

TESTIMONY OF
JOHN P. CLANCEY, CHAIRMAN, MAERSK, INC.,
BEFORE THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
OF THE
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
COMMITTEE
UNITED STATES SENATE
MARCH 30, 2006

Mr. Chairman, my name is John Clancey, and I am Chairman of Maersk Inc. I appreciate the opportunity to appear before the Subcommittee this morning to discuss the very important issue of maritime security.

As you may know, Maersk is one of the largest liner shipping companies in the world, serving customers all over the globe. With a fleet numbering more than 500 container vessels and about 1.4 million operated containers, we provide reliable and comprehensive ocean shipping transportation. Maersk, Incorporated is the North America agent for parent company A.P. Moller-Maersk Group's liner businesses, Maersk Line and Safmarine. The A.P. Moller-Maersk Group employs more than 70,000 people in over 125 countries.

In 1943, Maersk, Inc. was established as the general agent for A.P. Moller's liner business, Maersk Line. Here in the United States, we generate employment for approximately 12,000 Americans and we have committed to significant infrastructure investments before and since September 11, 2001.

My tenure in the ocean shipping industry - with Maersk and predecessor companies - spans more than three decades during which I have had commercial, operational and management responsibilities in nearly every major tradelane and market in the world. Our business includes liner shipping, terminal operations, logistics, warehousing and supply chain operations (and other businesses) related to the global movement of freight.

Maersk has been actively involved in maritime security issues for many years. Our commitment to security is captured by the watch words for all our activities: "Constant Care." The security of our containers and the integrity of our transportation network are essential to our operations at Maersk. Marine transportation is a worldwide industry, and it is inherently intermodal -- a container that is unloaded at a U.S. seaport today can be almost anywhere in the nation tomorrow or within days.

For many years, cargo moved fluidly through our ports and facilities subject to prevailing regulations. But the events of September 11, 2001 changed the way we think about maritime security. Maersk Line and other carriers serving the United States today are more concerned than ever about security threats, for we know that terrorist elements might seize upon our transportation mode as an attack opportunity.

Mr. Chairman, in your letter of invitation, you requested that I address several specific matters in my testimony.

Let me begin by commenting on Maersk's perspective on U.S. government programs related to maritime and port security. Many Federal Government maritime security programs are successful. But neither the government nor private industry can achieve maritime security unilaterally; it requires joint efforts. Maersk participates in the Maritime Security Program (MSP), which we believe provides a cost-efficient way for U.S. interests to be guaranteed, while at the same time providing benefits to liner companies. In addition, we have entered voluntarily into a variety of U.S. government programs and pilot projects -- for example, we were the first enterprise-wide transportation company to be validated by the Customs-Trade Partnership Against Terrorism (C-TPAT) Program. We support the continuation of C-TPAT, strongly believe that the program should remain voluntary and not subject to governmental rulemaking, and maintain that it should be flexible enough to permit variations in its application to participants and not impose a generic set of mandatory rules on all of them.

Maersk also participates in the Super Carrier Initiative Program, one of approximately 27 ocean carriers worldwide permitted by U.S. Customs and Border Protection (CBP) to participate at this level. We strongly support U.S. authorities performing the inspection function at foreign ports -- before any container is loaded on a vessel. We are working cooperatively with U.S. officials to achieve this desirable result.

Another area of our work with the government involves the issue of employee identification. As you know, the Maritime Transportation Security Act of 2002 (MTSA) mandated that the government develop and issue credentials (including biometric identifiers and background checks) for transportation workers seeking unescorted access to secure areas within transportation facilities. We support the concept of the Transportation Worker Identification Card (TWIC), and we will provide information to assist in improving employee identification and assist in the implementation of the TWIC program.

But we realize that it is not enough to make maritime operations within this country secure, so Maersk has intensified efforts to secure the company's international cargo network through the establishment of a comprehensive and vigorous global security policy and strategy that governs our sea and landside operations worldwide.

In short, we agree that maritime security here and abroad can be improved, and we are working cooperatively to achieve this objective, both in partnership with the government and through our own efforts. We have some concerns that governmental efforts and partnerships not be duplicative, commercially punitive or inconsistent, or add unnecessary levels of bureaucracy. Security is already a very complicated area, and additional levels of paperwork and involvement by multiple agencies will not further the overall goal of making our marine transportation system safer.

You inquired about the use of radiation detection equipment at seaports, and possible impacts from the use of such equipment. We have had success in working on this matter with CBP. For example, it was proposed originally that this equipment be located at terminal wharfs and yards, but that would have caused significant delay and disruption. Through collaborative discussions with CBP we were able to locate the devices elsewhere at the terminal in a manner that causes minimal negative effects on commercial operations but also achieves the high level of security sought by CBP. I would note that sufficient funding must be provided to enable CBP to carry out its responsibilities of foreign port inspections. Any concept of non-intrusive inspection requires that images from screening be reviewed by CBP and that terminal operators in foreign ports receive feedback from CBP. This program can work, but the CBP's databases need to be updated and designed so that images can be matched in real time with information on file with CBP. Then, in cases where further inspection is required, the additional inspection can occur immediately. If the system does not work well and efficiently, there will be significant negative impacts on the flow of goods in international commerce. For instance, in the port of Newark, NJ, over 200 radiation alerts occur daily. Most are consistent with the nature of the goods but all require further action to resolve.

A third area of inquiry relates to foreign ownership of U.S. terminals. Congressional concern regarding the Dubai Ports World/P&O Ports transaction indicates a need for a clear understanding of the role, investments and commitment that marine terminal operators are playing in global trade and, ultimately, the economic prosperity of the United States.

A marine terminal operating company typically holds a long-term lease from a public (local or state) port authority to manage a loading/unloading marine facility. It is a specialized, highly competitive, low-margin business whose tools – a dock, a crane, and a parking lot -- are in the hands of American union labor and American management personnel.

The shipping industry has always been highly globalized and highly competitive. Billions of dollars in foreign investment from Japanese, South Korean, Danish, British, Chinese, French, Taiwanese and Singaporean companies have been invested in the United States. (For example, Maersk has invested or committed more than \$3 billion in U.S. port projects since September 11, 2001). Today, foreign-owned companies are running the majority of U.S. marine terminals, and there are at least three major reasons for this fact:

- Port authorities prefer large, predictable volumes that can only be guaranteed by liner shipping companies, almost all of which are foreign-owned. So liner-affiliated, foreign terminal operators are the top priority sales targets for American port authorities seeking to grow their businesses.
- Liner companies prefer handling their own landside terminal operations in order to assure service quality and control costs. Since the global liner companies serving U.S. markets are foreign-owned, their terminal operations are also foreign-owned. This has been the case for many years.
- Large terminal operators know that they must be located where the freight-flows are, if they are to serve their customers comprehensively. Since America is the largest consuming market for freight, every terminal operator wants to be represented and well-positioned in the United States.

Terminal operators operate within lease agreements typically awarded and administered by the local port authority. Port authorities and their lease-holding operators and the carrier customers they serve must (and do) comply with American and international security codes, rules and laws under the jurisdiction of the Coast Guard, the Department of Homeland Security (DHS), and other law enforcement agencies. There has been no evidence that foreign-controlled companies are any less secure, or in any way less compliant with security regulations, or in any way less cooperative with U.S. government security authorities than domestic operators. Indeed, the international shipping industry – of which terminal operations is a key component – is a committed investor, a high-quality service provider and a staunch collaborative partner with the United States in all trade and security issues.

Mr. Chairman, your letter raised the potential impacts from a terrorist element smuggling a Weapon of Mass Destruction into our nation utilizing a maritime container; obviously, this is a grave concern. We must take prudent, effective and cost-efficient means to prevent that occurrence. One very significant component of improved maritime security is the advanced filing of the vessel cargo manifest. This manifest, based on long standing regulatory and commercial standards, provides a great deal of specific, useful information on all cargo that is brought into the United States. Among other items, it identifies the declared contents of the container or the cargo carried onboard the vessel, the identity of the shipper and consignee, the port of origin, and the destination within the United States. We believe that more specific shipment information supplemental to the manifest is needed. It is the responsibility of shippers who possess this information to

provide it to Customs where confidentiality and integrity of the data can be protected. Of course, we also must be certain that the right kind of information is collected as ocean carriers do not have – nor is there a need to have – this type of information. Authorities must be sure that the shipper-collected information can be acted upon quickly, and that this process does not introduce an unreasonable amount of friction into the flow of global trade.

I mentioned earlier the potential from non-intrusive inspections or an ICIS (Integrated Container Inspection System) -type initiative. This type of protocol can be a very useful tool in the campaign to ensure maritime security but there are some concerns. First, how do we ensure participation at foreign ports? There has to be an incentive structure or bi-lateral agreements with foreign governments in order to make the inspections uniform and comprehensive. Second, proprietary information is generated by this process and confidentiality of this information must be safeguarded. Third, liner companies don't have sovereign immunity and therefore cannot be in the position of making decisions about which containers are high risk. Additionally, there are operational concerns having to do with process and speed. The bottom line, however, is that we are ready to cooperate with CBP and other relevant governmental agencies on this development once these outstanding concerns have been adequately addressed.

Mr. Chairman, finally you asked about specific maritime security recommendations. In general, I would encourage policymakers to evaluate potential requirements with an eye toward trade reciprocity, and their application to both imports and exports. We must anticipate whether our foreign trade partners will impose similar requirements, and whether it is feasible for U.S. interests to comply.

Some have proposed a kind of "trusted carrier/shipper" program whose participants would receive expedited treatment in international commercial transport. If such a program is adopted, it must provide clear, direct benefits to all participants in return for implementing high security standards. This is essential if companies are going to undertake the investment needed to become involved in the program and make the changes the program requires.

Some advocate that container security devices be required immediately. The MTSA already requires that DHS set standards for these devices, and CBP and DHS are testing devices against these standards. But as we are all aware, many of the prospective technologies out there are a long way from production reality. We are all highly interested and share a sense of urgency and will await the outcome of comprehensive testing to determine their technological feasibility before proceeding on this matter. We know that no such device currently operates at the necessary level of accuracy and reliability.

Mr. Chairman, Maersk works hard to make our operations as safe as possible. This is in the national security interests of our country, our own commercial interests, and the interests of providing a safe and secure workplace environment for our employees. "Constant Care" are our watchwords, and they form the foundation of every activity we take in this regard.

We at Maersk look forward to continuing to discuss maritime security issues with you. I am happy to attempt to answer any questions you may have, and I appreciate very much the opportunity to appear before you this morning.