Testimony for the Record
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The National Infrastructure Advisory Council (NIAC)
before the
Committee on Homeland Security
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Good morning Chairman Thompson, Ranking Member King and distinguished Members of the Committee. My name is Alfred Berkeley and I am currently the Chairman and CEO of Pipeline Trading Systems and the past President and Vice-Chairman of the NASDAQ Stock Market, Inc. It is a pleasure to appear before you today to discuss the National Infrastructure Advisory Council (NIAC) and its role as a Presidential Advisory Committee.

The National Infrastructure Advisory Council (NIAC) was created by Executive Order 13231 of October 16, 2001, as amended by Executive Order 13286 of February 28, 2003 and Executive Order 13385 of September 29, 2005.

The NIAC Chair and its members are appointed by the President and serve at the President's discretion. Currently, the NIAC Chair position is held by Mr. Erle A. Nye, Chairman Emeritus, TXU Corp. On behalf of Mr. Nye, I would like to expresses his regrets that he cannot be here to testify before you.

The members of the NIAC, numbering no more than 30, are selected from the private sector, including industry and academia, as well as State and local government, and serve as Special Government Employees (SGEs) as defined in section 202(a) of title 18, U.S. Code.

The members have expertise relevant to the functions of the NIAC with responsibilities for the security of critical infrastructure supporting key sectors of the economy such as banking and finance, transportation, energy, communications, and emergency government services.

Members cannot be full-time employees of the executive branch of the Federal government and, in turn, are not allowed to represent the organizations by whom they may be employed.   All members are also required to have appropriate security clearances.

As prescribed by the NIAC Charter, the NIAC supports a coordinated effort by both government and private sector entities to advise the President through the Secretary of Homeland Security on issues related to the security of the nation's critical infrastructures

To accomplish its objectives, the NIAC draws on the expertise of its members to provide advice and make recommendations that:

a.   enhance cooperation between the public and private sectors in protecting information systems, supporting critical infrastructures in key economic sectors, and providing reports on the issue to the President, as appropriate;

b.   enhance cooperation between the public and private sectors in protecting critical infrastructure assets and increasing resiliency in key economic sectors and providing reports on these issues to the President, as appropriate; and

c.   propose and develop ways to encourage private industry to perform periodic risk assessments of its critical information and telecommunications systems.

The NIAC defers matters pertaining to National Security and Emergency Preparedness Communications to the President's National Security Telecommunications Advisory Committee (NSTAC) as such, the NIAC coordinates all National Security and Emergency Preparenedness related interdependency issues with the NSTAC.

We have broad authority. The NIAC may consult with any interested party, including any private group or individual, government department, agency, interagency committee, or other government entity. Further, the NIAC may hold hearings, conduct inquiries, and establish, with the concurrence of the Executive Director or his or her designee, an executive committee, and other subcommittees, as he or she considers necessary or appropriate, subject to the provisions of FACA. Additionally, The NIAC may provide advice and recommendations to Federal government lead agencies that have critical infrastructure responsibilities and to industry sector coordinating mechanisms.

The Council also has the authority to provide advice directly to the heads of other agencies that have shared responsibility for critical infrastructure protection, including Health and Human Services, Transportation, and Energy.

The NIAC meets publicly four times each year. Two of the meetings are by teleconference and two are in-person. All meetings are hosted in Washington, D.C., in a venue open to the public. The Council uses its public meetings as working meetings. The standard agenda focuses on progress reports from working groups and on deliberations to produce useful, timely, and actionable recommendations. The Council is very active, taking on four to six major studies per year; performance goals are attuned to delivering quality, well researched reports between 6-12 months from the inception of the selected studies. NIAC reports have drawn public and private sector interest. Public meetings are normally attended by several members of the Press. The President meets with the Council at least once a year and has directed very specific requests to the Council for recommendations on issues of interest. The White House monitors the progress of the Council's studies on a regular basis between meetings through a liaison in the Homeland Security Council. Administrative and financial support is provided by the National Protection and Programs Directorate of the Department of Homeland Security. Before the Department of Homeland Security was created, we were supported by the National Security Council.

NIAC projects and study requests come from several sources:

(1) The primary source of requests for studies is the White House. An example is the *Hardening the Internet Report and Recommendations*.

(2) The DHS Secretary or heads of other Departments may also ask the Council to develop recommendations. (Example: In a letter dated May 17, 2006, DHS Secretary Michael Chertoff and HHS Secretary Michael O. Leavitt jointly requested the NIAC take on the *Prioritization of Critical Infrastructure in the Event of a Pandemic Influenza Report and Recommendations.* This represents the first time the Council addressed recommendations stemming from a joint request.)

(3) The Council itself can independently decide to address certain topics. As reports near conclusion, the working members may deliberate on independently developed topics. The *Chemical, Biological, and Radiological Events (CBR) and the Critical Infrastructure Workforce Working Group,* currently underway, represents an example of this type of charge.

In order to generate actionable recommendations, the Council creates Working Groups composed of Council members supported by Study Groups. The Study Groups consist of member-appointed subject matter experts who help provide the background and subject expertise required to develop recommendations pertinent to critical infrastructure protection. These groups rely on open-source research papers, presentations from outside experts, and their own extensive backgrounds to help drive preliminary findings. Subsequently, the preliminary findings lead to the development of the final Working Group recommendations which are presented to the entire Council for review, approval or revision during the quarterly business meetings.

Since the Council's inception, the NIAC has released thirteen reports; with two more slated for completion in the near future. Three particularly significant reports are the *Sector Partnership Model Implementation Report and Recommendations*, the *Prioritization of Critical Infrastructure in the Event of a Pandemic Influenza Report and Recommendations* and *the Risk Management Approaches to Protection Report*

Released on October 11, 2005, the *Sector Partnership Model Implementation Report* offered numerous recommendations designed to maximize the public-private partnership as well as ensure trust and cultivate an effective working relationship. This report identified roles for:

      a. Sector Coordinating Councils (SCCs),
      b. Government Coordinating Councils (GCCs), and
      c. Partnership for Critical Infrastructure Security (PCIS).

In this report, the NIAC concluded that successful implementation of the Sector Partnership Model (as laid out in the National Infrastructure Protection Plan) requires an unprecedented level of public-private cooperation to secure the Nation's critical infrastructure. In order to meet this challenge, the NIAC recommended that the

Secretary exercise the Section 871 authority granted to him under the Homeland Security Act of 2002.

The Council also was requested to provide guidance on a permanent framework for public-private sector coordination. The Council undertook this study quickly, drew inputs from many parties, and provided a recommended structure and some suggested rules of engagement.

Recognizing the necessity of a mechanism that promotes meaningful dialogue on key critical infrastructure protection issues alongside agreement on mutual action between government and owner/operator entities, Secretary Chertoff accepted the NIAC findings. In March 2006, he established the Critical Infrastructure Partnership Advisory Council (CIPAC) and exempted it from the requirements of FACA. The CIPAC currently provides government agencies and the CI/KR owners and operators with an institutionalized process and single point of entry for programmatic planning, strategy, policy, implementation, and joint monitoring of progress. I believe that the critical infrastructures and their corresponding governmental organization are working more closely together to as a result of this effort.

Perhaps the most notable and recent work of the NIAC is related to a potential avian influenza pandemic. The Council was requested by the Secretaries of Homeland Security and Health & Human Services to undertake an assessment of the operations of critical infrastructures during a pandemic, with a particular focus on protecting the workers in critical infrastructures who have roles critical to operations. Essential services must continue to be provided during a pandemic; day-to-day activities can not be allowed to degrade due to the failure of critical infrastructure to include electricity, drinking water, banking, or health care.

Released on January 16, 2007, the *Prioritization of Critical Infrastructure in the Event of a Pandemic Influenza Report and Recommendations* is already being used in pandemic planning. At the Council's most recent meeting on July 10, Rear Admiral W. Craig Vanderwagen, M.D., Assistant Secretary for Preparedness and Response at HHS, lauded the report for its immediate effectiveness. He stated the recommendations could also apply in the face of other potential events requiring workforce prioritization, whether it is a biological attack or some other naturally occurring event.

The Risk Management Approaches to Protection Report was released in October of 2005. Within that report, the recommendation to create and standardize risk methodologies and mechanisms across the government was accepted and is reflected in the structure of the NIPP. As a result, this recommendation is being implemented in programs across DHS and the Sector Specific Agencies.

I would like to offer one final example of the contributions made by the NIAC. The sharing of intelligence information, not just from the intelligence community to critical infrastructures, but also from industry to the intelligence community, is a fundamental aspect of infrastructure operations. The NIAC undertook a study that included representatives of the intelligence community and security personnel, and produced a report with recommendations to improve public-private sector intelligence coordination.

The intelligence coordination report, sector partnership report, risk management report and pandemic report contain recommendations that cross multiple government agencies. The protection of critical infrastructures is a shared role among many agencies of the U.S. government, and one in which the Department of Homeland Security is designated as a leader. Mr. Chairman, my own view, and I believe that of other NIAC members, is that the Secretary of Homeland Security has carefully considered the recommendations of the NIAC and acts strategically when recommendations are received.

Mr. Chairman, the operation of our economy and the health and welfare of the citizens of the United States depends upon the functionality of our "critical infrastructures". The public and private sectors have many efforts underway to improve the security, preparedness, protection, and response for these services. The NIAC seeks to provide guidance that will improve the overall public-private sector cooperation and coordination for critical infrastructure protection, including federal-level agencies, state and local agencies and first responders, and critical infrastructure owners and operators.

I firmly believe that the members of the NIAC are making a significant contribution to our nation and I am proud to have been a member since 2002.

Thank you for the opportunity to meet with you today. I would be pleased to take any questions that you may have.