”). This is not the information process that is going to support accomplishing the government’s objective.

Ocean carriers are willing to do their part. They understand that the cargo manifest is a relevant source of information, and they will submit those manifests when required. By themselves, however, carriers’ cargo manifests have practical limitations and are not likely to be the means by which the government satisfies its information requirements. Specifically, the manifest’s cargo description is the information the carrier is provided by the shipper; its level of detail is limited; there is no uniform or detailed definition of what is an acceptable cargo description for a carrier’s manifest; and, penalties for inadequate or inaccurate cargo descriptions on cargo manifests are imposed only on the carriers transmitting the information, not on the cargo interests providing the information to the carrier – at best, an antiquated approach when dealing with sealed containers.

An effective information system for security purposes presumably needs specific information, from the appropriate parties who possess that information, sooner. The information exists – it’s a matter of how best to obtain it and analyze it. Cargo interests know what has been ordered before a container is stuffed. The shipper who stuffs the container knows what was put in the box. What is needed – and this is admittedly easier to state than to implement – is a system that obtains the needed data, from the appropriate parties, at times sufficiently in advance of loading as to allow for effective security prescreening.

We understand the Department of Transportation is considering this issue. We understand the Customs Service is considering this issue. We understand that private sector information enterprises are trying to determine whether they can play a role in this effort. We hope that a single government approach will be developed soon.

Finally, Mr. Chairman, we support S.1214’s recognition that maritime security requires attention to export cargo, as well as import cargo. We support your legislation’s “no documentation/no loading” requirement, and the requirement that export shippers provide complete documentation as soon as possible and no later than 24 hours after tendering cargo to the marine terminal. We recommend an additional clarifying requirement to prohibit loading a container for export unless the shipper has provided complete documentation at least 24 hours before the commencement of loading, in order to avoid the pressure of last minute demands that a box be loaded when the documentation is just being provided and the government has not had a chance to review

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<sup>5</sup> NVOCC’s (which are responsible for up to 40% of the cargo in some trade lanes) are not subject to the same Customs bonding and information filing requirements as ocean carriers; they are not required to file cargo manifests for inbound shipments. They should be subject to the same information filing obligations at the same time as ocean carriers.

it. Effective attention to export cargo will demonstrate to the international community that the United States is committed to addressing security risks in a coherent fashion, and not just the risks involved in one direction of foreign trade.

4) Container Inspection Capability: There can be no argument that non-intrusive container inspection equipment<sup>6</sup>, operated by trained personnel, is necessary, and that this is a very important government competence. Mr. Chairman, the industry recognizes your leadership in S.1214's authorizing \$168 million for this purpose over the next several years, and appropriating \$33 million for this in the Customs Service Appropriations bill this year.

It is not feasible or necessary to physically inspect every container entering or leaving a port. It is necessary, however, for the government to have the capability to inspect those containers that it identifies as deserving further attention, whether that be on the basis of random selection or specific information. And the better the information about a shipment, the better the government will be able to identify which containers warrant such inspection.

Unless such inspection equipment and competence is available to government authorities, not only at U.S. ports, but at overseas ports of loading, the government will have obvious difficulty accomplishing its objective. To be fully effective, an advanced security information system requires a way to check out a questionable container before it is loaded on a ship heading to or from a U.S. port. That's the point of advanced awareness.

This year's appropriations bill and the Administration's budget for the coming fiscal year do not appear to provide any funding for such equipment beyond U.S. shores. Perhaps the U.S. government can enter into agreements at IMO or bilaterally with its trading partners that provides for this. But, it is an issue that requires immediate inter-governmental planning and execution. Inspection equipment standards should be agreed upon, and inspection capabilities and international cooperation protocols established. Delay in having this capability means that the government will have one less effective tool to intercept dangerous cargo, and to keep commerce flowing in the event of a terrorist incident.

5) Sharing Information: While there are many aspect of addressing this issue, intelligence will be a key part of securing the transportation infrastructure from terrorists threats. Appropriate means should be developed for sharing intelligence alerts and warnings on a timely basis with designated carrier personnel.

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<sup>6</sup> This testimony uses the term "inspection equipment" generically, but recognizes that there are different kinds of equipment (e.g., mobile, crane mounted, hand held), using different technologies (e.g., X-ray, gamma ray) with different capabilities to identify different materials (e.g., drugs, radioactivity, carbon dioxide, explosives).

### III. Conclusion

Mr. Chairman, the Coast Guard has done a magnificent job in responding to maritime security since September 11, as has the Customs Service. Maritime security has been improved because of their efforts, and their enhanced vigilance and intelligence efforts continue. The challenge is to build on those efforts and create a more complete and permanent set of security procedures and systems that can better ensure the safety of America's foreign trade. The members of the World Shipping Council are ready and willing to help. A safe, efficient and reliable transportation system is essential to our country's prosperity and to the prosperity of all of our trading partners. We appreciate your early and continued leadership on this issue, and we look forward to working with you, the Committee, and the House of Representatives on these issues.

## Appendix A

**World Shipping Council  
Member Lines**

APL  
A.P. Moller-Maersk Sealand  
(including Safmarine)  
Atlantic Container Line (ACL)  
CP Ships  
(including Canada Maritime, CAST, Lykes Lines, Contship  
Containerlines, TMM Lines, and ANZDL)  
China Ocean Shipping Company (COSCO)  
China Shipping Group  
CMA-CGM Group  
Compania Sud-Americana de Vapores (CSAV)  
Crowley Maritime Corporation  
Evergreen Marine Corporation  
(including Lloyd Triestino)  
Gearbulk Ltd.  
Hamburg Sud  
(including Columbus Line and Alianca)  
Hanjin Shipping Company  
Hapag-Lloyd Container Line  
HUAL  
Hyundai Merchant Marine Company  
Italia Line  
Kawasaki Kisen Kaisha Ltd. (K Line)  
Malaysia International Shipping Corporation (MISC)  
Mediterranean Shipping Company  
Mitsui O.S.K. Lines  
NYK Line  
Orient Overseas Container Line, Ltd. (OOCL)  
P&O Nedlloyd Limited  
(including Farrell Lines)  
Torm Lines  
United Arab Shipping Company  
Wan Hai Lines Ltd.  
Wallenius Wilhelmsen Lines  
Yangming Marine Transport Corporation  
Zim Israel Navigation Company