



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*¹ 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.

¹ 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.

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 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.²

Over 800 ocean-going liner vessels, mostly containerships 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 Council³ 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.⁴ That, however, would allow the

² 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.

³ The membership of the Council is attached as Appendix A.

⁴ 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

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

the Center for Strategic and International Studies, January 17, 2002, Washington, D.C.. Coast Guard officials have made similar comments.

pursued. But, effective security against terrorist threats also requires clear 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. It also requires action by the governments of all trading nations, because the United States cannot effectively undertake security screenings outside its jurisdiction without international cooperation.

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 11th 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 recent U.S. initiated working group meeting of the IMO. 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 be certain which measures will be approved later this year by the IMO and thus become internationally binding requirements, but the Coast Guard's report on the IMO effort was very optimistic. 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.

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 served as an impetus for the Senate legislation (S.1214) on this issue, which we have supported.

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 legislative and 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.

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, when warranted, 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 information: 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. Most cargo manifests are electronically transmitted 48 hours in advance of arrival, but they are not required to be filed electronically and can still legally be filed in paper form at the time of vessel arrival.⁵ 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.

⁵ 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.

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 to the Customs Service when required. It is important to recognize that this cargo information is necessarily, in the case of a sealed container, the shipper's declared cargo description. If the government determines that it needs more detailed information than is on the bill of lading and the cargo manifest, then it must obtain it from the appropriate cargo interests who possess that information.

Mr. Chairman, we recognize that your Committee does not have jurisdiction over the Customs Service. However, we strongly believe that any legislation that deals with this issue must recognize the extensive programs currently being undertaken by the Customs Service and the information systems that they are presently operating and upgrading. It would make no sense to consider the creation of a new cargo information system without addressing how it relates to the Customs Service's programs and without ensuring that what is produced is a single, logical system that meets defined, coordinated objectives. Neither shippers, carriers, nor the government would be well served by competing cargo information systems at the Department of Transportation and the Customs Service. However your Committee decides to address this issue of cargo information, we believe that it is essential that any legislation on this issue must provide a single, coordinated strategy and assignment of responsibilities.

Finally, Mr. Chairman, we believe maritime security legislation should address export cargo, as well as import cargo. 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 equipment⁶, operated by trained personnel, is necessary, and that this is a very important government competence. The Congress has increased funding for the Customs Service for this purpose; however, a strategy for enhancing such capability in ports around the world is needed.

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

⁶ 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).

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.

Perhaps the U.S. government can convince the IMO to address this issue. Perhaps bilateral agreements with our trading partners can provide 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 terrorist's threats. Appropriate means should be developed for sharing intelligence alerts and warnings on a timely basis with designated carrier personnel.

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, unified and permanent set of security procedures and systems that can better ensure the safety of America's foreign trade. As this Committee considers legislation on this issue, we hope that the positions outlined above will be of assistance. We also ask you to consider the four principles outlined in Part II of this testimony earlier, which I will address again.

1. *First, there must be a unified, coordinated strategy to address this issue.* The current governance structure is not adequate.

The Commandant of the Coast Guard and the Commissioner of Customs have articulated a sound vision for the desired outcome. The vision is to have a system in place that allows the government to screen cargo containers before they are put on ships sailing for U.S. ports. This requires analysis of the shipment information in advance of loading and having the capability to inspect any container the government chooses to inspect. But the government's reluctance to establish with clarity who has responsibility for containerized cargo security is becoming increasingly troublesome.

The Coast Guard has a clear mission and has performed exceptionally well in addressing ship security issues and in addressing port security issues. That is and should remain their jurisdiction. But when it comes to the movement of containerized cargo we see confusion and

competition between Customs and the Department of Transportation resulting in an unclear governance structure to address the issues before us.

For example, Customs handles the “trade” aspects of these international cargo movements, and the Commissioner of Customs has actively embarked upon the development of a Container Security Initiative and the Customs Trade Partnership Against Terrorism (C-TPAT). Ocean carriers are working with the agency in these efforts. But who is responsible for managing the trade consequences should there be an incident? And, if we are ever faced with a terrorist use of a container, who is responsible for determining what is done to keep international trade flowing? Customs Commissioner Bonner has indicated, as have Coast Guard officials, that the U.S. government response, presumably led by the Coast Guard, could well be to close U.S. ports. What would be required to reopen them and who would make the decision to do so? What would carriers, shippers, terminal operators and ports have to do to keep American trade flowing? What would the U.S. expect foreign ports to do, and what capabilities would we expect or require of them? When will those expectations and requirements been communicated to the relevant foreign governments? We believe that these questions remain unanswered.

There is on average over \$1.3 billion worth of American exports and imports moving in and out of our ports in containers every day. That flow of goods, often moving as part of a “just in time” supply chain, keeps countless factories operating and millions of Americans employed. It does the same in the economies of all our trading partners. The potential economic damage from the United States imposing in effect a “blockade” on itself would be so enormous, that it is imperative that the government address not only what is needed to detect and prevent the threat – which is critically important, but how it would keep such an attack from accomplishing its potential objective, namely crippling the economy. We are very concerned that clear responsibility for this issue and the planning that is required is lacking today. We respectfully submit that this situation should be remedied immediately.

Finally, a unified, coordinated strategy requires that the government clearly define its information requirements – what information does it want, from whom, when – and have one agency responsible for its acquisition.

2. *Second, there should be clear, mandatory rules informing each responsible person in the transportation chain what is required of them.*

We believe the government should establish clear minimum requirements, with clear accountabilities assigned to the appropriate parties, and should enforce those requirements uniformly. Although the Committee may not feel it appropriate to legislate too many details of what should be done, legislation should provide clear substantive and procedural guidance to the implementing agencies.

3. *Third, the security regime must allow for the continued free and efficient flow of trade.*

The liner industry is moving over a million containers of American import and export cargo a month. Supply chain management techniques applied to this trade have provided literally billions of dollars of savings to American businesses and consumers, as well as

connecting the American economy to every market in the world. Efficient transportation and secure transportation are not incompatible, and the legislative and regulatory responses should strive to preserve the benefits of an efficient, reliable transportation system.

4. *Fourth, international cooperation is necessary to effectively and comprehensively extend enhanced security to international supply chains.*

This is a task that requires U.S. leadership because America is the largest trading nation in the world; however, the United States government cannot extend security to foreign ports and places without other nations' engagement and agreement. The Coast Guard has done an outstanding job of getting the IMO to deal with many of the issues involved, especially those involving ships and ships' interface with the landside terminals. That same kind of initiative needs to be taken with our trading partners to address the remainder of the issue of establishing an effective system to prescreen and, if deemed necessary, check containers before they are loaded onto ships.

* * * * *

Mr. Chairman, 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 the Committee's leadership on this issue, and we look forward to working with you 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 Corporatio

Evergreen Marine Corporation

(including Lloyd Triestino)

Gearbulk Ltd.

Great White Fleet

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