

STATEMENT OF

THOMAS S. WINKOWSKI

ASSISTANT COMMISSIONER, OFFICE OF FIELD OPERATIONS

U.S. CUSTOMS AND BORDER PROTECTION

At the hearing before the

Senate Commerce, Science and Transportation Committee

4 October 2007

Introduction

U.S. Customs and Border Protection (CBP) appreciates this opportunity to discuss with you today the Security and Accountability For Every Port Act (SAFE Port Act) and the efforts of CBP nearly one year after its passage.

It is noteworthy that CBP worked quite closely with the House and Senate in the development of the SAFE Port Act and applaud the high level of Congressional interest in securing United States ports and the global supply chain. Much of what is in the SAFE Port Act codified initiatives that the U.S. Customs Service, now CBP, undertook immediately after 9/11 and has been implementing successfully ever since.

Below are updates on the primary areas of activity being undertaken by CBP to fully implement the Act.

Container Security Initiative (CSI)

To meet the priority mission of preventing terrorists and terrorist weapons from entering the United States, CBP has partnered with other countries through the Container Security Initiative (CSI) to deploy multi-disciplined teams to selected foreign seaports to identify cargo containers that pose a potential risk for terrorism and inspect those containers at the foreign ports before they are shipped to the United States. CSI is an example where the SAFE Port Act codified existing DHS programs, and CBP is in compliance with the Act's mandates.

Almost 32,000 seagoing containers arrive and are off loaded at United States seaports each day. In fiscal year 2006, that equated to 11.6 million cargo containers annually. Because of the sheer volume of sea container traffic and the opportunities it presents for terrorists, containerized shipping is uniquely vulnerable to terrorist exploitation. CSI's effectiveness and successes can be

measured by several factors. At its core is the cooperation and information sharing between the CBP officers in the foreign seaports and the host government personnel. Additionally, CSI has been instrumental in enhancing port security. Through CSI, many foreign ports that previously did not utilize or possess non-intrusive inspection (NII) equipment now have either purchased their own or have access to NII equipment. Additionally, CSI has partnered with Department of Energy's Megaports Initiative at several CSI ports to further enhance the host nation's capability to screen cargo for nuclear and other radioactive materials that could be used by terrorists against the United States or a host country. This fiscal year CSI expanded to 8 additional ports, and reached a milestone of 58 ports worldwide covering 85% of the container traffic destined to the United States. This is significant progress.

Secure Freight Initiative (SFI) and 100% Scanning

Building upon the success of the Container Security Initiative (CSI), on December 6, 2006, the Secretary of Homeland Security, in cooperation with the Department of Energy (DOE), Department of State (DOS) and with the maritime industry and foreign government partners, announced Phase One of the Secure Freight Initiative (SFI). SFI is an unprecedented effort to build upon existing port security measures by enhancing the United States government's ability to scan containers for nuclear and radiological materials in seaports worldwide and to better assess the risk of inbound containers

The initial phase of the SFI involves the deployment of a combination of existing technology and nuclear detection devices to three ports as per the requirements of the SAFE Port Act, but will also extend, in limited operation, to four additional foreign ports. This will provide a more complete analysis for SFI by including different operational and geographic settings at each port and will provide exposure of different models for future 100 percent scanning. SFI Phase I Ports include: Port Qasim, Pakistan, Port Cortes, Honduras, Southampton, United Kingdom, Port Salalah, Oman, Brani Terminal at Port of Singapore, Gamman Terminal at Port Busan, Korea, and the Modern Terminal in Hong Kong. SFI Phase I is currently on schedule to begin operations at the three ports required by the SAFE Ports Act.

This first phase will provide lessons learned on how this new, integrated technology can meld smoothly into the logistics, operations, and risk management process while complementing the flow of commerce at each different port. Additionally, this first phase of SFI will provide the partnering governments with a greater window into potentially dangerous shipments moving through their seaports. Secure Freight will provide carriers of maritime containerized cargo with greater confidence in the security of the shipment they are transporting, and it will increase the likelihood for shippers and terminal operators that the flow of commerce will be both uninterrupted and secure. SFI will use the latest scanning technology, however data analysis, using the Automated Targeting System, will continue to be our primary method in screening containers.

The lessons learned and experience gained from Phase One represent critical steps in the process of determining whether the concept of 100% overseas scanning is technologically and economically feasible and the degree to which it increases the security of the international supply chain.

DHS will submit reports to Congress in February and April 2008 detailing the progress made under SFI. These reports will also outline the successes and challenges associated with the implementation of 100% scanning in foreign locations, including issues related to the availability, capabilities and efficiency of technology and equipment; the process of negotiations/discussions with host nation counterparts as well as foreign input and feedback; the impact on the movement of cargo through ports and across the global supply chain; the staffing and human capital requirements that will be necessary both abroad and domestically and numerous additional considerations.

Domestic Radiation Detection and Imaging

The SAFE Port Act requires that a deployment strategy plan be developed for the placement of radiation portal monitors (RPMs) throughout the nation's ports of entry. That plan has been submitted to Congress by the Department.

CBP began deploying RPMs in October 2002, with the first deployment at the Ambassador Bridge in Detroit. Since that time, CBP and the Domestic Nuclear Detection Office (DNDO) have deployed over 1,000 RPMs at mail facilities, seaports, and land border crossings and will deploy the first RPM in the air cargo environment by the end of calendar year 2007. Specifically, the SAFE Port Act mandates that all containers entering through the top 22 seaports be scanned for radiation. Currently, the Department has deployed radiation detection equipment to each of these 22 ports. Due to unique operational considerations at some of these ports, not every terminal within a port is currently equipped with such equipment. However, to satisfy the requirements of the SAFE Port Act and to further enhance port security, CBP and DNDO continue to work with these considerations, and by the end of this calendar year will scan approximately 98% of all containerized cargo at these 22 seaports.

With the additional deployment of radiation scanning equipment, CBP currently scans 91% of the cargo and 81% of the passenger vehicles arriving from Canada; 97% of the cargo and 92% of the passenger vehicles arriving from Mexico, as well as 93% of arriving sea-borne cargo containers. To put this in perspective, just 18 months ago CBP was scanning 37% of arriving sea containers.

Additionally, CBP has deployed over 1,000 Radiation Isotope Identifier Devices (RIID) and over 16,000 Personal Radiation Detectors (PRD). These devices allow CBP to inspect 100% of all identified high-risk cargo.

Since CBP began scanning conveyances for radiation, over 195 million conveyances have been scanned, and over 1.1 million alarms have been resolved. This is a tremendous workload, and the SAFE Port Act authorized 200 new CBP Officers in each of the next five years to help accomplish this mission. Furthermore, the Department is currently testing the next generation of radiation detection equipment known as Advanced Spectroscopic Portals at eight locations nationwide – at Piers A and J in Long Beach, at the APM and PNCT Terminals in Newark, at the Colombia and World Trade bridges in Laredo, at the Blue Water Bridge in Port Huron, and at the Fort Street crossing in Detroit. Future deployments of ASPs, pending Secretarial certification, will allow CBP to quickly differentiate between benign materials such as kitty litter or granite, while determining which shipments pose a true risk. This perfectly supports CBP's twin goals of increasing security while facilitating the flow of legitimate trade and people.

In addition to the deployment of radiation detection equipment, CBP continues to deploy large scale imaging systems and has deployed 195 large-scale gamma ray or x-ray imaging systems nationwide. NII technology serves as a force multiplier that allows officers to detect possible anomalies between the contents of the container and the manifest. In fact, well over 5.5 million scans using NII systems were conducted in FY 07.

Automated Targeting System (ATS)

CBP requires advanced electronic cargo information as mandated in the Trade Act of 2002 (including the 24-hour rule for maritime cargo). Advanced cargo information on all inbound shipments for all modes of transportation is effectively evaluated using the Automated Targeting System (ATS) before arrival in the United States. The SAFE Port Act requires CBP to seek additional data elements for ATS as well as to evaluate the entire system. CBP is complying with both these mandates.

As a matter of background, ATS provides decision support functionality for CBP officers working in Advanced Targeting Units (ATUs) at United States ports of entry and CSI foreign ports. The system provides uniform review of cargo shipments for identification of the highest risk shipments, and presents data in a comprehensive, flexible format to address specific intelligence threats and trends. ATS uses a rules-based program to highlight potential risk, patterns, and targets. Through rules, the ATS alerts the user to data that meets or exceeds certain predefined criteria. National targeting rule sets have been implemented in ATS to provide threshold targeting for national security risks for all modes: sea, truck, rail, and air.

Working actively with the trade through the Departmental Advisory Committee on Commercial Operations (COAC), CBP has developed a new Security Filing in an effort to obtain additional advanced cargo information and enhance their ability to perform risk-based assessments prior to cargo being laden on a vessel overseas. The CBP proposal, better known as “10 plus 2” covers the following key areas:

- Ten unique data elements from importers not currently provided to CBP 24 hours prior to the foreign loading of cargo;
- Two additional data elements provided by the carriers including the Vessel Stow Plan, which is currently utilized by the vessel industry to load and discharge containers, and the Container Status Messaging, which is currently utilized by the vessel industry to track the location of containers and provide status notifications to shippers, consignees, and other related parties.

A Notice of Proposed Rulemaking (NPRM) is currently being developed. Obtaining additional information earlier in the process will increase the transparency of the global supply chain enabling the refinement of CBP’s targeting processes and will provide additional information to make a more fully informed decision with respect to the risk of individual shipments.

In addition to Security Filing, CBP continually monitors the performance of weight sets and uses data analysis to modify rules and weight sets in ATS. Since 2004, ATS has undergone independent audits from the GAO and the IG. Furthermore, CBP regularly reevaluates to improve the data sets in ATS. The Office of Field Operations National Targeting and Security (NTS) office and the Office of Information Technology Targeting and Analysis Systems Program Office (TASPO) have been working together to enhance the ATS Maritime rule set capabilities for ocean cargo targeting. Under the direction of the office of field operations (OFO), TASPO placed the updated rule sets into production on March 21, 2007, to conduct initial assessments. Since that time, OFO subject matter experts and members of the Maritime Targeting Working Group have provided feedback to NTS, which resulted in further refinements and enhancements to the maritime rule set. Currently NTS is modeling several versions of the new Country of Interest list to include iterations of different scores and scenarios to include entity concepts such as first time, unknown, and high volume. OFO is currently using the updated rule set for maritime threshold targeting.

Customs-Trade Partnership Against Terrorism (C-TPAT)

Customs-Trade Partnership Against Terrorism (C-TPAT) is an integral part of the CBP multi-layered strategy. CBP works in partnership with the trade community to better secure goods moving through the international supply chain. C-TPAT has enabled CBP to leverage supply chain security overseas where CBP has no regulatory reach. Throughout 2007, CBP has continued to expand and strengthen the C-TPAT program and ensure that certified member companies are fulfilling their commitment to the program by securing their goods moving across the international supply chain to the United States. To carry-out this critical tenet of C-TPAT, teams of Supply Chain Security Specialists (SCSS) will conduct validations and begin revalidations of C-TPAT members’ supply chains to ensure security protocols are reliable, accurate, and effective.

The SAFE Port Act not only legislatively recognized C-TPAT, but the Act also added greater

accountability by mandating that certain program activities be completed within specific time frames, and that greater program oversight be developed for the program. CBP began implementing such changes, which were first outlined in GAO reports from 2003 and 2004, eighteen months prior to the passage of the Act and continues to make progress in this regard.

Specifically, clearly defined minimum security criteria have been developed and implemented for the major enrollment sectors and will be completed for all current enrollment sectors by this fall. The SAFE Port Act requires CBP to work with the COAC to review and modify as appropriate these criteria on an annual basis, and they have done so. This program enhancement will be completed each year as part of the development of the C-TPAT annual plan, another SAFE Port Act requirement. CBP is finalizing revisions to the C-TPAT Strategic Plan, which was first published in December 2004.

The SAFE Port Act also required CBP to review their certification processes for new members and make adjustments to strengthen this initial review if necessary. CBP has done so, and all new applications are being reviewed within 90 days.

Additionally, the Act requires that all new certified members undergo their initial validation within 1 year of acceptance into the program and be revalidated every four years. In 2007, CBP's goal is to complete 3,000 validations. As a point of reference, CBP completed 133 validations in 2003; 287 in 2004; 1,080 in 2005; and 2,398 in 2006. This is real progress, and it has been made possible by adding Supply Chain Security Specialists to the program.

With current staffing levels, the C-TPAT program should fulfill its operational goals for both the 2007 and 2008 calendar years. With the projected level of validations and revalidations needed to be in compliance with the Act set at just less than 3,000 per year, the current staff of 150 SCSS's should be able to manage this workload. The SAFE Port Act mandates that all revalidations must occur within 4 years of the initial validation, while the FY07 DHS Appropriations Act called for revalidations to occur within 3 years of the initial validation. Thus, the C-TPAT program is moving forward on a 3 year revalidation model to ensure compliance.

Projected revalidations alone will reach over 2,300 in 2009. The addition of Mexican Highway Carrier validations (done annually due to higher risk models) will add approximately 400. Further, required initial validations within 1 year of certification are being projected at 1,800. As a result, the final validation/revalidation totals needed would well exceed 4,000 for 2009 creating compliance issues with the current staffing numbers.

However, an additional staffing of 50 SCSS's will be brought on board with the creation of two new offices, one in Buffalo, NY, to focus principally on Canadian membership, and an office in Houston, TX, to focus on Mexican enrollment. With the addition of this staff, expected by early calendar year 2008, the C-TPAT would again see compliance with SAFE Port Act mandated timelines.

Working with COAC, CBP has also developed and implemented a pilot program using third parties to validate supply chains where CBP currently lacks full access. In May 2007, CBP selected 11 firms to act as validators in China as the Chinese government continues to deny access to CBP personnel wishing to conduct supply chain security validations. The Chinese Government has officially indicated that the matter is under review within their government, noting initially that the private sector in China may be reluctant to have C-TPAT validations conducted in-country. In an effort to show there was trade support for the process, CBP identified a certified C-TPAT partner that has significant business in China to demonstrate their willingness to participate in the validation process. Additionally, the CBP Commissioner and senior managers have traveled to China to discuss this matter with their counterparts in an effort to clarify the validation process as well as to offer a joint validation pilot involving five currently certified C-TPAT companies willing to participate. We have received no official response to this proposed project as of this date.

Interest in the pilot program has thus far been minimal. Of the more than three hundred (300) C-TPAT importers that were invited to participate in this voluntary pilot in June, less than a dozen importers have opted to do so to date. The primary concerns expressed by C-TPAT members for not participating lie in the sharing of proprietary business and security data with a third party and with the costs associated with the validation, which, as outlined in the SAFE Port Act, must be incurred by the C-TPAT member.

Container Security Standards and Procedures

CBP strongly supports and continues to seek opportunities to enhance supply chain security efforts, including enhancements to the security of the container. Indeed, securing the container is a critical part of a multi-layered approach to supply chain security. However, in order to establish minimum standards for container security, it is first necessary to ensure that there are available solutions that would significantly improve container security without significantly disrupting the flow of legitimate commerce. It should be noted that minimum security criteria for participants in the C-TPAT program do include a requirement that all C-TPAT importers must affix a high security seal to all loaded containers bound for the United States. These seals must meet or exceed the current ISO/PAS 17712 specifications for high security seals. C-TPAT membership currently accounts for 46% of total importations into the U.S.

Any technological solution would also need to be adopted as part of a broader supply chain security program. While CBP does not believe that, at the present time, the necessary technology exists for such solutions, CBP is working closely with the Department and is actively working with industry to test different technologies and methodologies that would provide economically and operationally viable enhancements to container security.

In-Bonds

The SAFE Port Act also required CBP to submit a report on in-bond cargo no later than June 30, 2007. CBP apologizes for the lateness of this report, which is still undergoing review, and expects to have the report issued shortly.

The final report includes a plan for closing in-bond entries at the port of arrival; an assessment of the personnel required to ensure 100 percent reconciliation of in-bond entries between the port of arrival and the port of destination or exportation; an assessment of the status of investigations of overdue in-bond shipments and an evaluation of the resources required to ensure adequate investigation of overdue in-bond shipments; a plan for tracking in-bond cargo within the Automated Commercial Environment (ACE); an assessment of whether any particular technologies should be required in the transport of in-bond cargo; an assessment of whether ports of arrival should require any additional information regarding shipments of in-bond cargo; an evaluation of the criteria for targeting and examining in-bond cargo; and an assessment of the feasibility of reducing the transit time for in-bond shipments, including an assessment of the impact of such a change on domestic and international trade. In addition, CBP is in the process of utilizing the evaluation of in-bond criteria to assist in the creation of a weight set for use in ATS to further assist in the identification of potential in-bond diversion cargo shipments.

CBP believes that the report is responsive to the concerns expressed by Congress, and a

dedicated working group of experts has just concluded an in-depth review of the in-bond process and their recommendations will also address the report topics.

Office of International Trade

The mandates of the SAFE Port Act and the actions of CBP intersected again when CBP formed the Office of International Trade in October 2006. The establishment of this office serves to strengthen CBP's ability to carry out our mission of facilitating the flow of legitimate trade across U.S. borders while securing the borders and protecting the American economy from unfair trade practices and illicit commercial enterprises. The Office of International Trade consolidates trade policy, program development, and compliance measurement functions into a single office, providing greater consistency within CBP with respect to its international trade programs and operations. In addition, CBP's close working relationship with the trade community, a hallmark of CBP's operations and programs, has been further enhanced. The new Office of International Trade is providing CBP and the Trade community with an organization that can effectively address the growing volume and complexities of international trade and is enabling us to successfully meet the challenges inherent in managing the balance of trade and security.

In June 2007, to meet the Congressional requirements of the SAFE Port Act, CBP provided to Congress a resource optimization model (the "model") for the commercial operations and revenue function. The objectives of the model are to: (1) optimally align the workforce to achieve management performance outcomes and goals; (2) adequately address risks inherent in the priority trade issues; and (3) comply with statutory requirements. The model has been designed to determine the right number and right mix of resources to facilitate legitimate trade while enforcing the trade laws.

Additionally, in preparation of submitting a report on the reorganization into the Office of International Trade, CBP has been meeting regularly with the COAC subcommittee on the Office of International Trade. During this first year, the subcommittee has been working together to find mutually beneficial process improvements to facilitate legitimate trade, which in turn will assist CBP in its trade enforcement efforts.

Conclusion

The steps that CBP is taking to implement the SAFE Port Act are and will be an extremely important aspect to the security of the nation. Through the SAFE Port Act, Congress has recognized and bolstered many of our aggressive programs to enhance security while assuring the facilitation of legitimate trade. We appreciate the close cooperative relationship the Department of Homeland Security and CBP had with the House and Senate in the development of the Act, and we look forward to the continued interaction to promote our mission and ensure the safety of American citizens and commerce.