

OREGON'S MARITIME COMMERCE: PROTECTING TRADE AND SECURING PORTS

FIELD HEARING

BEFORE THE

SUBCOMMITTEE ON SURFACE TRANSPORTATION
AND MERCHANT MARINE

OF THE

COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

JULY 2, 2002

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ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

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OREGON'S MARITIME COMMERCE: PROTECTING TRADE AND SECURING PORTS

TUESDAY, JULY 2, 2002

U.S. SENATE,
SUBCOMMITTEE ON SURFACE TRANSPORTATION AND
MERCHANT MARINE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Portland, OR.

The Committee met, pursuant to notice, at 10 a.m. in the Port Commission Room, First Floor, Port of Portland Building, Hon. Ron Wyden, presiding.

OPENING STATEMENT OF HON. RON WYDEN, U.S. SENATOR FROM OREGON

Senator WYDEN. The Subcommittee will come to order. Thank you all very much for coming today. This is a hearing of the Subcommittee on Surface Transportation and Merchant Marine or the Senate Committee on Commerce, Science, and Transportation. It is being held at the request of Chairman Hollings and Chairman Breaux. I am particularly pleased to be able to be here with Senator Smith to address these cogent issues that are part of our bipartisan agenda, and this is a particularly timely hearing.

Right now there is a conference committee between the House and Senate that is working on important issues relating to Port Security, and both of us serve on that conference committee and the input that we are gathering at today's hearing—yesterday I chaired a hearing in Seattle, and a number of other hearings have been held around the country—is particularly useful as we try to move ahead in the conference committee and get this important legislation with respect to our ports to the President of the United States.

I'm just going to have a few comments to open up and then turn to my colleague for his views.

It is quite clear as we look around the United States that our seaports are tempting targets for terrorism. If you look for example at geography, if you look at the openness of our ports, the proximity of many of our ports to metropolitan areas, it is very clear that these can be prime targets, prime areas of vulnerability that would be susceptible to terrorism. And there are very big stakes here for the people of Oregon.

For example, one out of six jobs in Oregon depends on international trade. The trade jobs pay better than the non-trade jobs, and it is critically important that those jobs be protected, while at the same time addressing these critical security issues. One of the things that Senator Smith and I will be examining in great detail

is how you strike a balance between security on one hand, and moving goods in and out of the Pacific Northwest. Both of the major northwest ports, Portland and Seattle, are in the top 20 ports in this country, so the stakes are extremely high for our region.

Among other policy issues that we are going to examine this morning, and one that I will be looking at in great detail is how the Coast Guard could be merged into the Homeland Security Office; because if you have the Coast Guard performing all the essential tasks it's performing now, and then taking on new duties with respect to Homeland Security, it is very hard to see how you reconcile those two concerns without significant new sums.

Yesterday in response to my questions in Seattle, the Coast Guard said that it could be accomplished through synergies—and certainly synergies are useful things to put in place—but I never saw any synergies that could come up with billions of dollars the way it looks like you're going to have to have to merge these functions. So we're looking forward to talking with Admiral Cross and others about that issue as well.

There are technology questions that we will be examining because one of our goals is to promote innovative use of technology. I also chair the Subcommittee on Technology for the Commerce Committee and if there is one thing that I want to see accomplished in that Homeland Security legislation, it is that I want to make it possible for entrepreneurs and business leaders when they have promising products in the security field, to go to one stop in the Federal Government. Right now we've got these people from the Northwest and elsewhere traipsing all over the country trying to figure out who to deal with in the Federal Government. That's unacceptable and we're going to examine that issue as well.

Finally, a set of important issues revolve around international discussions that are being held on these issues. In particular, what we would like to see is more work done at the point of origin. In other words, once you have products that come to our shore, you're playing catch-up ball in order to try to examine some of those risks. What we need to do is be far more aggressive in terms of negotiating agreements with our allies and trading partners around the world in order to get at these concerns at the point of origin. There are a number of sensitive discussions going on right now with respect to that issue that we will discuss with our witnesses as well.

Again, I'm very pleased to have a chance to team up with Senator Smith on this issue. Our witnesses and audience members should know that with the conference committee coming up, this is a chance to really get a sense of what the Pacific Northwest and what Oregon needs in that conference; and so let me recognize my colleague for any statement he would like to make.

**STATEMENT OF HON. GORDON SMITH,
U.S. SENATOR FROM OREGON**

Senator SMITH. Thank you, Senator Wyden.

Ladies and gentlemen, it is a pleasure to be here with Senator Wyden. It is a privilege to work with him in the U.S. Senate for the betterment of our country and especially for the betterment of the State of Oregon.

I don't know of another state in America that has two members on the Senate Commerce Committee and two members on the Senate conference committee for Maritime security legislation. Therefore, it is important for us to give Oregonians and various witnesses the chance to tell us how we can put this bill together in a way that will do two things:

To increase security to protect our people against the threat of dirty bombs and terrorist activities within the Port of Portland and other places, and at the same time to do this without unduly compromising the efficiency of business operations for very important companies. There are many of them that rely on this economic lifeline of the ports of the State of Oregon. Intel, Nike, Columbia Sportswear, and many others come to mind, who count on us having an efficient process as well as a publicly safe process. So efficiency and security right now are intention, and our job is to find out from you how to get the job done to protect the people of Oregon, the people of America, but to also insure that the business vitality that they depend on for their families is not unnecessarily interrupted.

So next week we will be merging Senate Bill 1214, the Port and Maritime Security Act, with the House Bill 3983, the Maritime Transportation Anti-Terrorism Act of 2002.

I would like to indicate our intention to get enough information from the different ports that we can come up with legislation that is not a one size Federal fits all, that will allow different ports the chance to provide security without sacrificing efficiency.

So we have here representatives today from the Port of Portland, the Port of Umatilla, and the Port of Coos Bay, because we need these different perspectives. We are very grateful to have the United States Coast Guard represented, the U.S. Customs Service, and the Army Corps of Engineers as well.

And Captain Spitzer, I understand you have been given a reassignment, and also Colonel Butler, that you have as well. We regret that in the sense that you will not be in Oregon, but we're glad you are still in the service of our country, and we wish you well in your new assignments and look forward to benefiting today from your remarks.

Let me conclude by pointing out that on November 19th, 2001, President Bush signed into law the Aviation and Transportation Security Act to increase security at our nation's airports. And on May 14th, 2002, the President signed into law the Enhanced Border Security and Visa Entry Reform Act, which will increase security at our nation's land borders. And so, it is past time for us to send to the President for his action this important piece of legislation.

We do appreciate you coming to this important hearing. Your words, your wisdom your experience will be very helpful to Senator Wyden and me as we go to this conference to make sure that we do the right thing by this port and others, and that we keep it safe, but also allow it to be efficient.

Thank you, Mr. Chairman.

Senator WYDEN. Thank you very much, and we will move right to our hearings and right to the discussion. We are going to have on the first panel Vice Admiral Terry Cross, Commander, Pacific

Area, United States Coast Guard, accompanied by Captain James Spitzer, Captain of the Port in Portland; Mr. Douglas Browning, Deputy Commissioner of U.S. Customs Service; and Colonel Randall J. Butler, District Engineer of the Portland District, the Army Corps of Engineers.

Gentlemen, we welcome you. We have as you know asked that you try to keep your opening statements to about 5 minutes. I know there is almost a biological compulsion to just read those statements word for word. We are going to put them into the hearing record in their entirety and if you could just perhaps summarize some of your principal concerns, that will leave some extra time for questions. So, welcome.

Let us begin with you, Admiral Cross.

**STATEMENT OF VICE ADMIRAL TERRY CROSS, USCG,
COMMANDER, PACIFIC AREA**

Admiral CROSS. Good morning, Mr. Chairman, Senator Smith. As you said, I'm Vice Admiral Terry Cross, United States Coast Guard, Pacific Area Commander. In that role I am essentially responsible for just about everything Coast Guard west of the Rocky Mountains out to the Hawaiian Islands, including Alaska and beyond. On behalf of Admiral Tom Collins, Commandant of the Coast Guard, I want to thank you for including the Coast Guard in this morning's hearing and we are very pleased to be here.

As you noted, with me this morning is Captain James Spitzer. He's Captain of the Port for Oregon and southwest Washington coasts. His area of responsibility includes not only the coastline but also the Willamette, Columbia, Snake Rivers, and includes a thousand miles of coastline and river shoreline in over 40 ports.

Sir, as you've noted, I've submitted a written statement for the record. I ask that it be entered, and I will just make a quick summary of key points here to keep well within your time limit.

My hope here is to put what Captain Spitzer may add later in his efforts here in Portland within the broader context of Coast Guard strategies. Coast Guard strategy for Homeland Security, Maritime Homeland Security, was developed shortly after the events of 9/11, and it consists of five key elements.

The first of those elements is the control of high interest vessels, and we do that primarily two ways. One, through the use of sea marshals, and two, with the use of Coast Guard escort vessels.

The second element is the increased protection for Coast Guard people, but also for critical infrastructure.

The third element is increased presence over and above our waters. We do that for at least two reasons. First of all, we think that provides a deterrent effect, but also increased presence provides us an ability to respond quicker for late breaking information or intelligence.

Fourth is maritime domain awareness, and what we mean by that, sir, is we currently—let me say it another way. Before 9/11 we had very little information about ships, cargo and crews that were plying our waters or that were en route to U.S. ports. We have a lot more information now than we did, but we still don't have enough. And that involves some of the technology I think you were talking about earlier, Senator.

And fifth is outreach, and that's both an international outreach which once again I believe the Senator was referring to, but also domestic outreach to enhance the relationships and information sharing not only between Federal agencies, but also between state and local agencies, and private industry.

Now part of that involves leadership in the ports. And by virtue of our Captain of the Port authorities and responsibilities that belonged to the Coast Guard by statute since 1917, we have taken a leadership position, and I think Captain Spitzer is to be commended for the leadership he has shown here in the Port of Portland.

And as key in this role, we are committed to working, once again, with all the agencies, state, local, Federal, and with private industry, and we very much understand that the two keys here are, one, to enhance the security, but two, to insure the efficient flow of commerce.

Shifting gears just a little bit, sir, I want to emphasize that the Commandant of the Coast Guard supports the President's government reorganization proposal and he has identified three prerequisites for insuring that Coast Guard services to the American people remain at the same high standards that they are today.

One is that the Coast Guard, if shifted to a Department of Homeland Security, remain intact, that parts of our service are not peeled off to other agencies. Second would be that the basic characteristic of our service, our maritime, military, multi-mission characteristic remain unchanged. And, sir, the third piece would be that the Coast Guard retains all of its missions.

Now interestingly enough, some people believe that Port Security and coastal security are new missions for the Coast Guard. That's simply not true. We've actually been doing those missions that one could argue, for about 212 years, and we were specifically assigned Port Security responsibilities in the Espionage Act of 1917. And as we talked earlier, there were actually more Coast Guard people involved in Port Security operations in World War II than are in the entire Coast Guard today. I'm not suggesting we need that many people now but it's just, I wanted to make the point that it's a historical mission for us.

And we think that we can do the mission, the expanded port and homeland security mission. What we need from the Administration and the Congress is clear tasking and resources commensurate with that tasking.

Let me finish up, sir, by saying I think you know, we have been very very busy since 9/11. We very much appreciate the Senate support for the supplemental that was passed last fall. \$209 million allowed us to surge operations and develop many new initiatives, some of which I talked about earlier. And in addition to Senate 1214, which is on the Hill right now, we also have the spring supplemental and fiscal year 03 appropriations bills, and we would appreciate your support for those bills. Passage of those bills will allow us to continue the efforts that we have initiated post-9/11 and annualize many of the efforts that we have undertaken.

I would also point out that from our perspective, this is, the fiscal year 03, that appropriations bill would be the first year of a multiyear process to get us the resources we think we're going to

need to provide the seaports the level of security that the American people will demand.

And, sir, with that, I would be happy to answer any questions you might have.

[The prepared statement of Admiral Cross follows:]

PREPARED STATEMENT OF VICE ADMIRAL TERRY CROSS, USCG, COMMANDER,
PACIFIC AREA

Good afternoon Mr. Chairman, I am Vice Admiral Terry Cross, Commander of the Coast Guard Pacific Area headquartered in Alameda, California. I am responsible for Coast Guard operations conducted from Alaska to Samoa, and from the Rocky Mountains to the Far East. On behalf of the Commandant, Admiral Thomas Collins, I thank you for the opportunity to speak to you today about the challenges we face in the Columbia River region with respect to our role in law enforcement and maritime homeland security.

Unique Challenges of Columbia River Region Port Security

Three Coast Guard Group Commanders are responsible for maritime law enforcement and other missions in Oregon and southern Washington. With me today is one of those Group commanders, Portland-based Captain James Spitzer. He is also Captain of the Port for Oregon and southern Washington and is responsible for many aspects of port and waterway security on the Oregon coast, the coast of southwestern Washington, and portions of the Columbia, Willamette, and Snake Rivers. This region includes nearly 1,000 miles of coastal and river shoreline, some 40 ports, and many more port facilities that provide opportunity for illegal entry and exploitation.

Over 2,000 ocean-going merchant ships call on these port systems each year and many dozens of tugs and barges ply these waterways as far up as Lewiston, Idaho. Over 35 million tons of goods and a quarter of a million containers are handled annually. These waters attract exports from farmers as far away as the headwaters of the Mississippi River. The Columbia River System is second only to the Mississippi River System in its handling of bulk agricultural exports. Vancouver and Portland are top auto ports on the West Coast, and imported cars passing through their terminals are distributed throughout the nation. The waterways and ports of this region also serve petro-chemical and nuclear industry needs. Our coastal and Columbia River system waterways contribute substantially to the economic growth and stability of our nation, to the quality of life of our citizens, and to our Nation's security.

Power of Partnerships in Maritime Security

Last September the Coast Guard developed a five point Maritime Homeland Security strategy emphasizing: Maritime Domain Awareness, High Interest Vessel Control, Presence and Response, Critical Infrastructure and Force Protection, and Domestic and International Outreach. This strategy acknowledged the power and importance of partnerships in defending against the threat of terrorism. Here are a few of the many steps the Coast Guard and its partners have taken:

- The Coast Guard worked with *Portland area shipping agents* early in the development of our new national standards for screening vessels. Shipping agents routinely offered cooperation when the Coast Guard asserted direct control over their ships.
- *Waterfront facility owners and operators* improved security on those facilities that posed special risk.
- *Large passenger vessel operators* instituted heightened security measures.
- *The Customs Service, local terminals, and the Coast Guard* collaborated on operations such as container inspections.
- *The river pilots and the towing industry* developed emergency response procedures.
- *Partners in law enforcement and emergency response management* at all levels of government coordinated efforts and information sharing to an unprecedented degree.

A *regional Internet list-server* of the National Infrastructure Protection Center (NIPC) program known as InfraGard was created for industry and government personnel to share security and crime-related information.

- *Citizens, port and facility employees* lent their eyes and ears as critical elements of the security network of our ports, facilities, and waterways. Facilities cooperated with one another on security matters.
- A “Visa parole program”, which allows shore visits for particular visiting ships’ crewmembers, while minimizing security concerns, was created through an innovative partnership between the Coast Guard and the *Immigration and Naturalization Service*.
- Our *Regional Maritime Security Coalition*, made up of shippers, ports, and waterfront facilities, recently received approval for \$623,000 in federal grant funding to develop methods to more efficiently track goods shipped through our ports. A \$30,000 grant was approved to improve security in the Port of Vancouver.

Locally, Captain Spitzer has staunchly advocated a maritime security strategy that includes a comprehensive security web. This web is not a centrally controlled series of operations. Rather, it is focused on multiple security nodes around activities, operations, and jurisdictions throughout the ports, waterways and coastal areas. A sustainable security web required the development of partnerships with other federal agencies, state and local agencies and the private sector. This partnering activity set the tone for leveraging the entire maritime community, both public and private, as part of the solution for security . . . and not just against terrorism, but also for any kind of illegal activity. Key tenets of the security strategy are:

- *Each employee* is sensitized to security concerns and knows whom to call as concerns are observed. (facilitated by company and union leaders);
- *Security staffs* have improved recognition and support from management and employees. (facilitated by management);
- *The owner/operator* asserts affirmative leadership and emphasis on security matters. (facilitated by COTP, state/local LE, fire marshals);
- *Physical and procedural security measures* are commensurate with risk and consequences. (facilitated by the owner/operator);
- *Security audits* are conducted. (facilitated individually & jointly by CG, and local fire and police);
- *Patrol and response activity* is jointly coordinated by all agencies with jurisdiction including CO (from shore, water, and air), police/sheriff patrol, fire marshal visits, emergency manager planning, and related awareness and preparedness of other agencies.
- *Personal relations* are cultivated between key facilities/activities and the various law enforcement, patrolling, and response management organizations. (jointly facilitated by oversight and LE agencies).

Such a network takes effort to develop and cultivate. However, the cumulative result is powerful. The result is a very strong local and regional security and response management network comprised of tens of thousands of eyes and ears, over-laid by the agencies of government.

The Coast Guard’s multi-mission assets, military role as an Armed Service, and maritime presence and authorities bridge security, safety, and response capabilities between federal, state, local, and private organizations as well as other military services. We have been the leader for the non-DoD maritime security needs of our nation since 1790 . . . it was the reason we were formed 212 years ago. We possess extensive regulatory and law enforcement authorities governing ships, boats, personnel, and associated activities in our ports, waterways, and offshore maritime regions. We are a military service with 7x24 command, communication, and response capability. We maintain, “at the ready”, a network of coastal small boats, aircraft, and cutters, and expert personnel to prevent and respond to safety and security incidents; and we have geographic presence throughout the country, coasts, rivers, and lakes, both in large ports and small harbors. We are a formal member of the national foreign intelligence community. We partner with other government agencies (OGAs) and the private sector to multiply the effectiveness of our services. The Coast Guard is the recognized leader in the world regarding maritime safety, security, mobility, and environmental protection issues. These characteristics form the core of our organization and enable a unity of effort among diverse entities whether preventing or responding to incidents.

Conclusion

In conclusion, the United States Coast Guard is an integral component of our nation’s homeland security efforts and the lead agency for maritime homeland secu-

rity. We maintain the viability and integrity of the marine transportation system by working with other public, private, domestic and international partners so that people and goods move safely and efficiently. The Coast Guard is committed to the continuing protection of our nation against terrorist threats, as well as maintaining our maritime law enforcement missions. Thank you for the opportunity to share the unique challenges that the Coast Guard in the Columbia River Region faces today and for your continuing support of the Coast Guard. I will be pleased to answer any questions you may have.

Senator WYDEN. Admiral, thank you. It's very helpful and we will have some questions in a moment.

Mr. Browning, welcome. You're a glutton for punishment, twice in 24 hours, both in Seattle and Portland, and you serve our country well, and we welcome you. Let's get you one of those microphones, and please proceed.

**STATEMENT OF DOUGLAS M. BROWNING, DEPUTY
COMMISSIONER, U.S. CUSTOMS SERVICE**

Mr. BROWNING. Thank you, Senator. I actually may not be so much a glutton of punishment since the weather has been particularly lovely.

Senator WYDEN. It is not hardship duty coming to the Northwest.

Mr. BROWNING. Senator Wyden, Senator Smith, thank you for the invitation to testify today.

Since September 11th, the U.S. Customs Service's top priority has been responding to the terrorist threat at our seaports, land borders and airports. We are doing everything we reasonably and responsibly can to keep terrorists and their weapons from entering the United States. We are currently at a Level One alert at all border entry ports, including our seaports.

Level One requires sustained, intensive anti-terrorist questioning and includes increased inspections of travelers and goods. Because there is a continued threat of another terrorist attack, we will remain at Level One for the foreseeable future.

To help ensure that Customs develops a coordinated, integrated counter-terrorism strategy for border and seaport security, Commissioner Bonner established an Office of Anti-Terrorism. To support our Customs officers operationally, we have also established the Office of Border Security. The mission of this office is to develop more sophisticated anti-terrorism targeting techniques for passengers and cargo in each border environment and provide a single point of contact for events taking place in the field.

In our fight against terrorism, Customs employs a "Defense in Depth" strategy, a layered approach that essentially expands our perimeter of security to the point of origin. If terrorists were to succeed in concealing a weapon of mass destruction among the tens of thousands of containers that enter U.S. ports every day, the physical and economic devastation would be severe. As the primary agency for border security, U.S. Customs should know everything there is to know about a container headed for this country before it leaves a foreign port for the U.S. We want that container prescreened there and not here.

A critical component of our "Defense in Depth" strategy is the Container Security Initiative, or CSI. The CSI engages the ports that send the highest volume of container traffic into the United States, as well as their governments in these locations, in a way

that will facilitate the detection of potential problems at their earliest possible opportunity.

The core elements of the Container Security Initiative are: One, establishing security criteria for identifying cargo containers that pose a high terrorist risk. Second, maximize the use of detection technology to pre-screen high-risk containers. Third, pre-screening at the point of export rather than the port of importation. And finally, developing and deploying smart and secure containers.

About 90 percent of the world's trade moves in containers, much of it carried on ocean-going vessels. Nearly half of all incoming trade to the United States by value, and that is about 46 percent, arrives by ship and most of that is in containers. Last fiscal year approximately 34,000 containers entered the North Pacific CMC, which includes the service ports of Portland and Anchorage.

The effective use of technology depends largely on good targeting for which we require advance information. Since September 11th, Customs has refocused our resources and technology to increase the number and the type of cargo exams we perform. However, to some the overall number of examinations may still seem surprisingly low, but be aware that the cargo not(?) chosen randomly. It is the result of a careful screening process using information from a vast data base, the Automated Manifest System. Using these targeting systems, we are able to choose those shipments that appear unusual, suspect or high risk, and in that context we are inspecting a hundred percent of those containers.

Currently the submission of advanced shipping manifests to Customs is voluntary. We can not rest our nation's homeland security on the inconsistent, often incomplete and occasionally inaccurate submissions of advance information. Timely, accurate and complete information is vital to homeland security and we should mandate that it be provided in advance.

In this regard current legislation such as S. 1214 takes us a major step closer to where we ultimately need to be. And that is to have full information on incoming cargo before it even leaves the foreign port.

As you can see, technology and information are essential to our counter-terrorism mission. Simply put, the more technology and information we have and the earlier in the supply chain we have them the better. Customs has a history of positive relationships with the trade community. Capitalizing on this experience is the Customs Trade Partnership Against Terrorism, or C-TPAT.

C-TPAT builds on successful security models between Customs and the trade that were designed to prevent legitimate commercial shipments from being used to smuggle illegal drugs.

Customs also looks forward to the completion of our Automated Commercial Environment or ACE, which, as you know, is an extremely important project for the Customs Service. ACE, our new and comprehensive automation system, offers major advances in both the collection, sorting and targeting of border transaction data.

The terrorists have already exploited one key component of our transportation system and that is commercial aviation. It is not at all unthinkable that they will seek to target others, including maritime trade. We believe our seaports and the system of global trade

they support are vulnerable, and we believe that the U.S., the U.S. Customs Service and in partnership with the trade community and other government agencies must address this threat.

Mr. Chairman, I thank you for the opportunity to appear before the Subcommittee and I would be willing to take any questions that you might have.

[The prepared statement of Mr. Browning follows:]

PREPARED STATEMENT OF DOUGLAS M. BROWNING, DEPUTY COMMISSIONER,
U.S. CUSTOMS SERVICE

Senator Wyden, Senator Smith, thank you for your invitation to testify before this Subcommittee today. Since September 11th, Commissioner Bonner's top priority for the Customs Service has been responding to the terrorist threat at our seaports, land borders, and airports. His highest priority is doing everything we reasonably and responsibly can to keep terrorists and terrorist weapons from entering the United States.

Through our Customs Inspectors, Canine Enforcement Officers, and Special Agents we are doing just that: protecting and defending our country against the terrorist threat at all our ports of entry, including our seaports.

Since September 11th, Customs has been at a Level One alert across the country—at all border entry points, including our seaports. Level 1 requires sustained, intensive anti-terrorist questioning, and includes increased inspections of travelers and goods at every port of entry. Because there is a continued threat that international terrorists will attack again, we remain at Level 1 alert to this day and will be at Level 1 for the foreseeable future.

To help ensure that Customs develops a coordinated, integrated counter-terrorism strategy for border and seaport security, Commissioner Bonner established a new Office of Anti-Terrorism. In an operational context and to support our Customs officers in the field, we have also established the Office of Border Security. The mission of that office is to develop more sophisticated anti-terrorism targeting techniques for passengers and cargo in each border environment and provide a single point of contact for events taking place in our field.

In approaching our primary priority to prevent terrorists and terrorist weapons from transiting our borders, Customs employs a "Defense in Depth" strategy. A layered approach for targeting and screening that essentially expands our perimeter of security to the point of origin. If terrorists were to succeed in concealing a weapon of mass destruction, even a crude nuclear device, among the tens of thousands of containers that enter U.S. ports every day, the devastation would be horrible to contemplate. And the impact on our global economy would be severe. As the primary agency for cargo security, U.S. Customs should know everything there is to know about a container headed for this country *before* it leaves a foreign port, such as Rotterdam or Singapore, for an American port. Customs wants that container pre-screened *there*, not here.

A critical component of Customs overall "Defense in Depth" strategy is the implementation of the Container Security Initiative. The Container Security Initiative engages the ports that send the highest volumes of container traffic into the United States as well as governments in these locations, in a way that will facilitate detection of potential problems at their earliest possible opportunity.

The core elements of the Container Security Initiatives are the following:

- First, we must establish international security criteria for identifying high-risk cargo containers that potentially pose a risk of containing terrorists or terrorist weapons.
- Second, we must maximize the use of detection technology to pre-screen high-risk containers. Much of this technology already exists and is currently being used by the U.S. Customs Service. This technology will not only be used for inspection of U.S. Customs targeted cargo but also for cargo identified by other federal agencies such as the U.S. Coast Guard, Immigration and Naturalization Service, Food and Drug Administration and the Department of Agriculture.
- Third, we must develop and broadly deploy "smart" boxes—smart and secure containers with electronic seals and sensors that will indicate to Customs and to the private importers or carriers if particular containers have been tampered with, particularly after they have been pre-screened.

The vast majority of world trade—about 90 percent—moves in containers, much of it carried on oceangoing container ships. Nearly half of all incoming trade to the United States by value—about 46 percent—arrives by ship, and most of that is in containers. In Fiscal 2001, approximately 34,000 containers entered through the North Pacific CMC (Service Ports of Portland and Anchorage).

The effective use of technology depends largely on good targeting, for which we require *advance* information. Since September 11th, Customs has refocused resources and technology to increase the number and the type of cargo exams it performs. However, to some the overall number of examinations may still seem surprisingly low in proportion to the vast amount of trade we process. Yet it is important to note that the cargo Customs selects for intensive inspection is not chosen randomly. It is the result of a careful screening process, one that uses information culled from a vast database on shipping and trading activities known as the Automated Manifest System. Using targeting systems that operate within AMS, we are able to sort through the cargo manifests provided to Customs by shippers and carriers, and chose those shipments that appear unusual, suspect, or high-risk. It is a system that has served us well, but one that can and must serve us better in light of September 11th.

Currently the submission of advanced shipping manifests to Customs is voluntary. We cannot rest our Nation's homeland security on the inconsistent submission of advance information that is often incomplete and sometimes inaccurate. Timely, accurate, and complete information is vital to homeland security and we should mandate it is provided in advance. Current legislation, such as S.1214 take us a major step closer to where we ultimately need to be, particularly for the Container Security Initiative—and that is to have full information on incoming cargo *before it even leaves the foreign port*. This information is needed for all imports and in-bond shipments.

The Customs Service is also seeking the inclusion of a six-digit harmonized tariff code in the manifest for in-bond shipments. The six-digit classification universally describes the goods to all governments that subscribe to the Harmonized system. Customs has had success in targeting in our entry system, using this level of detail. This level provides the specificity necessary to allow for finer targeting, which could translate into fewer examinations—a sort of reverse targeting to eliminate unnecessary and timely inspections. With less detailed information, however, the need to examine for potential threats increases, particularly as those shipments move in-bond.

As part of our immediate response to September 11th, Customs promptly sought, and the Congress promptly enacted, legislation that made the submission of data on incoming passengers to Customs' Advance Passenger Information System mandatory for all airlines. That law was passed last November as part of the Aviation and Transportation Security Act. Initially, the Commissioner ordered all international airlines flying into the U.S. from abroad to submit advance passenger information to Customs, or face 100 percent inspection of people and goods departing their flights. This enabled Customs to better secure advance passenger information on all incoming international flights before the new law took effect.

As you can glean from this list, technology and information are essential to a successful container security strategy and to our counter-terrorist mission in general. And to put it simply, the more technology and information we have, and the earlier in the supply chain we have them, the better.

Customs has a long history and working relationship with the trade community. Another Customs developed initiative is the Customs-Trade Partnership Against Terrorism, or "C-TPAT". C-TPAT builds on past, successful security models between Customs and the trade that were designed to prevent legitimate commercial shipments from being used to smuggle illegal drugs.

Customs also looks forward to the completion of the Automated Commercial Environment, or ACE, which as you know is an extremely important project for the Customs Service. ACE, our new and comprehensive automation system, offers major advances in both the collection and sorting of border transaction data.

The terrorists have already exploited one key component of our transportation system: commercial aviation. It is not at all unthinkable that they will seek to target others, including maritime trade. We believe our seaports and the system of global trade they support are vulnerable, and we believe that the U.S. and the Customs Service must act now to address this threat.

Thank you again for the opportunity to testify here today.

Senator WYDEN. Mr. Browning, thank you. You've been very helpful. Colonel Butler, welcome.

**STATEMENT OF COLONEL RANDALL J. BUTLER, DISTRICT
ENGINEER, PORTLAND DISTRICT, UNITED STATES ARMY
CORPS OF ENGINEERS**

Colonel BUTLER. Thank you, Mr. Chairman. I'm Colonel Randall Butler, the district engineer for Portland District, United States Army Corps of Engineers. We appreciate the opportunity to testify today on the security at our nation's seaports.

As you are surely aware, the role of the engineers with respect to navigation is to provide safe, reliable, efficient, and environmentally sustainable waterborne transportation systems in channels, harbors, and waterways for the movement of commerce, people, recreation and for national security.

Currently the Corps of Engineers maintains about 926 coastal and inland harbors throughout the nationwide system, including 4,690 deep-draft and 4,619 shallow-draft and commercial facilities. We give budgetary priority to commercial activities.

Nationwide the Corps also maintains 215 navigational locks along shallow-draft waterways and about 23 locks along the deep-draft channels to aid in the movement of commodities and commercial products throughout the nation's heartland. These navigational facilities are the lifeblood of interstate and international trade.

In addition to commercial traffic, the Corps navigation locks also provide an invaluable service to recreational users without charge. Regionally, the Corps maintains eight navigational locks on the Columbia and Snake River system with benefits to 36 ports in Oregon, Washington and Idaho and in the export and import of commodities and products.

While the Corps has no authority and appropriations for Port Security, we do have a keen interest and a vital stake in its effectiveness. The nation's waterways, along with the civil works infrastructure—the locks and dams we operate—are the nation's assets, and as such we have a responsibility to maintain security throughout that system.

The events of 9/11 brought a sobering realization that our infrastructure could be at risk. In the months following, the Corps of Engineers initiated an aggressive assessment of all its dams and critical facilities and developed plans to increase the physical security of the navigation system.

The need for a security assessment was first discussed in 1997 in the Presidential Decision Directive 63. Nine Federal and non-Federal agencies responsible for security of the nation's infrastructure developed a process to systematically analyze current security risks at our nation's dams and propose security measures to protect all critical missions of these key Federal dams.

We have completed our initial assessment of 47 dams in the Northwest Division and for over 300 critical Corps structures across the nation, and we've developed protection and mitigation measures that are included in the individual project reports. Using the funding provided by Congress, we are implementing increased security measures.

The locks and dams in the Columbia River Basin are among the highest priority dams within the division. Lockages are performed 24 hours a day, 7 days a week at Corps navigational locks. Priority

is given to commercial vessels, with recreational lockages scheduled five times a day.

In the wake of 9/11, we have increased our vigilance at our facilities. Operators at each lock maintain a list of the names of vessels that frequent the lock, mainly commercial vessels, tugs, commercial passenger boats and several navy vessels. The powerhouse and lock operators are familiar with most commercial vessels and their crews, and should anything sound or look suspicious, the operator may refuse lockage.

The Corps is not only the nation's leader in water resource management, but the nation's premier public engineering agency. Partnering with similarly committed public and private entities can only strengthen the national resolve and sharpen our preparedness.

We are learning from the tragic events in New York and Washington, DC and now have a better understanding of who the likely players would be should a similar incident occur at one of our facilities. We've reached out to new and old partners, the U.S. Coast Guard and the navigation industry, and are developing new response and communication plans that we hopefully will never have to use.

The Corps of Engineers does not intend to allow the risk of terrorism to cripple our effectiveness as the nation's leader in water resource management. We will continue to execute our navigation mission to the best of our ability.

Mr. Chairman, that concludes my statement. I will submit my full statement for the record and I'm open to your questions at this time.

[The prepared statement of Colonel Butler follows:]

PREPARED STATEMENT OF COLONEL RANDALL J. BUTLER, DISTRICT ENGINEER,
PORTLAND DISTRICT, UNITED STATES ARMY CORPS OF ENGINEERS

Mr. Chairman and Members of the Subcommittee, I am Colonel Randall Butler, the District Engineer for the Portland District, U.S. Army Corps of Engineers. Thank you for the opportunity to testify on security at our nation's seaports.

As you are surely aware, the role of the U.S. Army Corps of Engineers, with respect to navigation, is to provide safe, reliable, efficient, and environmentally sustainable waterborne transportation systems (channels, harbors, and waterways) for the movement of commerce, people, recreation and for national security. The Corps accomplishes its navigation mission through a combination of capital improvements and the operation and maintenance of existing navigation projects and structures. Our role in developing the Nation's water highways dates back to the early days of this Nation's history, beginning in the Ohio and Mississippi basins in 1824, and expanding with the new frontier.

Currently, the Corps of Engineers maintains 926 coastal and inland harbors nationwide, including 4,690 deep-draft and 4,619 shallow-draft commercial facilities. It gives budgetary priority to facilities supporting commercial activities. On an average annual basis, Corps of Engineers operations and maintenance at these projects removes nearly 300 million cubic yards of sediment from Federally-maintained navigation channels.

Nationwide, the Corps also maintains 215 navigation locks along nearly 11,000 miles of inland and intracoastal shallow-draft waterways and 23 locks along 14,000 miles of deep draft channels to aid the movement of commodities and commercial products throughout the nation's heartland. These navigation features are the lifeblood of interstate and international trade, generating nearly \$700 billion in foreign commerce. In 2000, almost 3 billion tons of goods and services moved through Federally-maintained facilities and waterways.

In addition to commercial traffic, Corps navigation locks also provide an invaluable service to recreational users without charge. The Hiram M. Chittenden Locks

in Seattle, for example, passed nearly 50,000 recreational crafts through its lock chambers last year.

Regionally, the Corps maintains eight navigation locks on the Columbia and Snake Rivers system, which benefits some 36 ports in Oregon, Washington and Idaho in the export and import of commodities and products. A number of these ports rank in the top 100 in the nation: the Port of Portland—the nation's 22nd busiest navigation hub; the Port of Vancouver, Washington—the 68th busiest; and the Port of Longview, Washington—the 88th busiest.

While the Corps has no authority or appropriations for port security, we do have a keen interest and vital stake in its effectiveness. The nation's waterways, along with the civil works infrastructure—the locks and dams we operate, are national assets, and as such, we have a responsibility to support security measures to safeguard them.

The events of 9/11 brought a sobering realization that our infrastructure could be at risk. In the months following, the Corps of Engineers initiated an aggressive assessment of all its dams and critical structures and developed plans to increase the physical security of the navigation system.

The need for a security assessment was first discussed in 1997 as part of Presidential Decision Directive 63. Nine Federal and non-Federal agencies, responsible for security of our Nation's infrastructure, developed a process to systematically analyze current security risks at our nation's dams and propose security measures to protect all critical missions of key Federal dams.

We have completed our initial assessments of all 47 dams within the Northwestern Division and for over 300 critical Corps structures across the nation, and developed protection and mitigation measures that are included in individual project reports. Using the funds appropriated by Congress, we are implementing increased security measures.

The locks and dams in the Columbia River Basin are among the highest priority dams within the Division. Our end goal is to protect the dams while at the same time allowing the continued movement of commerce and people and maintaining the environmental and recreational qualities along the river system and through the navigation locks.

Lockages are performed 24 hours a day, seven days a week at Corps navigation locks. The majority of these lockages are of commercial tows or private recreational vessels, with other vessels being owned by universities or federal, state, or local governments. Priority is given to commercial vessels, with recreational lockages scheduled three times each day.

In the wake of 9/11, we have increased our vigilance at our facilities. Operators at each lock maintain a list of the names of vessels that frequent the lock, mainly commercial vessels, tugs, commercial passenger boats and a several Navy vessels. Powerhouse and lock operators are familiar with most commercial vessels and their crews, and should anything sound or look suspicious, the lock operator may refuse lockage.

The Corps is not only the nation's leader in water resource management, but the nation's premier public engineering agency. Using our expertise and authorities, we are taking additional measures to safeguard the nation's investment in waterway infrastructure and to protect the safety of the citizens in our region. Partnering with similarly committed public and private entities can only strengthen the national resolve and sharpen joint preparedness.

We are learning from the tragic events in New York and Washington DC and now have a better understanding who the likely players would be should a similar incident occur at one of our facilities. We have reached out to new and to long-time partners (the U.S. Coast Guard and navigation industry), and are developing new response and communication plans that we hopefully will never need to use.

The Corps of Engineers does not intend to allow the risk of terrorism to cripple our effectiveness as the nation's leader in water resource management. We will continue to execute our navigation mission to the best of our ability. Mr. Chairman, this concludes my statement. I would be happy to answer any questions you or the other Subcommittee Members may have.

Senator WYDEN. It will be put into the record in its entirety. And what we'll do—I have a number of questions and I know Senator Smith does—we'll just go back and forth. Let me start with one for the panel. I think that it is very clear that since September 11, there is a real challenge in terms of taking on these new functions

to address terrorism, while at the same time keeping the traditional activities of your agency.

And the General Accounting Office is looking at this area in particular, and they found, for example, on the east coast that there was a dramatic drop in the Coast Guard's fishing boat boardings. They found that since September 11, for example, on the east coast of the United States there were only 38 of these boardings compared to 300 in the first quarter of last year.

So it's clear that with each of your agencies you have taken on new missions with respect to combating terrorism, and what I would like you to do is tell us, each of you, for your agencies, what additional actions you've taken to combat terrorism since September 11, and what functions are you forced to do less of because of your new duties?

Let's begin with the Coast Guard.

Admiral CROSS. Yes, sir. Maybe to put the numbers that you addressed into a little bit of context. Prior to the events of 9/11, the Coast Guard resources engaged in specifically Port Security operations was something less than 5 percent. In the couple weeks immediately following September 11th, that number surged up to something between 50 and 60 percent as we reacted and responded to, as we normally do, to emergencies. And that would account for the significant drop off in first quarter fishing boardings.

Since that time we have realigned our resources and we now are investing somewhere between 20 and 25 percent of our resources in Port Security operations and have gone back as much as we think we can to other more traditional—that's not fair. To other Coast Guard missions.

And as I mentioned in my statement, port and coastal security is not a new mission for the Coast Guard, but certainly with the increased threat it calls for a greater percentage of our resources.

And the other question that you asked is what are we doing less of? Sir, we're doing primarily less in the way of our law enforcement missions. Less narcotics, less fisheries law enforcement, somewhat less in the migrant interdiction role, and then those resources to some extent have been deployed and shifted, if you will, to port and coastal security operations.

I think you also asked what additional things are we doing? What kind of things are we doing? Shortly after the events of 9/11, we implemented a sea marshal program. I can go into that in as much depth as you'd like, but in short those are Coast Guard people who are willing to go onto high interest vessels and ensure that those vessels can't be taken over as the aircraft were on 9/11.

Tomorrow we're going to commission a maritime security team, one of four such teams that we're going to commission this year. This one will be commissioned in Seattle. And these are deployment teams that come—two separate teams within the overall team come with six boats, and they're going to be specially trained—these are law enforcement personnel—trained along the lines of our Port Security that we already have that are primarily focused on overseas Port Security. So there is a different venue here in terms of law enforcement work versus a wartime scenario.

For example, one of those Port Security teams currently is deployed in the Middle East and another in Guantanamo Bay. So the

training for those teams differs somewhat. And I will also mention we have just increased our presence on the water. We're much more over and above the water, so that you're much more likely to see a Coast Guard boat, a patrol boat or a helicopter flying over than you have before.

And most importantly, we've very much increased our outreach efforts. In our efforts to build a team within each port, a security committee, for example, to try to bring all the resources of the port together to enhance the security of the port. Those are the kinds of things that we've done.

Maybe one other issue because you touched on international efforts, we have been very busy working with the International Maritime Organization in helping the United Nations in London. And one example of one of the things that we've been able to accomplish there is there's a lot of information in the system that was—this is a system that will allow us to track ships very much like the current aviation system in the world allows us to track aircraft.

That system was initially scheduled to go on-line and be required in 2008. Working within the IMO, we now have agreement to go forward with that system in December of 2004. And the reason we couldn't really go faster than that is we don't believe the manufacturers could actually provide us the equipment any faster than that. We have not yet totally set up a shore-side architecture to gain those signals and plot them so we can actually track where the vessels go, and there is some bandwidth issues that need to be addressed. But that's an example of the kinds of efforts that we're making in the international scene.

Senator WYDEN. Mr. Browning, what else have you taken on since September 11th, and what areas have you been forced to do less of?

Mr. BROWNING. Thank you, Mr. Chairman. Actually, Mr. Chairman, this gives me an opportunity to sort of outline what I think have historically been the four core missions of the U.S. Customs Service. We have for quite some period of time been a law enforcement agency. That certainly is one of our four mission requirements.

Certainly post-9/11 border security has come to the forefront as one of the issues, but it has always, and I will join Admiral Cross in that, it has always been one of our functions to be involved in border security. You will recall that the time of the Y2K that indeed it was a customs officer in Washington state that apprehended a potential terrorist who had intentions of causing an explosion at the Los Angeles International Airport. So we have always been in that business.

What we have been doing post-9/11, however, is to refocus our efforts in that area so that we can provide the security that the American people are entitled to and are asking us to provide.

Along with those two parts of our mission, we also recognize that we are an important part of the international global trade arena. We have a clear trade compliance function and we have a trade facilitation function. And we have been working those functions along with our partners in the trade for quite some period of time.

And indeed one of the things that I would join Admiral Cross in this regard, one of the things that is critically important to the

Customs Service and Commissioner Bonner is at the time the decision was made that we would become part of the Department of Homeland Security, the decision was made to take all of our functions over and the organization over in tact. We think that is critically important, because the things that we do on our law enforcement side help us to provide the trade compliance facilitation that is so critically necessary to our economy.

So in that sense I think we've been doing this for quite some period of time. As to what we have done differently since 9/11, what new initiatives, I mentioned in my oral statement both the C-TPAT and CSI. As you are aware with respect to CSI, we've had some considerable successes in that area. Most recently Singapore has indicated a willingness to allow us to deploy our inspectors to that or to do pre-screening on containers for the U.S. The ports of Rotterdam, Antwerp and LeHavre have also agreed and we will be deploying resources there shortly. And we have for quite some period of time been engaged in CSI with our Canadian colleagues taking a look at over the half a million containers that come into the U.S. inbound from Canada to the U.S. And again, we have been experiencing some successes.

In addition to these two programs, however, very quickly, Operation Shield America, in which we have gone out and spoken to over 3,000 domestic manufacturers of items that would be of interest to terrorists to alert them to what to look for, and if in fact they have customers who are trying to acquire some of these commodities to let us know so that we might be able to do some necessary followup, and at least two followup investigations have come out of those outreach efforts and those contacts.

Operation Green Quest, which is the targeted money laundering activity going after the terrorists' financing has resulted in the seizure or freezing of over \$49 million worth of suspect terrorist assets and numerous indictments.

The Office of Border Security, which we also outlined in my presentation was started up for the sole purpose of helping us to further refine our rules-based data system, so that when we take information and we start targeting containers, we have a very sophisticated, very in-depth tool that allows us to make decisions on what is and is not high risk.

Finally, on the international front we have been working with our international organization, the World Customs Organization, that has adopted a resolution and will be undertaking an action plan in which we will play a critical role to develop, with other nations, a whole process of supply chain security, from vendor to consignee.

And then very finally, I want to thank the Congress and the Senate for the support we have received with respect to nonintrusive technology. We have accelerated our deployment of nonintrusive technology to our seaports. This allows us to do better examinations, quicker examinations of suspect and high risk containers. It allows our people to help continue to facilitate legitimate trade while still allowing us the ability and flexibility to take a look at those things that would be of interest to us from both an enforcement or anti-terrorist standpoint. And in that context those are just a few of the things we're undertaking.

One final point. We have worked diligently to partner with other law enforcement agencies, other government agencies involved in this, the container working group which has the Customs Service, the Coast Guard, several other concerned agencies have been working in concert to try to identify approaches so that we can better assist each other in trying to tackle this very difficult problem.

Senator WYDEN. Mr. Browning, you list many things that you're doing in addition to what you used to do. What are you doing less of? Mr. Cross told me he was doing less in the law enforcement area, which of course concerns me because we have a serious drug problem. Tell me, if you will, what are you doing less of since September 11th?

Mr. BROWNING. Senator, I can't say we're doing less of anything. What I can say is we're doing it differently than the way we may have done it pre-9/11. C-TPAT was a recognition and one of the things we did with C-TPAT was to provide a whole series of benefits to the trade that made it worth their while to shore up their own security. We're not in a position as a law enforcement agency to step back from some of the significant law enforcement activities we have, such as counter-narcotics, anti-terrorism, forced child labor, IPR violations.

What I think we have been trying to do is to manage the resources so that we could do it differently and try to enlist the assistance of other partners to help us do that. I will give you one very interesting statistic. As a result of what we have been able to do in the counter-terrorism area, our narcotics seizures for this year are up 17 percent over what they were at this same time last year. And again, I think it's simply a reflection of the fact that we have been trying to get processes in place that will allow us to do our job better.

I can't say that we've put any one of our missions aside. Maybe some of the commercial trade activities or something that we've had to step away from to redeploy resources, but generally what we're trying to do, sir, is just try to do it better and do it different.

Senator WYDEN. Mr. Butler, same question. What are you doing more of? What has been an area in which you've been forced to take a lower priority?

Colonel BUTLER. Yes, sir. Let me address that from two different perspectives. One from a national perspective. On the national side, as I said in my opening statement, we've done a lot more in the security assessment program. We used what we call RAM-D assessment. And RAM-D stands for Risk Assessment Methodology for dams. Given that, we've done that very intensively.

Also nationally, we have done a heightened outreach for security information. We have now leveraged with our DoD organizations and also collectively with other law enforcement agencies looking for potential threats to the national infrastructure.

Internally on a national level, we've leveraged our capabilities as a premier engineer organization to help the nation. In particular we have a protective design center in Omaha that has been leveraged to help other agencies in looking at their abilities to shore up security. We have done a tremendous amount of work in the R&D community. We also have outreached to the engineer community as a whole in partnering with different engineer organizations to come

up with better standards throughout the industry. That's on the national level, so we've done a lot more of that.

Regionally, I as a district engineer have had to divert some of my ranger personnel from doing what is their normal activities to doing much more law enforcement type or patrolling type activities. I have additionally added some temporary security folks to augment at my facilities, so I have a higher level of comfort that I have eyes watching around the projects as a whole. Additionally, we have just had a heightened awareness throughout all the work force.

Now, specifically on the "less". The "less" that's happened is that the range of personnel that we have typically are not there as security personnel. We hire them to interact with the public to provide safe recreational opportunities, and to provide interpretation at our facilities throughout the nation. We have done less of that. That's exactly what has happened. We've had less interface with the public than what they would like. We've had less activities at the projects, because we've had to restrict certain areas of our projects from the public.

In particular at Bonneville Dam, the lock area has a viewing platform that is no longer accessible to the public, so we're allowing less visitation to certain parts of projects where people would like to go.

Additionally, early on we had to divert dollars from our maintenance account in order to supplement our efforts to provide additional security personnel. So we diverted dollars early on in order to make that happen, and what that has done in essence is pull back on our maintenance and repair activities here toward the end of the year. As dollars become available throughout the command, we continue now to apply those back to maintenance and repair. Basically, that was an early decision to take those dollars to shore up on the security side. So that's what we did less.

Senator WYDEN. One other question for this round and then I'm going to let Senator Smith have his first round. Let's go into the budget issues, Admiral Cross. And again, the people of Oregon and I—I have community meetings around the state, as Senator Smith does as well—are very concerned because we've got a number of traditional operations the Coast Guard performs which are extremely important to the people of this state. We're talking about Search and Rescue, fishery protection, and responding to environmental disasters such as the New Carissa in our state.

Tell me how the Coast Guard is going to take on all of these new missions with the primary mission of combating terrorism and still perform these essential functions that are so important to coastal communities and the people of our state.

Admiral CROSS. I'll maybe start with a simple answer and then a more complex answer. The simple answer is that the Coast Guard, especially since 1950, has had a broad spectrum of missions. We're responsible for missions from bridge administration to national defense.

And to say that moving the Coast Guard to the Department of Homeland Security will somehow make Port Security a primary mission over the other missions, I think belies our past a little bit. Admiral Loy, he was once asked why the Coast Guard should re-

main in the Department of Transportation. And he explained that about—using rough numbers—about a third of our missions are national defense related, about a third are law enforcement related, and about a third are transportation related. So we're not really a good fit in justice or in the defense department, so we might as well stay in the transportation department. And that's what he was advocating at the time.

However, now I think if you take a look at those missions, one-third national defense-type related missions, one-third law enforcement related missions, and terrorism concerns, there are very clearly law enforcement and national defense issues. We now have an opportunity to move the Coast Guard forward into a department where we would have about a two-thirds fit.

But I don't think it's fair to presume that that would somehow mean that we will ignore the other missions. For example, we always talk about Search and Rescue being our primary mission before 9/11, and what we did after 9/11 is essentially move Maritime Homeland Security and Port Security up on par with Search and Rescue.

That doesn't mean that we didn't do Fishery Law Enforcement here or off the Bering Sea. It didn't mean that we didn't pay great attention, for example, to aids to navigation, which I know is greatly important for the transport of goods from the Port of Portland a hundred miles to the Pacific Ocean. So we've always been an agency that had to have a broad spectrum. It's had a broad spectrum of missions and we've been able to attend to those missions.

So I don't necessarily see a big change here. And like I said and said before, Port Security has been a mission for the Coast Guard for many years. It's not a new mission for us. This is simply a mission that because of the increased threat has increased in our priority.

Senator WYDEN. Admiral, I guess with all due respect I would have to disagree. I mean it's very clear. It's stipulated in the president's proposal that the new primary mission is to combat terrorism. It's outlined very clearly. And it just seems to me that the math doesn't add up in terms of keeping the functions.

I was very troubled by *The Wall Street Journal's* recent report that of the extra money that's being requested by the Coast Guard, more than 90 percent of it is for functions other than security. In fact *The Wall Street Journal* reported that about two-thirds of the extra money goes for retirement programs alone.

So you are a good man and it is not right to put you just solely on the grill here for decisions being made in Washington, DC But it is clear that the primary mission of the new Coast Guard in Homeland Security is to combat terrorism, and certainly people on the Oregon coast didn't see that as the primary mission of the Coast Guard over the past several decades. And we're anxious to work with you all to make the math add up. But I will tell you that it sure doesn't look like it does.

Admiral CROSS. One maybe or two additional points that might help us with the math just a little bit.

Senator WYDEN. Sure.

Admiral CROSS. First of all, I make the point that we're going to be engaged in coastal security regardless of whether we stay in the

Department of Transportation or whether we go into the Department of Homeland Security. I didn't mean to imply that we're going to be able to enhance our Homeland Security efforts without impacting other missions without having a bigger Coast Guard.

In fact our fiscal year 2003 budget that's on the Hill along with the supplementals will grow the Coast Guard by about 2200 people. And that's significant for an organization of about 35,000 people now. So there are going to be increased costs and those costs will be for increased security.

Senator WYDEN. Well, again *The Wall Street Journal* reports otherwise. They make it clear that more than 90 percent of the extra money that's being requested is for functions other than security. And without objection I'm going to put that *Wall Street Journal* article into the record at this point.

[Information follows:]

COAST GUARD BRACES FOR FIGHT

The Wall Street Journal, Wednesday, June 26, 2002

By Leila Abboud

War on Terror Thrusts Service Onto Front Line, Into Controversy

The Coast Guard has long seen itself as the Rodney Dangerfield of the armed services, known best for tending buoys and towing broken-down boats. But lately it is getting plenty of Congressional attention as President Bush proposes to put the agency on the front lines against terrorism.

Securing the nation's borders was only a small part of the Coast Guard's focus before Sept. 11. Now the agency faces nothing less than a drastic reorientation, should it become part of Mr. Bush's proposed Homeland Security Department. And that, the Coast Guard says, would require more boats and more money—despite the president's insistence that the new Cabinet department can take form without adding to the deficit.

At the same time, some powerful members of Congress from coastal states don't want to see moves that shortchange the Coast Guard's traditional missions, such as search-and-rescue operations and fisheries protection.

Warns Alaska's GOP Rep. Don Young, a well-known legislative pugilist: Congress will alter those Coast Guard missions "over my dead body."

These are the kinds of hurdles ahead as Mr. Bush and Congress try to create the new bureaucracy from all or parts of 22 existing agencies, also including the Customs Service and the Immigration and Naturalization Service, that have substantial jobs unrelated to fighting terrorism. Given budget constraints, agencies may have few choices but to neglect old missions for new.

How this may affect the Coast Guard has some powerful groups and lawmakers mobilized for their own battle. Besides Rep. Young, who is chairman of the House Transportation Committee, with jurisdiction over the agency, others include his fellow Alaskan, Sen. Ted Stevens, top Republican on the Senate Appropriations committee, and House Appropriations Chairman Bill Young, a Florida Republican.

Nothing illustrates the tensions better than a current debate over "Deepwater," the largest acquisition program in the Coast Guard's history. Yesterday, a joint venture of Lockheed Martin Corp. and Northrop Grumman Corp., as expected, won the contract. The Coast Guard is expected to spend as much as \$17 billion over the next three decades to buy new ships, planes and helicopters.

Conceived well before Sept. 11, Deepwater was supposed to replace 92 large, aging vessels and 209 aircraft that work far from shore on missions such as interdicting illegal drugs or migrants. But now some other influential members of Congress question why the Coast Guard is spending three-quarters of its annual capital budget on Deepwater when most homeland-security programs—for patrols, boarding vessels, and guarding infrastructure—operate close to shore and require smaller boats.

Leading the fight against Deepwater is Sen. Richard Shelby of Alabama, senior Republican on the Senate Appropriations subcommittee for transportation. "The responsible thing for Congress to do is to withhold further funding for this program until it has been restructured to meet the changing mission profile," he says.

The Coast Guard's Petty Officer First Class Ken Walberg, who oversees its patrols of New York's vast and busy harbor, says the smaller, 30-year-old patrol boats were the "workhorses" there after Sept. 11. But Coast Guard officials say Deepwater equipment will also be used for homeland-security tasks; if terrorists get as close as the port, they argue, that could already be too late.

Alaska's Rep. Young, concerned that missions critical for Alaska will be downgraded, defends Deepwater. And he isn't pleased that the Coast Guard's move to a new department could take it out of his jurisdiction. Rep. Young met with President Bush and his staff to discuss the restructuring soon after the plan was announced. "Until I have the assurance that the core missions won't be affected, I am not supporting this," Rep. Young says.

He offered an alternative: Write the law so each mission would be given a fixed percentage of the total budget. That could protect functions that Mr. Young supports, regardless of the preferences of some future secretary of the new department—who, as Rep. Young put it, might not "know squat."

Even if it wanted to, the White House can't ignore Mr. Young, whose committee also oversees the Customs Service, the Federal Emergency Management Agency and the post-Sept. 11 Transportation Security Administration—all of which would be part of Homeland Security.

For Rep. Young and Sen. Stevens, this is more than a turf war. In Alaskan waters, Coast Guard missions are literally about life-and-death issues: By its count, the Coast Guard saved 246 lives in Alaska last year. Coast Guard Lt. Jim Zawrotny flies search-and-rescue missions in small aircraft from Kodiak Island, the largest island in the Aleutian chain that reaches far into the Pacific Ocean. In remote wilderness and harsh winter conditions, it can take an eight-hour flight just to get to a mariner in distress. Last year, 52 of those lives were saved by Coast Guardsmen from Kodiak.

Congress has already begun debating how the Coast Guard should handle changed priorities. At a recent hearing of the House Government Reform Committee, Coast Guard Commandant Thomas Collins was asked how the Coast Guard would choose between rescuing a sinking sailboat or guarding a river said to be a possible target for terrorist attack.

"Search and rescue takes priority," Adm. Collins replied.

Senator WYDEN. Senator Smith.

Senator SMITH. Thank you, Senator Wyden. Colonel Butler, in his state of the union address, President Bush revealed to the American people that there were specific threats about plans against hydroelectric dams. And no place in America has more of them than the Pacific Northwest. There were specific plans made against the Grand Coulee dam.

Without revealing what you've done, can you assure the people of Oregon and the northwest, the United States, that these facilities are more secure now than they were on September 12th.

Colonel BUTLER. Yes, sir, I can tell you that the Corps of Engineer facilities that I control, and that General Fastabend, under his control here in the northwest controls, are more secure than prior to 9/11. But I will carry that out. Can we do better? Yes, clearly. There are more things that can be done. That's what our assessments tell us—clearly there are certain things. We can leverage the technologies that my sister agencies and I have talked about to our advantage.

In the past we have been complacent on the topic of security and really put more recreation and some of the other purposes higher. But with the new emphasis, the new look, at this point we feel we have secure and safe facilities. As any facility of the size of a dam, it is vulnerable. It is very vulnerable to certain aspects. With that, we need to take new steps in order to shore up those vulnerabilities.

Senator SMITH. Are you finding in these new budgets for developing that you're going to have the resources to do these extra things?

Colonel BUTLER. Senator, we're going to need supplemental funding. In the current budgets, none of the improvements I've talked about were actually budgeted for. Supplemental funding would be required to the operation and maintenance account in order to make these kinds of improvements a reality.

Senator SMITH. Thank you. Mr. Browning, what does the industry generally get from participating in the C-TPAT program and is it working?

Mr. BROWNING. Senator Smith, in fact we started that program with roughly seven charter members. At this point we have numbers that are reaching almost 200 and more are coming in now.

Senator SMITH. What motivates them to participate?

Mr. BROWNING. There are specific benefits and I'll just give you one of them. We have a number of programs where we audit the operations of the imports coming in. An audit can be a very time consuming and expensive proposition over an extended period of time. One of the things that we have said to our compliant traders is that if you join the C-TPAT program and you go through the process of developing the necessary internal security control in your operation, and they meet the conditions that we've set forth, we will put you into sort of a gold card group.

And that gold card group, one of the benefits of which is a new program called ISA, importers self-assessment. Which means we will allow you to keep your books, to keep the information and make that information available. We will periodically go in and take a look, but you won't be subject to the very time consuming costly internal audits that we have been conducting in the past. That is an extremely big seller for the trade.

I need to make one other point about the C-TPAT. We initiated that program, but we initiated that program not unilaterally. We initiated it in partnership with our traders. We talked to them about what was important. We talked with them about how to get there. We have a book of what we refer to as security standards—it's about an inch and a half thick—which was developed by our industry partners in three different areas, in the sea, air and land environment, about what types of best practices or measures could be implemented by the trade to shore up the security of their transactions and the movements of their commodities.

So throughout this process we've tried to be sensitive to our traders about this. If this program works well, C-TPAT, and CSI works well, what we ought to really have in a sense is a green lane for those people that we have a high level of confidence are taking the necessary measures to secure their supply chain which allows us to better focus our resources on those areas that are at high risk for us.

Senator SMITH. And when you develop this information, the track record, developing a green lane would certainly be a real motivation for companies to participate. I assume you hear from them the biggest concern is, What are you going to do to the efficiency of the flow of commerce? And are you going to be making a proposal to

Congress for budgetary allocations to develop this green lane process?

Mr. BROWNING. Actually, Senator, one of the things that's been most helpful is the support Congress has given us on our ACE automation system. We have for a very long period of time been a transaction-based organization. What ACE is going to allow us to do is to move away from that transaction-based approach entry by entry by entry, to one where we start to deal with our importers as accounts. And as accounts we will have more information about them. As accounts we will know their business better. As accounts we will have a higher sense of reliability that the information they're providing us is information on which we can rely in terms of how we treat them. And as accounts what there will also be is some of the processes that we have to apply, like the imposition of fines and penalties when violations occur, will be addressed differently because we'll have a relationship with these accounts that allows us to take a look at them in a more holistic fashion.

So I think, and I cannot emphasize enough how important the support of the Congress has been for the ACE deployment. Two things have happened with ACE, our new automated system. We are on a track that we have been making submissions for additional funding so that we can put that into a deployment phase of 4 years instead of 5 years. The information that we'll be able to gather from ACE will allow us to do a better job on the facilitation side. We will give the traders things like periodic payments, remote filing, a host of things that they have been saying since 1994 that would really be critical to them in terms of the operation of their business.

But by the same token it will give us an information platform that from a security standpoint will allow us to do our job better and to share information with our partners that should allow them to do their job better. So we are trying to move on, Senator.

Senator SMITH. We want to give you every encouragement on this front because we've got to provide the security. We don't want to retard the commerce. And I suppose if I hear any one threat of concern from industry is that they need more return, if you will, for the efforts that they're making in the program. And it would be very helpful to us to have a proposal from Customs as soon as possible, because I think when people know from the human standpoint, when you go to an airport, catching a plane isn't like catching a cab any more. And we understand that and we put up with that. But eventually we need to get to an efficiency without compromising the security, and these companies are going to need that proposal.

Admiral Cross, is there a set standard for the AIS system, the automated information system, and what is the cost of the share side components of the system?

Admiral CROSS. Sir, I don't have that information available. I can provide it for the record if that would be helpful.

Senator SMITH. If you could do that that would be appreciated. [Information referred to follows:]

Standards for equipment required for Safety at Sea Convention (SOLAS)-class vessels are complete. Class B standards (equipment required for non-SOLO-class vessels) are under development.

Standards for the AIS shore infrastructure are under development by the International Association of Marine Aids to Navigation and Lighthouse Authorities (IALA). IALA plans to have these standards completed by September 2002.

We estimate that to install a "receive only" AIS system on National Distress Response System towers will cost approximately \$28.3 million over a 3-year period. Annual operating costs will be approximately \$3.24 million. At this time we do not anticipate a requirement for AIS transmit capability, but we are continuing to research this capability.

Senator WYDEN. OK. Let's go on to some other areas. And I appreciate that you all have taken the time because obviously these are important issues. Let me followup on a point Senator Smith made with respect to the locks and the dams, and particularly the Corps' role in this important area. And actually it was something where I had a colloquy with Senator Hollings, who managed the Port Security Bill, to try to address some of the issues that Senator Smith was talking about.

The Corps has the responsibility for maintaining the navigation system. That is essentially the key type of Corps function. But protecting that system against terrorism has not been one of the Army Corps' primary missions in the past. And my question to you, Colonel Butler, is where are you all going to get the expertise again to take on these new duties or do you think that this is something that should be given to somebody else in the whole debate about setting up the new Department of Homeland Security?

Colonel BUTLER. Senator, at my level—I'm not able to answer at the national level.

Senator WYDEN. Just talk about Oregon. Senator Smith raised an important issue. The locks, the dams, these are very important. That's not been a primary function of all of you. Where are you going to get the expertise, to get the training, to take on this new function now?

Colonel BUTLER. Sir, in doing that we have internal resources, like I mentioned, on the engineer side. That of a protection design center and capable engineers able to come up with the technologies to give us early detection systems, deterrents and such. We have also partnered very heavily in working with the Coast Guard, with the FBI, with local law enforcement agencies, and tapping their expertise, because, like I said, law enforcement is not a Corps mission. Therefore, when it gets to the law enforcement functions we are looking for our sister agencies to provide us that.

So we don't anticipate to train up to have folks do it, but what we're looking to have, as you mentioned, is synergy of the efforts of all agencies so that we respond to our common goal. One of the things that we have done in the past, since 9/11 also, is that we've had increased table top exercises or simulation exercises, where we bring all agencies together. We've had those and played certain scenarios to answer, "How would we react? Can we now function as diverse communities with different responsibilities and authorities in order to handle this kind of situation?"

Every one of those exercises provided great learning opportunities, and has reassured folks that we work in tandem and we can handle any threat that has been proposed to us.

Senator WYDEN. I want to go back and take a look in the budget for where this concept of synergy has come in. It's very clear we're going to have a whole lot of it. Mr. Browning, a couple questions

for you. One key one on the technology side. And my sense is that clearly screening technology needs to be included and enhanced—the Customs screening technology—to develop and search small aviation luggage. But X-rays of marine containers that can contain 10 or 15 large shipments carrying up to 60,000 pounds is obviously a very different drill altogether.

Now you all have a pretty small budget for R&D, and it's a pretty small budget to take a look at innovative technologies. What is Customs doing to develop technology to identify threats scientifically as opposed to the old approach of visual identification of huge cargo volumes?

Mr. BROWNING. Thank you, Senator. We, as you indicated, do in fact have—I mean our budget for R&D is not a huge budget, but we have a very, very talented staff, and more importantly what we have is some very good partnerships with other organizations in technology development.

In 1991, and I think I may have mentioned this to you yesterday, we had one piece of non-intrusive technology on-line in our organizations, which was an X-ray van. That was in 1991. Today we have over 86 pieces of non-intrusive technology and they go the full range from personal radiation detector devices to vapor trapping devices for determining whether there's narcotics, explosives in a container, to the ability to do full scans of containers.

Our vehicle and cargo inspection systems, VACIS, have been totally resigned. They are now relocatable. They are mobile. They are specifically geared to the sea environment, specifically geared to the land environment. So we are doing an awful lot in that regard to develop a whole range of different technologies that will help us do our job better.

Working with organizations like Pacific Northwest Laboratories, we have given some of our requirements to them and they have developed some of these technologies for us. In fact the personal radiation detector was developed by them based on specifications that we gave to them. And this is widely used. Indeed by January we'll have over 8500 pieces of this equipment out in the field.

Our goal is to have some system of non-intrusive inspection at every port of entry in the U.S. In fact the Port of Portland is on-line to receive two portable detectors which can do all kinds of testing, including for nuclear. So we are on-line.

I have to say one thing that's happened and this has been a plus up from the standpoint of the emergency supplemental. With our appropriated funds for 2002 in the emergency supplemental, we received \$102 million in non-intrusive. The 2003 budget has 46.6 million additional in non-intrusive and our 2004 request will have somewhere in the neighborhood of 59 million additional dollars for non-intrusive.

Clearly that technology piece is essential for us to do our job given the volume of merchandise that moves to the U.S. and the fact we want to try to do our level best to facilitate the movement of the trade. So we are continuing right now to work with partners in a host of other areas to develop the technologies we need, and we're getting good response both from our R&D people as well as the other individuals in other agencies that are involved in technology development.

Senator WYDEN. A couple of others for you, Mr. Browning. Obviously it's critically important to get agreements with other countries to coordinate security at the point of origin. What do you do if they won't go along? What's going to be the strategy of Customs to try to up the ante and make sure that we can have this police presence that's so important for our security?

Mr. BROWNING. I've been actually surprised and delighted by the response we've gotten thus far from some of the ports that we've approached as part of our CSI program. I think, as you are aware, the whole notion of waiving sovereignty is a difficult one, and when you allow Customs inspectors on your soil to do in a sense targeting and making those kinds of decisions, it can be very difficult negotiations. We have had success, and I think I indicated to you some of the ports we've had success with: Rotterdam, Antwerp, LeHavre, Singapore. We're in discussions with Hong Kong. We're in discussions with the People's Republic of China. We're in discussion with Taiwan. And of course we've had ongoing activity with Canada.

A good bit of that has been Commissioner Bonner himself has personally engaged to pushing this forward. That has been a real benefit for us to move this forward, because when you get the head of the agency himself sitting down at the table across from his partner, decisions can get made. And it's very difficult for people to backslide those decisions when you have the two heads of organizations working together.

So we have had good success. We've had very few people that haven't at least been willing to talk to us. And in some respects the successes we've had thus far will motivate other ports, because I think in terms of CSI, what we have said is if you have this in place, the treatment that those containers coming out of there will receive will be better treatment than from other locations where we don't have that level of confidence in the security system that's in place. That will be a huge motivator simply from a standpoint of commercial competitiveness to get some of these other ports moving down the aisle.

If they don't, then what we look to do, Senator, is we look to go back to our state department and enlist the state department in going to those governments and saying it's in your interests, it's in our interests, it's in the global trading environment's interests for us to have these arrangements. Now, the good news is we haven't had to do that thus far, although I will say that the state department has been extremely supportive. They've been on the ground putting out the word. They've been on the ground perfecting this understanding of what the program intends to do, and they've been on the ground helping us to interface with our counterparts to make some of these things happen.

Senator WYDEN. I think that's a constructive strategy. I think it's essential that you all be prepared to up the ante if you don't get the cooperation that is clearly critical to your thinking. I have one other question.

Mr. BROWNING. I just want to make another quick point. Commissioner Bonner at the outset of this process made it absolutely clear, as we did with the airline industry, that if they didn't sign on we would subject them to inspections, and people that don't sign

on will be subjected to inspections. They need to know that. We have no intentions wavering on our authority to inspect everything that comes into the U.S. to ensure that it's safe to enter this country. And we have said that to a number of our partners.

Senator WYDEN. Mr. Browning, how serious a problem is this matter of unsealed containers coming in?

Mr. BROWNING. It's a huge problem because it is—and when we say unsealed, are you saying unsealed meaning no seal or empty containers?

Senator WYDEN. Either one. What we heard yesterday in Seattle, and I assume I'm going to get the same answer when I ask the question now, is that it is one of those issues that my kids would say "hello." I mean it just is so obvious. You've got unsealed containers, or I guess empty could be a possibility as well, where there is essentially no inspection system whatsoever. With the people of Oregon saying to Senator Smith and I, they want to have assurance that there is an inspection process in place, and they want it done in a way that's also going to allow for the free flow of goods. And when you have what we heard yesterday in Seattle, you know, unsealed containers, I mean those just strike me as magnets for terrorists. And I'd really like to hear what you all think of the problem and in fact what can be done about it?

Mr. BROWNING. Senator, I think actually my 11-year old would say, Dad, duh. It is clearly a problem. And I think you're right that it is clearly a problem. I also might add to that the in-bond movements, because those become a bit of a problem also. We recognize that empty containers, and there are an awful lot of empty containers moving around, when you look at our inspection rates, the examination rates of containers, what's actually very interesting is to see the inspection rate's considerably higher for empties specifically because empties pose such a problem.

To be candid about it, we're going to need to work through that because we're trying to just right now deal with the things given the volume of what's coming in now, trying to shore up that piece. We are continuing to look at that issue and continuing to look for approaches that indeed what I suspect and what I hope will happen as we go through this process working with committees such as yours, perhaps we can come up with some solutions that will give us what we need to place requirements on these containers also.

But it is a problem. It is one we're going to have to continue to try to address. We know that and we're trying to work out some solutions within our organization, and hopefully we'll be seeking some additional support from Congress to make that happen.

Senator WYDEN. I appreciate the candor of that answer and we want to work with you on it. One of the suggestions I had is that I would really like to encourage you to work with the unions and various labor organizations. The longshore and warehouse union brought it up yesterday and made it clear that they want to work with all of you and business folks in a kind of partnership that's very much been a part of our tradition to try to get everybody to the table: the workers, government and business. I just think this is a critical problem. You've acknowledged it by describing it as huge. And we're anxious to work with you on that. Senator Smith.

Senator SMITH. Just a couple more questions, Mr. Browning. I assume Singapore, Rotterdam and other places, they're willing to work with us there as opposed to waiting until it gets here because they want to keep the flow of business going with the United States. I would hope beyond that there's a common human desire to prevent the terrorism that has beset the whole world. Is that the spirit you think this is being done in?

Mr. BROWNING. Senator, I think there certainly are some concerns in that regard, but I would be less than forefront if I didn't say that a good bit of this is motivated by the commercial interests of these ports.

Senator SMITH. Well, what happens if you find a dirty bomb in Singapore, for example? Just hypothetically? What's the process there?

Mr. BROWNING. We would do the targeting in Singapore. If we found something there, we would say to the Singapore authorities, This container is high risk based on our having put the data up against our data base. You need to take some action, and then it would be incumbent upon them to take action.

If they refuse to take action, then this would be a problem for us. We might make a decision that we're not going to let that vessel or that container come in, and we would communicate that to the shipper, and the shipper would be on alert that if in fact you try to move that vessel in here, it will not make entry in the U.S.

We are hopeful that that will not happen. Most of the agreements that we have right now indicate that they have agreed to take action at that port.

Senator SMITH. Mr. Browning, does the Customs have any formal process for allowing industry to provide input into the development of the Customs program? Is it just informally done or is it a formal process?

Mr. BROWNING. No, sir. There are several organizations, but we actually have a statutory mandated advisory group called the COAG, the Commercial Operations Advisory Group. It is through the Treasury Department, but it is the body that provides advisory assistance to Customs on the development of our activities. And in fact they were actively involved in developing the guidelines in our supply chain security program. We meet with them on an annual basis four times a year. In addition to that there are several trade representative groups. AAEL, the American Association of Exporters and Importers, the Joint Industry Group, a group called BACUM, and several other groups that we have direct interface with. The American Steel Association. There are a whole list of bodies on a regular ongoing basis for which we have primary points of contact that are responsible at the assistant commissioner level that are responsible for interfacing with these individuals and providing feedback.

And then one final group is our trades port network, which has been involved with us on the development of ACE and our overall modernization strategy. That is about 200 plus people who we periodically report to, importers, exporters, service providers, the whole array of our stakeholders.

Senator SMITH. And in this process you describe of interfacing with industry, was this process utilized in the develop of the C-TPAT program?

Mr. BROWNING. Yes, sir, absolutely. I've been with this organization 26 years, Senator, and I have to say that there was a point in time when our relationship with trade was very adversarial, us against them. I think that the phrase was coined that we had sort of a "gotcha" mentality. What we recognized is given the limited resources that we have, that in order for us to be effective as both a law enforcement agency and a trade compliance/trade facilitation agency, we had to change that mind set. So what we have been doing is we have been partnering up very extensively with the trades, and we have been lock step in a lot of projects simply because we need their support if we're going to be able to do our jobs better.

Senator SMITH. Thank you. Colonel Butler, I'm still worried about these hydroelectric dams, and I'd like to get Captain Spitzer in on this next question. You mentioned a table top exercise. In your efforts to protect the dams from terrorist attack, do you have a way to involve Captain Spitzer or other branches of the military?

Colonel BUTLER. Yes, sir. I'll let Captain Spitzer talk to the Coast Guard's role. Usually the dam structure is an obstacle in the river. If it's the target of the intended terrorism, then we will be looking for outside support. Clearly we do not have those kinds of capabilities. We lean to those law enforcement agencies, to the Coast Guard, heavily to react with us. So given that, when we look at these on these table top exercises, one of the intents is to understand everybody's capabilities so that we understand, as certain events unfold, who should we call out to.

We're a very stationary object in the river and therefore we need help and we need help from all areas of the government. If it were to escalate to the point that we need other DoD assets, yes, that's within my foray to escalate on up, along with Captain Spitzer, at that point.

Senator SMITH. And if there's a problem everybody knows what it is and you push a button, make a call, whatever, and you trigger their involvement?

Colonel BUTLER. Yes, sir. I wouldn't say there is a formalized process, but these table tops opened the discussion lines. Let me go back to 9/11. When I rolled into work early morning on 9/11, the first thing on my mind was what about my dam facilities? I picked up the line, called the air national guard here in Oregon and said, What kind of top cover can I get from you? They hadn't thought about it. They put it in their decision cycle. In the same sense, Captain Spitzer and I were also on the line talking about navigation security. What was he doing as captain of the port and how did I fit into his plans; because I'm a fixed facility, how does he see insuring the navigational security?

Senator SMITH. And was there any way to include the river pilots in this discussion? We stopped all the airplanes from flying, but what did we do with the pilots on the river?

Colonel BUTLER. Sir, I'll defer to the Coast Guard to answer to that.

Captain SPITZER. Senator, getting back to the dams. Right after 9/11, representatives from my planning staff were in touch with the planners at the Corps of Engineers and we were looking at things like the structural integrity, the strength of the dams, the vulnerability to a similar attack to the World Trade Towers, and a lot of our review and analysis has been done.

Some of the exercises have been even more than table tops. They involve the maritime industry. We did one with Tidewater Barge Lines and using their resources at Bonneville Dam, and it was just a tremendous amount of coordination done there. What we have done even more importantly, a lot of our leveraging and coordination has been done not just focused on civil resources, but consequence management in general.

For example, we did a mass casualty exercise on the Columbia River at the Portland airport simulating the crash of an airliner. This is an exercise that was just done about a month ago, although we originally intended to do the exercise on September 12th. For obvious reasons it was delayed. But there was tremendous planning done toward exercises that ultimately involved about 500 people, and with primary benefits being the coordination of the agencies working together before the exercise to interact together.

And when we have to come together, it could be at a dam or it could be anywhere in the system, it could be downtown Portland, but the important thing to emphasize is that there are lots of planning efforts similar to this going on in all sorts of different communities. And the Coast Guard is going to many of those efforts.

Senator SMITH. Thank you.

Senator WYDEN. Gentlemen, did you all participate in the summit that was held in Oregon, or your agencies, on technology and cybersecurity when Mr. Clark came?

Colonel BUTLER. Sir, I'm not aware that my organization did.

Admiral CROSS. Sir, neither Captain Spitzer nor I are aware that the Coast Guard participated or not. We can get back to you.

Senator WYDEN. Well, let me wrap up on this technology point, because it really highlights a very significant concern on my part. This was a hearing of the merchant marine subcommittee, but I chair the Technology Subcommittee for the Commerce Committee. And Oregon is now becoming a center for cybersecurity. In fact if you read Oregon Business Magazine this month, there is a significant discussion of many jobs coming in this field which can help our national security. It's very good for this sector as well. And I'm troubled that the Federal Government really is botching this job with respect to technology in many respects.

First, after 9/11 thousands of ideas came in to the Federal Government unsolicited from business people and entrepreneurs, and there was no system for reviewing any of these. Basically I've heard from scores of businesses and entrepreneurs who said, not only is there no test bed to evaluate what we're doing, we can't get an answer from anybody.

And I think that we have got to have you all in your agencies at the table in every one of these significant discussions with respect to technology, if we're going to get a jump on the terrorists. They're not technological simpletons; they're looking at what's going on out there in the commercial world, and they're getting on

top of the state-of-the-art and they're using it against us. And I don't want to put you on the spot with respect to the meeting with Richard Clark.

This is an area where the administration is doing some very good work. They work very closely with me. We're going to have a technology package that will go to the president by the fall. Senator Smith has been very supportive of this as well. It's gotten through the Commerce Committee. But I think we've got really two problems. First, we don't have a one-stop process in order to make sure that entrepreneurs, many of them who live in our state and right in this area, can get their ideas evaluated. And second, we don't seem to be reaching out in a proactive way in going to them to get their ideas.

And, Mr. Browning, you're nodding and I'm just going to take note of that, and I think you all are aware of that. But we have got to have you all much more proactive with respect to technology in getting these ideas. Even the CSI initiative, which we've been talking about is so important; we're going to try to get as far as we can with those foreign governments. But it may be that somebody in Beaverton or somebody here in our area of technology may be able to come up with a way to get exactly that accomplished through products in this country that helps put people to work in an area of the country that's very high in unemployment.

So we are going to be following up with each of your agencies, and I would just ask ultimately that when you see significant meetings with respect to technology and cybersecurity, we want you to be proactive. I'll get you all a copy of the Oregon Business Magazine or you can get a copy yourself. The organization doing very good work in this area is called RAINS, and they're going to be one of the cybersecurity leaders in the country; and it's something that would be good for our state's employment and also good for our national security. I just wanted to close with that final comment. Senator Smith, anything you wanted to add?

Senator SMITH. No.

Senator WYDEN. OK. Thank you all. We thank you for your professionalism. I know that I asked some questions that involved some decisions being made in Washington, DC that are not exclusively within your province to decide; but do know that feelings run very strong in our part of the world on these issues. Your agencies are part of our community and part of our family, part of the Oregon family. You do important work and we want to make sure that we're taking every step to deal with terrorism. We know that the seaports are vulnerable. We've got to figure out a way to perform these other functions and address it in a balanced way along the way. Anything further? If not we'll excuse you and we thank you for your professionalism.

Our next panel is Robert Hrdlicka, Marine Director of the Port of Portland; Mr. Kim Puzey, Executive Director of the Port of Umatilla; Allan Rumbaugh, General Manager, Oregon International Port of Coos Bay.

All right, gentlemen, we thank you and you all have been very patient. I must have mangled the pronunciation of your name. Is it Hrdlicka?

Mr. HRDLICKA. It's Hrdlicka.

Senator WYDEN. Hrdlicka, OK.

Mr. HRDLICKA. But I'm used to it, Senator.

Senator WYDEN. We'll put your statements into the record in their entirety, and if you would please just speak for 5 minutes or so about the concerns that are important to you, that'll be great and we'll have some time for some questions. Mr. Gaul is it?

Mr. GAUL. Yes, sir.

Senator WYDEN. And you're going to be speaking for?

Mr. GAUL. I'm speaking for Mr. Rumbaugh.

Senator WYDEN. OK. Welcome, everybody.

**STATEMENT OF ROBERT HRDLICKA, MARINE DIRECTOR,
PORT OF PORTLAND**

Mr. HRDLICKA. Good morning, Senator Wyden and Senator Smith. First of all, I'd like to commend you for holding this hearing here today in the Port of Portland. The Port of Portland is pleased to be able to host this event here today. I also appreciate the opportunity to present the port's views on this very important issue.

By way of background, the Port of Portland owns five marine terminals. Together with the other deep-draft ports in the lower Columbia, we do as a port range handle a significant amount of cargo. Last year about 2,000 ocean-going vessels called on the Columbia River and carried about \$14 billion worth of cargo. I'd like to take just a moment if I could to outline some of the unique characteristics of the maritime trade on the Columbia River. They're not all that common among U.S. Ports and we feel they must be taken into account as we develop a framework for national maritime security. First of all, as you know the Port of Portland is a river port about a hundred miles from the ocean. Private and public terminals that comprise the deep water system are spread over a large area between downtown Portland on the Willamette River on down throughout the lower Columbia. Second, about 80 percent of the cargo that's handled through our port range is export cargo, primarily being exported to the Pacific Rim.

Third, most of our export cargo consists of bulk grains and minerals. In fact the port system on the lower Columbia River is the largest wheat handling port range in the United States. And if you take into account other grains, such as barley, feed corn, and that sort of thing, it is the second largest grain handler for grains in the world. Portland is also the largest automobile handler port on the west coast and the third largest in the nation, and we also, as you know, serve a niche market in the handling of import and export containers.

Fourth, to bear in mind that Portland is only one component in a sophisticated system of ports along the Columbia and Willamette, and upriver 465 miles to the port of Lewiston, Idaho. And finally, due to the port's traditional placement as the last port of call in a typical ocean vessel sailing schedule, a significant share of the import cargo that comes into the Portland area arrives as an in-bond shipment from another port, typically Puget Sound or somewhere in California. In other words, a container would come off in Seattle and move by truck or by rail into the Portland area and then finally be inspected and declared at Customs in Portland before being turned over to the importer.

Given those unique characteristics, I would like you to consider the following recommendations as we look at maritime security legislation.

First of all, this is not a one-size-fits-all proposition. The final security law should provide reasonable flexibility and discretion to the Transportation Security Administration, and the Coast Guard, to implement the machinery of that law. Second, the Federal Government should fully fund the security requirements that it imposes on the port. Most ports simply do not have the financial wherewithal to fund the potential requirements of any new Federal legislation.

Third, Federal legislation must recognize that marine facilities in a port area are often owned by various public and private entities. In our case in the lower Columbia River, the facilities owned by the Port of Portland are really only a very small part of the 40 facilities that comprise the system on the lower Columbia and the Willamette. On the in-bond movements of imports that I mentioned earlier, in the case of Portland as well as other inland ports, the in-bond process sustains a local customs and broker forwarding community that's essential to the movement of goods in international trade. I urge you to develop a compromise Port Security bill that would require the same type of advanced information for in-bond movements as for direct imports.

With that, Mr. Chairman, I will conclude my remarks, but I'll be more than happy to answer questions that you may have. Thank you.

[The prepared statement of Mr. Hrdlicka follows:]

PREPARED STATEMENT OF ROBERT HRDLICKA, MARINE DIRECTOR, PORT OF PORTLAND

My name is Bob Hrdlicka, and I am the Marine Director at the Port of Portland. I would like to commend you for holding this hearing on marine security today, and I appreciate the opportunity to present the Port's views on this important issue. The Port's Executive Director, Bill Wyatt, very much wanted to be here for this hearing, but he regrets that he has to be out-of-town today for a longstanding commitment.

The Port of Portland owns and operates several aviation facilities, marine terminals, and business parks. In addition to Portland International Airport, the Port owns five marine terminals on the Willamette and Columbia Rivers. Together with other deep-draft ports on the Lower Columbia River, the Port of Portland's facilities handle a significant amount of cargo. Last year, about 2,000 ocean-going ships called on the Columbia River, and they carried about \$14 billion in cargo.

I'd like to briefly outline some of the characteristics of our marine business. They are not all that common among U.S. ports, but they must be taken into account in developing a national framework for marine security.

First, as you know, the Port of Portland is a river port about 100 miles inland from the ocean. Our maritime access to the world depends upon a 600-foot wide federal navigation channel that must be dredged every year to maintain its authorized depth of 40 feet. Public and private marine terminals in Portland are spread out over a large area between downtown on the Willamette and Terminal 6 on the Columbia River.

Second, about 80 percent of the cargo moving through the Port of Portland is exported, primarily to Asia.

Third, most of our exported cargo consists of bulk grains and minerals. In fact, the Port exports more wheat than any other U.S. port and is the second largest grain exporting center in the world. Portland is also the largest automobile handling port on the West Coast and third largest in the nation. We serve a niche market for container exports originating in Oregon, southwest Washington, and Idaho.

Fourth, the Port of Portland is only one component of a sophisticated system of Columbia, Willamette, and Snake River marine terminals and navigation locks. Barges carry both bulk and container cargo from as far upriver as the Port of Lewis-

ton—465 miles from the ocean—to the Port of Portland and other downriver deep-draft ports.

Finally, due to Portland's traditional placement of "last port of call" in the West Coast sailing schedules of container carriers, a significant share of the import containers arriving in the Portland area move "in-bond" by rail or truck from Puget Sound ports. As an example of the "in-bond" process, a container is transported by ship from Asia and unloaded at the Port of Seattle without declaring formal entry to the Customs Service. The container is then carried by rail or truck to a freight facility or distribution center in the Portland area, where it is declared to Customs and handed over to the importer.

Given our unique characteristics, I would like you to consider the following recommendations when considering port security legislation:

- "One size does not fit all."—The final port security law should provide reasonable flexibility and discretion to the Transportation Security Administration and the Coast Guard to implement security arrangements adapted to each port's particular requirements.
- The Federal Government should fully fund the security requirements that it imposes on ports. Many ports simply do not have the resources to comply with potential provisions of a new federal law. Uniform federal funding is the surest way to secure maritime ports.
- Federal legislation must recognize that marine facilities in a port area are often owned and managed by various public and private entities. In our case, the Port of Portland's are but a small part of more than 40 marine cargo deep-draft facilities in the Willamette and Lower Columbia. It is not enough to simply improve security at publicly owned terminals while neglecting the vast amount of private port infrastructure. Federal legislation should view the entire public and private terminal infrastructure as one system.

On the in-bond movement of imports that I mentioned earlier, I urge you to recognize the value of the in-bond process to importers located around inland ports such as Portland, Dallas, and Memphis. Delaying formal entry of a container until it reaches its final destination enables local importers and brokers to resolve questions and problems with local Customs personnel, rather than Customs personnel at the initial port of unloading. In the case of Portland, the in-bond process also sustains a local Customs and broker/forwarder community that is essential to our direct call service. Finally, without the in-bond movement of cargo, congestion problems at initial ports of unloading, such as those in Puget Sound and southern California, would only grow worse.

The Senate-passed port security bill would require importers to provide in advance much more detailed information on in-bond cargo than on regular imports. The Port and its trade partners in this region are concerned that these additional data requirements could be extensive enough to convince importers to just declare all their cargo at initial ports of unloading. If that were to occur, the in-bond process and all its benefits would be lost.

I urge you to develop a compromise port security bill that would require the same advance information for in-bond imports as for other imports. The Customs Service could then use that information to assure the security of *all* import containers, whether they are formally declared for entry at their initial port of unloading or moved inland through the in-bond process.

Thank you again for the opportunity to testify on these important issues and for conducting this hearing at the Port of Portland.

Senator WYDEN. You're welcome. It's good to see you and thanks for all the work that you've done. Mr. Puzey.

**STATEMENT OF KIM B. PUZEY, GENERAL MANAGER,
PORT OF UMATILLA**

Mr. PUZEY. I appreciate the opportunity to be here and testify before the Committee and appreciate the work that you and Senator Smith do for the state of Oregon. My name is Kim Puzey. I'm general manager of the Port of Umatilla. The Port of Umatilla is a river port. We have no seagoing vessels that call at our port. We are located on the Columbia River mile 292, upstream from here considerably.

We have at our facilities a grain elevator with a belt conveyor for exporting of the wheat that Bob spoke about. We have a fuel and liquid fertilizer terminal mostly incoming. We serve the Hinkel switching yard in our port district with diesel fuel that we receive at that terminal. And then we have a container-on-barge facility primarily exporting value-added agricultural products.

Because of the population around the Port of Umatilla, the location, product mix, and so forth, in my opinion the port is not a target and therefore not very vulnerable to acts of terrorism. However, we do receive empty containers that are coming in. We do a process which is called pre-tripping: Open them, clean them, inspect them, test the equipment and bring the temperature down, especially for the perishable products that we export from there. So we are inside the containers at our port facility.

The Port of Umatilla, although it may not be very high on the food chain for a target, it is part of that system that's been spoken of today, the Columbia-Snake River System, that is vulnerable because of the Federal projects there. The dams are without question the most vulnerable part of that system to attacks of terrorism, but I would suggest to you that the locks are the most vulnerable. So we support any kind of land, water, air protection for the locks themselves.

The destruction or disruption of one of those locks not only could significantly impact navigation, but also irrigation, hydropower, and flood control. I'm glad that Grand Coulee has been brought up. That's obviously the big target, but any of them could seriously compromise the economy of the region.

The second issue that I'd like to speak to is not in our region, but it has to do with what I think is the most vulnerable port in the United States, and that is Port Arthur, Texas. I have included in my testimony as Attachment A, a New York Times article that speaks to this that came out in March. Port Arthur has more than 200 pipelines, more than a dozen refineries, large refineries, some of the largest in the nation, and the vessels that are coming in and out of that port are floating bombs.

I don't know how we would be able to prevent those who would do harm at that port from doing so. An incident with a freighter carrying inflammables that come in and out of Port Arthur would be environmentally catastrophic, would impact the national economy because we're talking about oil, and could disrupt the shipping in that area. So I would like you to put on your radar screen Port Arthur, Texas. I know that Senator Hutchins is on the Committee as well.

The third, and to me it is the most horrifying and the most significant threat to our country, has to do with biological terrorism. I have recently read seven books on biological warfare. I've attached a list and a brief synopsis of each of those as Attachment B. I live downriver from 11 percent of the chemical weapons in the United States, and I have six children and I sleep every night knowing that they're safe and well cared for. And that chemical repository is pale by comparison to the amount of smallpox that could be in that ballpoint pen.

As you know, in recent decades there has been research and development done in germ warfare programs across this planet, espe-

cially in the former Soviet Union, where they have dealt with anthrax, tularemia, ebola, salmonella, glanders, smallpox and so forth. And at the end of the cold war we had those weapons programs come to an end and had literally thousands of microbiologists in the former Soviet Union out of work, unemployed. Clearly they have given information to the North Koreans, to the Iranians, Iraqis.

I think one of the most important things with respect to Port Security is to search and destroy. So I would advocate that we fund the intelligence community to help us with respect to that to get to the root of these things rather than to the branches. We need to be able to find those who would do harm on their own soil before they begin to come into our ports. We are far too vulnerable. All of the things that we've spoken about notwithstanding, given those who are intent to do evil, I'm absolutely convinced as I'm convinced we're sitting here talking to one another, that anthrax will be used in this country again.

You saw it disrupt the U.S. mail. It's clear to me that it would be very easy to taint our currency, to do so in a major retail outlet, to do so in fast food restaurants and so forth, and spread terror throughout the country. Minimal loss of life, but any loss of life is significant, and we could stall the economy with the slightest of effort. I think anthrax would be the agent of choice because compared to smallpox and some of the others, it is easier to handle, easier to control. The contagion component of it is not as wildly destructive.

And in conclusion I guess I would say we need to be vigilant about the river system, especially the locks. We need to get Port Arthur, Texas, and other ports like it on our radar screen, and I still think we're standing in the headlights on the biological issue.

[The prepared statement of Mr. Puzey follows:]

PREPARED STATEMENT OF KIM B. PUZEY, GENERAL MANAGER, PORT OF UMATILLA

Thank you for this opportunity to testify before the Committee on port security and marine transportation.

My name is Kim B. Puzey. I am General Manager of the Port of Umatilla Oregon. The Port of Umatilla is a river port. We are served by barges, not seagoing vessels. Our marine operations consist of grain elevators and belt loaders, petroleum and liquid fertilizer terminals, and a container-on-barge dock. These facilities are located at Columbia River mile 292.

First, because of the location, product mix, surrounding population, and proximity to strategic facilities of national importance, the docks at the Port of Umatilla are quite secure because the threat to destruction or disruption is very low. We are quite frankly, pretty low on the food chain.

However, the Port of Umatilla is a component of the larger Columbia Snake River navigation system. This system, created by the construction of the federal dams and locks to provide flood control, hydropower, navigation, and irrigation reservoirs is of great collective importance to national security and the economy.

The navigation channels themselves are quite secure. The locks are the most vulnerable component in the entire system. If one were to damage or destroy a set of locks the entire system is either compromised, disrupted, or possibly destroyed. Focus on securing the locks on each dam from threats by land, air, or water should be a national priority.

We support the Columbia River Steamship Operators Association in their objectives to help secure the entire river system.

Second, because scarce resources must be allocated to the greatest need I would like to take this opportunity to draw your attention to what is in my opinion the most vulnerable port in the United States. I speak of Port Arthur, Texas.

Port Arthur has more than a dozen oil refineries and related facilities that process volatile, noxious chemicals. There are more than 200 pipelines in the port area. Most vessels that call are floating bombs. A mutiny or an intentional misuse of a petrochemical vessel bound for Port Arthur would be very difficult to stop without doing what those who would do harm intended in the first place.

An incident at Port Arthur could easily disrupt shipping, degrade the environment, and substantially undermine the national economy. Port Arthur deserves a closer look. I have included an article from the New York Times of March 5, 2002 on this issue as (Attachment A) to my testimony for your review.

Third, I have recently read seven books on the weaponization of biological agents. A list of the books, authors, and a brief synopsis of each appears below as (Attachment B). Whether for defensive or offensive purposes, the history of biological warfare is not only very interesting, but extremely frightening. As dreadful as conventional, chemical, or even nuclear weapons systems are, they are pale by comparison to biological agents.

I believe that viruses and certain types of bacteria are our greatest threat to national security. The agents are not only invisible, but dynamic. Some bacteria and many viruses are more than dangerous, they are dangerous and contagious. Some agents can be carried on the wind, others require a host such as an insect as tiny as a flea. With some agents, each victim becomes a carrier of more dread. Everything from anthrax to smallpox has been cultivated for evil purposes in recent decades.

The likelihood of another incident using anthrax is nearly certain. It is invisible, deadly, and disruptive, but not as wildly dangerous as smallpox and other viruses that cause hemorrhagic fevers and wide spread death. I believe that anthrax will be used repeatedly against the people of the United States. The targets will go beyond the mail system to tainting currency in major retail outlets and fast food businesses. We are extremely vulnerable because we are a free society.

My recommendations are that we be vigilant within our own borders, but that more importantly, we may need to increase appropriations to the Intelligence community. It is imperative that we detect and destroy foreign operatives before they can harm us on our soil.

The dissolution of the former Soviet Union unleashed a cadre of unemployed and underemployed microbiologists who have quite certainly sold harmful information to nations such as North Korea, Iran, and Iraq. Bolstering the economy of former Soviet Union provides an important disincentive to those who would otherwise do us harm out of their own desperation.

In conclusion, protect the locks of the Columbia Snake River system; take a closer look at Port Arthur and similar facilities; increase appropriations to the Intelligence community; seek and destroy germ factories controlled by our enemies on foreign soil; and continue to improve relations with the former Soviet Union.

Thank you again for this opportunity to testify before the Committee. We live in trying times. Great wisdom is needed. May God bless each of you and may God bless America.

Attachment A

A Nation Challenged: Border Security; Tinderbox of a Texas Port Points to a Threat by Sea

By Joel Brinkley

PORT ARTHUR, TEXAS—March 2—Few seaports in the nation seem as vulnerable as this one.

It is home to more than a dozen oil refineries and related plants, each with its own pier, that process noxious, volatile chemicals. In addition, more than 200 pipelines carrying fuel and other hazardous chemicals snake under Port Arthur in every direction.

All of it makes this place a tinderbox.

Immediately after Sept. 11, local governments, federal agencies and industries strengthened security on the ground and at sea. Marc Blanton, the assistant chief of police, began noticing clusters of residents standing at the fences, staring at the huge refineries that define this small port town, whose motto used to be, "We oil the world."

"I think they were assessing the threat for themselves," Chief Blanton said.

Now, almost six months later, security is certainly more intense than it was in August. But a kind of complacency seems to have set in, even as senior officials in Washington begin to talk more urgently about the terrorist threat from the sea.

Many of the off-duty Port Arthur police officers who were hired to patrol the refineries in the fall have been sent back to the station. The two additional Coast Guard boats sent here to patrol the harbor have left.

Federal officials call port security the largest and most glaring weakness in the nation's security network. A presidential advisory commission concluded in August 2000 that "the state of security in U.S. seaports generally ranges from poor to fair, and in a few cases good."

In an interview on Thursday, Senator Bob Graham, the Florida Democrat who is chairman of the Intelligence Committee, called ports "a clear area of serious vulnerability." Senior Coast Guard officials in Washington now talk urgently about the potential for terrorists to use ships as weapons.

"Ships can be used to transport terrorists or weapons of mass destruction," Rear Adm. Terry Cross of the Coast Guard said in February. "They can be used as weapons, and they are going to try to blend in and look like regular traffic. We think it is important to publicly recognize how vulnerable seaports are."

When the refineries asked to hire the off-duty police officers last fall, "we didn't have enough people for all the requests," Chief Blanton said. Now, the refineries "have slowly backed off," he said. Many of the off-duty officers have been replaced by private unarmed security guards.

Before the morning of Sept. 11 had ended, Capt. Eric A. Nicolaus, head of the Port Arthur Coast Guard Station, requested more personnel and more boats to protect the refineries and the public ports, even though port security had been a low priority for the Coast Guard before then.

"We got two extra patrol boats," raising the total to five, Captain Nicolaus said, "and we brought in about 100 reservists."

With the extra resources, the Coast Guard began searching many ships before they docked, looking for unusual cargo or crewmen.

Now, Captain Nicolaus said his Coast Guard crews remain at a high level of alert, but the two extra patrol boats have been sent back to their regular ports. The number of ships searched has declined, but he noted that local port pilots board each inbound ship to guide it in and would most likely notice anything amiss.

In the fall, representatives of local, state and federal law enforcement agencies in the area began meeting every week to discuss security issues. Recently the meetings were cut back to every two weeks.

Three major oil refineries lie within the city's jurisdiction, and more than a dozen others line the Sabine-Neches shipping channel that flows from Beaumont, slightly less than 20 miles upstream. Some of these refineries are among the nation's largest.

Crude oil and other volatile liquids flow into the plants by ship, five tankers a day, on average, and by pipeline from Mexico and other points south.

Refined products—gasoline, diesel fuel, butane, ethylene, benzene, propane, kerosene, jet fuel and other noxious liquids—pour out, tens of thousands of gallons a day, by truck and by train but mostly by pipeline.

"We had 216 of them at last count," Leslie E. McMahon, Port Arthur's director of public works, said of the pipelines.

While all here acknowledge that a port with fixtures as explosive as this one has could be a target, many now seem little concerned.

"It's almost back to normal here," said Ronnie Hicks, technical supervisor for the Port of Port Arthur.

But in Washington, Senator Graham has taken on port security as a major concern, saying, "Any smart terrorist would have to think of this," since ports offer "the lowest risk of detection and the highest chance of success."

Security officials in speeches and interviews describe three possible ways terrorists might use ships.

One, terrorists could sink a ship in a narrow shipping lane, like the Sabine-Neches channel, closing it for days or weeks.

"It would be hard to get a ship like that up, no doubt," said John J. Durkay, general counsel for the refineries' Plant Managers' Association.

In Washington, Admiral Cross, speaking at a Defense Week seminar, said, "We think shutting down one or two major ports would do more damage to our economy than Sept. 11."

Two, terrorists might blow up a ship in an important port.

Or three, terrorists could hide an explosive weapon in one of the 600,000 cargo containers that arrive at American ports each day; fewer than 3 percent are opened and inspected.

Robert C. Bonner, commissioner of the United States Customs Service, often talks about this concern, which he calls "a nuke in a box."

"One of the most lethal terrorist scenarios is the use of oceangoing container traffic as a means to smuggle terrorists and weapons of mass destruction into the United States," Mr. Bonner said. "And it is by no means far-fetched."

Shortly after Sept. 11, the Coast Guard issued a new rule: cargo ships approaching the United States would have to relay detailed crew lists to the Coast Guard 96 hours before reaching this country. Before, they had to report 24 hours in advance.

The agency set up the National Vessel Movement Center, in Martinsburg, W. Va., whose mission is to check those names against national criminal and terrorist databases.

After a few weeks, a federal official said, many shippers began moving seamen with Middle Eastern names onto ships not bound for the United States.

In Port Arthur, the refineries quickly put up fences, installed lighting and barriers and hired the off-duty officers to patrol their grounds around the clock.

The physical security measures remain in place. The way Mr. Durkay sees it: "After Sept. 11, a lot of the things this community had been preparing for were tested and found to be sound." (Copyright 2002 The New York Times Company)

Attachment B

Germs; Biological Weapons and America's Secret War, Judith Miller, Stephen Engleberg, and William Broad. (This is an investigative book on the history of biological weapons in America including the attack on The Dalles, Oregon).

The Cobra Event, Richard Preston. (This is a novel of a fictional terrorist attack on a major city in the United States).

The Hot Zone, Richard Preston. (This book reports on an Ebola outbreak in Reston, Virginia with research primates).

Living Terrors; What America Needs to Know to Survive the Coming Bioterrorist Catastrophe, Michael T. Osterholm, Ph.D., M.P.H., and John Swartz. (Written by a public health official, this book tells of the government agency jurisdictional challenges that would arise in the event the United States were targeted with weaponized biological agents).

Virus Hunter; Thirty Years of Battling Hot Viruses Around the World, C. J. Peters and Mark Olshaker. (This is an autobiographical account of an official with the Center for Disease Control and his experiences across the world).

Guns, Germs, and Steel; The Fates of Human Societies, Jared Diamond. (This book touches briefly on the role of disease in the formation and outcome of societies).

Biohazard; The Chilling True Story of the Largest Covert Biological Weapons Program in the World-Told from Inside by the man who Ran It, Ken Alibek with Stephen Handleman. (This is an autobiographical account of a defector from the former Soviet Union who headed their biological weapons programs).

Senator WYDEN. Thank you. Mr. Gaul.

STATEMENT OF MICHAEL GAUL, DIRECTOR OF OPERATIONS, OREGON INTERNATIONAL PORT OF COOS BAY

Mr. GAUL. Please bear with me. I'm a simple sailor by trade. My name is Mike Gaul. I'm director of operations for the Oregon International Port of Coos Bay. I want to thank you for holding this maritime security hearing in Portland today and for allowing us the opportunity to appear before you.

Last year 65 deep-draft vessels and 135 loaded barges called on Coos Bay. The primary commodity was wood chips (nearly two million tons) exported to Japan. Ten years ago, prior to the loss of a number of wood mills, we experienced on average of 250 deep-draft vessels calling a year, carrying nearly five million tons of commerce.

Although our agency as port authority takes responsibility for working with a variety of entities to ensure the safe and efficient operation of maritime commerce, we are a non-operating port authority. All deep-draft terminals in the Port of Coos Bay are privately owned. These terminals are located along a 15-mile, 37-foot

federally maintained deep-draft navigation channel with immediate access to the Pacific Ocean.

We greatly appreciate the interest and assistance of the Federal Government in reviewing and enhancing maritime security. At the same time, we urge the Committee to be aware of the difficulties facing ports in accomplishing the Federal mandates that are eventually enacted. We ask that you consider the following:

The Federal Government should fully fund the security requirements that are imposed on ports. As our agency has learned in managing the North Bend Municipal Airport (the only full commercial service airport on the Oregon coast) many ports do not have the financial resources necessary to comply with Federal mandates. Federal funding is imperative to the success of any maritime security law, and we believe this applies both to publicly owned and privately owned terminals.

We believe the Federal Government should keep the efficient continuation of trading commerce as a top priority even while imposing security requirements. And it's important that these regulations go to the problem, perceived problem, and also to remember that all ports are different. A blanket approach to all ports of everything fits one will not work.

We are also concerned about possible adverse changes to the mission of United States Coast Guard as currently proposed. The historic mission of the Coast Guard in the Pacific Northwest is Search and Rescue. The waters off Washington and Oregon are some of the most treacherous in the world. The Search and Rescue presence is vital to safety of commercial and recreational boaters and to the economic health of the local communities where the Search and Rescue stations exist. Any additional responsibilities assigned to the Coast Guard under a new maritime law should include significant and appropriate increases in personnel and other resources for these Coast Guard units.

As a former master chief in the Coast Guard and manager of the Charleston Life Boat Station in years past, I believe I speak with some experience in these matters.

With that I'd like to thank you for the opportunity to testify and I'll be happy to answer any questions you have.

[The prepared statement of Mr. Gaul follows.]

PREPARED STATEMENT OF MICHAEL GAUL, DIRECTOR OF OPERATIONS, OREGON
INTERNATIONAL PORT OF COOS BAY

My name is Mike Gaul and I am the Director of Operations for the Oregon International Port of Coos Bay. Thank you for holding this maritime security hearing in Portland today and for giving us the opportunity to testify before you. My General Manager, Allan Rumbaugh, sends his regrets at being unable to testify before you today because of a prior commitment.

Last year, 65 deep-draft vessels and 135 loaded barges called on Coos Bay. The primary commodity was wood chips (nearly 2 million tons) exported to Japan. Ten years ago, prior to the loss of a number of wood products mills, more than 250 deep-draft vessels called Coos Bay carrying nearly 5 million tons of commerce. Although our agency as port authority takes responsibility for working with a variety of entities to ensure the safe and efficient operation of maritime commerce, we are a non-operating port authority. All deep-draft terminals in the port district are privately owned, including three active wood chip terminals, one general cargo terminal, one log handling terminal and two major inactive terminals owned by international companies. These terminals are all located along a 15-mile 37-foot federally maintained deep-draft navigation channel that offers immediate access to the Pacific Ocean.

We greatly appreciate the interest and assistance of the federal government in reviewing and enhancing maritime security. At the same time, we urge the Committee to be aware of the difficulties facing ports in accomplishing the federal mandates that are eventually enacted.

We ask that you consider the following:

1. The federal government should fully fund the security requirements that are imposed on ports. As our agency has learned in managing the North Bend Municipal Airport (the only full commercial service airport on the Oregon coast) many ports do not have the financial resources necessary to comply with federal mandates. Federal funding is imperative to the success of any maritime security law, and we believe this applies both to publicly owned and privately owned marine terminals.
2. The federal government should keep the efficient continuation of trade and commerce as a top priority even while imposing security requirements or restrictions on that trade. It is important to gear the regulation to the perceived problem rather than simply applying a blanket approach or to treat all ports in all situations as the same. Many ports around the nation have quite different circumstances and physical characteristics, and therefore require flexibility when implementing a maritime security program.
3. We are concerned about possible adverse changes to the mission of the United States Coast Guard as it is currently proposed. The historic mission of the Coast Guard in the Pacific Northwest is search and rescue. The waters off Washington and Oregon are some of the most treacherous in the world. This search and rescue presence is vital to the safety of commercial and recreational boaters and to the economic health of the local communities where search and rescue stations exist. Any additional responsibilities that are assigned to the Coast Guard under a new maritime security law should include significant and appropriate increases in personnel and other resources for these Coast Guard units. As a former Master Chief in the Coast Guard and manager of the Charleston Life Boat Station in years past, I believe I speak with some experience in these matters.

Thank you again for the opportunity to testify before you today, and for offering us the convenience of a hearing in the state of Oregon.

Senator WYDEN. Gentlemen, thank you very much. Senator Smith is going to begin questioning and then I'll go right after him.

Senator SMITH. Mr. Hrdlicka, I wonder if you could tell us if you've noticed a difference in the operation of the Port of Portland since 9/11?

Mr. HRDLICKA. Senator, certainly there have been some differences. Immediately following 9/11 it was very clear that we had entered a new era in terms of vessel security, notification requirements by the Coast Guard, Customs and INS and that sort of thing. I will say, though, that some new procedures were implemented around our terminals.

Primarily around our terminals initially there were some noticeable differences which now have pretty much worked themselves into the norm. It's pretty well under control now.

Senator SMITH. Do you feel like the port facilities themselves, such as fencing and security, that no one can just breach them?

Mr. HRDLICKA. Following 9/11 we met with the Coast Guard and did an immediate assessment of our facilities. We shored up and tightened our perimeters around our primary facilities to address that. Also put up some barricades in place. We do not allow vehicles out in the face of the dock and have implemented procedures to enforce those sorts of things.

Certainly there's always more you can do. From the land side particularly there are some things that we can do. Unfortunately we did apply for some grants recently and we were not successful in getting some additional funding to do some additional tightening

of that perimeter. The real weak spot however, as I'm sure you can appreciate, is from the water side. And that does require continuing attention from the Coast Guard and other law enforcement agencies.

Senator SMITH. Do you have a pretty good relationship with the Coast Guard?

Mr. HRDLICKA. Yes, we have an excellent relationship with the Coast Guard and work very closely with them on a continuing basis.

Senator SMITH. Umatilla and Coos Bay, what changes have you seen in your ports in terms of security since 9/11?

Mr. PUZEY. We haven't had any significant changes. We were fenced. We had 24-hour security. We're so small, we're not one of those where if you've got a white hard hat you're out of place. Everybody knows each other. I feel like given a target matrix with respect to population and whether or not anybody would target us, we're just fine.

Senator SMITH. Mr. Gaul.

Mr. GAUL. I'd say as far as Coos Bay goes, all of our docks are privately owned. What the port has done, of course, and the Coast Guard has conducted dock assessments of all our facilities. The port hosted meetings with the local law enforcement agencies, the Coast Guard, emergency management people, the FBI, to just kind of get everybody to sit down around the table and talk and start putting some kind of game plan together.

We also had dialog with private dock owners and with the longshoremen. I believe the longshoremen are some of the first guys on those docks that they know what goes on on those docks and if something is different they will immediately recognize it.

Also, working with our pilots association and just the general maritime community and our own staff that, both at the airport and at the maritime site, just making everybody more vigilant and aware of what's going on around them. We also applied for grants for a communication system that all the local agencies should all talk on one channel if need be, but we were not successful in that grant.

Senator SMITH. Kim, you mentioned Port Arthur, Texas. What is there about that port that makes it in your view more vulnerable than, say, Long Beach or Seattle or Portland?

Mr. PUZEY. The product mix, I think, primarily. More than a dozen refineries; I believe some of the largest in the world; chemical plants; 216, I believe, pipelines coming in and out of there. Every word that ends in i-n-e and e-n-e, toluylene, diesel fuel, gasoline, fuel oil.

Senator SMITH. Do you have reason to believe they're not responding to the realities of post-9/11? Do we need to let our colleague, Senator Hutchison know, or I suspect the former Governor of Texas, President Bush, knows about this?

Mr. PUZEY. I'm sure of that. The vulnerability in my opinion is the vessels that call there are filled with flammables. Let's suppose that someone wants to do harm. Stopping them would do the harm that they intended to do. You put a vessel down in the shipping channel, you create an environmental catastrophe. If it's their clear intention to do something, how we prevent that, it's the same as

someone who wants to use the police force to take their life. We have in that port such dangerous cargo, and I suppose that it is true for others who receive similar products, you have such dangerous cargo, if it's coming in and the intent is to do harm and evil, that the only way to prevent it is to do what they would like us to do which is to destroy that vessel.

Senator SMITH. Let's hope that the processes are being put in place to interdict it before it gets there.

Mr. PUZEY. That's why I suggest that we search and find those cells of people who would do harm to this country and we make the appropriate appropriations in the intelligence community to be able to do so.

Senator SMITH. Thank you.

Senator WYDEN. Gentleman, we've been talking about how diverse the ports are in Oregon. We've got river ports, small ports, medium ports, large ports, bulk cargo, container cargo. The list just goes on and on. And it's our view that it's absolutely critical that in this legislation that we're working on now, the conference report on Port Security, that Congress provides the flexibility in order to make sure that Oregon's wide variety of ports and their individual security needs are addressed. Is there anything beyond the general provisions and flexibility here that's important to you? And pretend you're writing the flexibility provision of the conference report, what would you want to be included there? Kim.

Mr. PUZEY. Senator, I have three things. One is that we protect the system, specifically the locks. In that context we support the efforts of the Steamship Operators Association in trying to secure the whole system from Lewiston, Idaho to the Pacific Ocean. And I don't know what all of that would entail, but that would secure the channels. If we do that then we can have relative comfort about the products that are at least moving on the river system.

Second, I appreciate your interest in technology. I was in Quincy, Washington recently and saw a rail car, a Trinity Car I believe is how it's referred to. It has a global positioning system. It has some other surveillance equipment on it that has to do with monitoring temperature, opening and closure of the doors. It has movement sensors so that if someone were there that was not authorized to be there, a tape could be made of them and their activities.

I think that the kind of security that we could have around technology of that type is available. And on higher end products we could afford to have that kind of security on the containers. Second, I'll come back to it because I forget the third point—I know what it was. I'm not an expert in this clearly, but it seems to me that we ought to be able to test the inside of the container if you just simply had two ports, one where pressurized air came in, another where a testing instrument is able to do parts per billion analysis of whatever was in there, whether that had to do with something that was biological, radioactive or whatever.

So I believe that the instrumentation technology is available. And if there were some support from the government on the security side so that it didn't have to be borne by the customers, that we would be able to know what is inside the empty containers and filled containers. If you did the risk matrix that the immigration official here spoke about earlier, where you could simply target this

with instrumentation, I think that that would be a useful thing as well.

Senator WYDEN. Gentleman, other points with respect to flexibility that you really would like to see? You're writing the flexibility provision. You're on the conference committee and you're writing them and you want to make sure that the ports aren't something that one size fits all.

Mr. HRDLICKA. Senator, thank you. I think one thing that is critical, first of all, we certainly agree with the necessity to have flexibility written into the legislation that recognizes the diversity of the port systems within the United States. But I think a key part of that flexibility needs to allow the local captain of the port for the Coast Guard or some other authority to have the final word in approving any final recommendations for security within a special port range. I think that assignment of clear responsibility is critical to the success of that.

Senator WYDEN. Mr. Gaul, anything you want to add?

Mr. GAUL. I would agree with that last comment from the Port of Portland. I guess the only thing that I would add, you know, given a perfect world if funds were available, the Port of Coos Bay and the Coos Bay area have just a load of displaced lumber workers and commercial fishermen that I think would love to retrain as security watch guys down in that area and help the economy. They're used to working on the water, used to working around the docks. I think technology is very important, but so if the fact of having eyes and people on the street just watching.

Senator WYDEN. Well said. For the Port of Portland one of the big issues in the conference has been to figure out how to get all this extra money that's going to be needed for the country's 300 ports of entry, and we're talking about an estimated \$600 million per year being needed.

Now, the Northwest ports have opposed new user fees, any kind of, you know, funding arrangement to pay for Port Security, and yet we're going to have a witness on the next panel, Jim Townley, representing the carriers, who's going to essentially propose the approach taken in the Oil Pollution Act. And that's the approach where government and industry works together in partnership to reduce various kinds of terrorist threats. And that he in effect thinks that if you have something that really did show some cooperation with respect to businesses and our ports, that there would be an openness to then generate some financial contributions for Port Security funding if there was a more cooperative approach in the maritime-business community. What's your sense? Is what Mr. Townley is talking about out of the question? Off the board? Have any reaction to that?

Mr. HRDLICKA. Thank you, Senator. First of all, I think the approach that Captain Townley is going to be discussing is certainly interesting and I think could be a very effective approach to dealing with this whole subject. We've seen a history of that with the Maritime Fire and Safety Association here in the Columbia River following some of the guidelines from OPA 1990, and we would certainly be supportive and look forward to working with them on that. I think that the notion does have a lot of merit.

Senator WYDEN. We want to look at it with you. This is a tough time to be talking about anything relating to user fees or anything like that. So I go in, you know, with a considerable concern about what the ramifications of that would be, but if the maritime community working with the ports wanted to look at it, we will certainly pick up on their suggestions and evaluate them at that point.

The Coos Bay folks of course dealt with the New Carissa and the Coast Guard played a critical role in responding there. And of course situations like the New Carissa require immediate response. Are you concerned about how the whole homeland security effort is going to affect you all in terms of being able to deal with those kinds of situations, Mr. Gaul?

Mr. GAUL. I guess I would say I'm concerned about the homeland security and how it's going to affect our operations overall, but it's my belief that hopefully it will never happen. This was a once-in-a-lifetime and if we get another New Carissa on the beach, I feel confident that we'll get the appropriate response from both the state and Federal agencies and local agencies. We will address the issues as they come up and overcome them.

Senator WYDEN. In the Senate Coast Guard bill which we're working on as well, I proposed having the Coast Guard work with local ports to create security committees to develop local home-grown approaches for maritime safety concerns. You all have worked with the Coast Guard on this kind of approach. Do you think this is the kind of cooperative effort that could enhance Port Security and be a better way than having these sort of run from Washington, DC approaches?

Mr. GAUL. I do, Senator. I think you need to start right at the grass roots to really look at this. And that type of partnership has worked well in Coos Bay and I believe throughout the areas.

Senator WYDEN. Well, I will just tell you that the New Carissa in my view just highlights this whole question of what you have in a new homeland security agency. It's very hard to see right now how you're going to be able to respond to those kinds of efforts as well as take on all the primary missions involving terrorism with these resources. And I say that synergy notwithstanding. There are going to be some opportunities to do things differently, to use technology. But for communities like Coos Bay, having the Coast Guard there to perform those functions is priority business, and we're going to do everything we can to make sure it's maintained. So we thank all of you. Senator Smith, any other questions?

Senator SMITH. No. Thank you, gentlemen.

Senator WYDEN. We'll let you go. The next panel is John Isbell, Director, Corporate Delivery Logistics, Nike; Monica Isbell testifying on behalf of the Pacific Northwest International Trade Association; Patrice Iverson-Summer, President, Columbia River Customs Brokers; and Captain James Townley, Executive Director, Columbia River Steamship Operators; and Bruce Holte, President, Local 8, International Longshore and Warehouse Union.

All right. Welcome. Let's go first to Mr. Isbell. We are going to make your prepared statements part of the record. I can just tell all of you are anxious to have lunch. The blood sugar level is down. Mr. Isbell, you go ahead.

**STATEMENT OF JOHN ISBELL, DIRECTOR, CORPORATE
DELIVERY LOGISTICS, NIKE, INC.**

Mr. ISBELL. Senators Wyden and Smith, on behalf of Nike I thank you for the opportunity to testify at this hearing and for your leadership on this critically important issue. Nike believes U.S. business economic and the nation's security goals are not mutually exclusive. Realizing these mutual goals will require coordination between Congress, the administration and the trades, so that legislative and regulatory initiatives can achieve their intended result without adding undue cost or complexity to the supply chain.

In terms of Port Security legislation currently being considered by Congress, Nike would measure success in terms of implementing a process that sends relevant shipping information to U.S. Customs as the containers move toward the United States and in maintaining an effective in-bond program.

As the legislation moves through conference, we are focusing on the following issues: Manifest information. We believe the information currently provided by cargo owners like Nike to Customs is sufficient to protect our borders from shipments that would contain weapons of mass destruction. To our ocean carriers and U.S. Customs Nike is a known importer with a proven track record of providing accurate and complete information. Nike enjoys a low risk importer status with U.S. Customs.

In addition, Nike was an early signer of U.S. Customs C-TPAT program and believes this effort will strengthen an already well-managed process. This known importer concept is perhaps the best form of security. Rather than reinvent the wheel, Nike would ask the conferees to consider applying current manifest information to all importers and making the C-TPAT program mandatory.

Nike has concerns about additional information requests beyond what is currently provided today. All Nike products are clearly identified at the style and color level on the manifest. Additional information like digitized product descriptions are perceived as adding little value to the cost involved by all parties to provide national security relevance.

Nike is concerned that additional information will expose our containers to greater risk of theft. It seems reasonable that if more information is required for national security purposes, that legislation be enacted to protect the privacy and property rights with respect to the cargo involved and do not make public any information beyond what is currently provided for census and/or commercial statistics.

Nike is concerned about manifest information being required 24 hours in advance of container loading. If this comes to pass, then Nike would have to shift our Thursday or Friday origin production to the following week's ocean carrier sailing. This would mean adding 1 week of inventory to our supply chain process. The cost of that to Nike could be significant in terms of increased inventory levels with the associated risk and cost.

Nike does hope U.S. Customs will continue to receive all manifest information. We encourage Congress to increase funding on U.S. Customs ACE systems in order to expedite its development time line. Nike also asks the conferees to leave the current U.S. Customs in-bond program unchanged.

Nike relies heavily on moving containers in-bond to our interior destinations. Today Nike moves approximately 170 20-foot equivalent containers weekly from the west coast to interior custom ports for cargo clearance. This represents about 25 percent of Nike's weekly container volume. An effective in-bond program eliminates congestion at west coast ports, promotes better distribution of U.S. Customs' resources, and is a key program for Oregon importers who file consumption entries for containers in Portland that have been discharged in Seattle/Tacoma.

In summary, U.S. Customs seems to have confidence in their selectivity process to find suspicious containers using current data that is transmitted by carriers during the voyage via U.S. Customs Automated Manifest Systems, AMS. The process can be improved further if all importers fully disclose container content and identify the ultimate cargo owner on the bill of lading. This is what Congress should mandate for all shipments, including those managed by non-vessel operators, commonly referred to as NVOCCs.

If we raise all importers to this higher standard, we believe this will negate the need to have 24-hour pre-notification at the port of origin. Of course we also protect our contents of our containers by working with our consolidators and ocean carriers to maintain the integrity of the container seal. Much more can and needs to be done if this area.

Senator Wyden, certainly we see the need for more intelligent seals. Technology that allows seal numbers to be electronically read and matched to the seal number provided on the manifest as the container moves through the various stages of its voyage to final destination.

Moreover, regulations for in-bond shipments should not be more extensive than those for other shipments. Given the above, Nike believes legislation can be enacted to achieve our mutual goals of developing a more secure maritime infrastructure while maintaining an efficient system for the movement of products.

Again on behalf of Nike I thank you for your consideration of our views as well as your exceptional leadership you and your staff continue to have on this critically important issue to Oregon and the nation. Thank you.

[The prepared statement of Mr. Isbell follows:]

PREPARED STATEMENT OF JOHN ISBELL, DIRECTOR, CORPORATE DELIVERY LOGISTICS,
NIKE, INC.

Senators Wyden and Smith, on behalf of Nike, I would first like to thank you for agreeing to have Nike testify at this hearing on U.S. port security and would like to thank you for your leadership on this critically important issue. My name is John Isbell, and I am Nike's Director of Corporate Delivery Logistics.

Nike, Inc. is the world's leading supplier of athletic footwear, apparel, and equipment. Today, Nike is the only Oregon Fortune 100 Company and currently employs 22,000 employees worldwide including nearly 6,000 Oregonians. Oregon is the home of Nike's World Headquarters and one of our 2 major footwear distribution facilities. Nike also ships containers to its other distribution facilities in Memphis, Tennessee as well as to over 30 customer distribution centers across the United States. Nike utilizes U.S. Customs' in-bond program to manage container distribution to these interior locations.

Currently Nike brings 35,000 TEU's (20-foot equivalent containers) into the United States from over 50 countries around the world. Today, Nike files consumption entries in Los Angeles, Seattle, Portland, Memphis, Chicago, Kansas City, and

Atlanta. Getting the right product to the right customer in the right way requires an efficient and effective inbound delivery supply chain.

Nike actively manages its inbound delivery process through selected logistics service providers who handle origin consolidation, ocean shipping, airfreight forwarding, and destination de-consolidation. Nike's overseas liaison offices oversee the contract manufacturing process and the interface between our factories and consolidators. This entire process is well coordinated through the use of standard operating procedures.

Recent information technology investments will allow Nike to operate in a more just-in-time environment. Our end goals are to reduce inventory and time to market. Of course, Nike is the first to recognize that these goals are secondary to our national security efforts to enact and implement needed legislation and programs to protect our country and its people from terrorist organizations who may use ocean containers to conceal weapons of mass destruction. But we believe that our country's national security needs and commercial interests are not mutually exclusive and there are ways to craft an appropriate balance. Realizing these mutual goals will require coordination between Congress, the Administration, and the trade so legislative and regulatory initiatives can achieve their intended result without adding undue cost or complexity to the supply chain. We believe President Bush's recent proposal to create a new office of Homeland Security is a major step in coordinating the proper focus around these initiatives.

In terms of the Port Security legislation currently being considered by Congress, Nike would measure success in terms of implementing a process that sends relevant shipping information to U.S. Customs as the containers move toward the United States and in maintaining an effective in-bond program.

As the legislation moves through conference, we are focusing on the following issues:

Manifest Information

Today, U.S. Customs' Commissioner Bonner believes his agency's selectively guidelines—that identify 2 percent of containers for inspection—is sufficient. We likewise believe the information currently provided by cargo owners like Nike to Customs is sufficient to protect our borders from shipments that could contain weapons of mass destruction. This information includes the following:

- Name of shipper
- Name of consignee (Nike or Nike affiliate)
- Container number
- Carrier booking number (Bill of Lading not known until after vessel sails)
- Commodity description and weight
- Place of cargo receipt
- Port of loading
- Port of discharge
- Final destination as known at export

Currently, this information is passed to the ocean carriers who in turn submit it by electronic transmission to the U.S. Customs' Automated Manifest System after the vessel has departed from the port of export. To our ocean carriers and U.S. Customs, Nike is a 'known' importer with a proven track record in providing accurate and complete information. Nike enjoys a Low Risk Importer status with U.S. Customs. Ocean carriers know their customers. In addition, Nike was an early signer of U.S. Customs' C-TPAT (Customs Trade Partnerships Against Terrorism) program and believes this effort will strengthen an already well-managed process. This "known importer" concept is perhaps the best form of security and Customs should continue to promote and create incentives for companies to fully participate in these types of programs.

Requirements for container information and shipper/consignee details are clearly needed to support any effective program to enhance our country's security. In making decisions that will ultimately require several new compliance measures, Nike would like the conferees to consider the following issues related to what information is going to be required, when it will be sent, who is going to send it, what Government organizations will receive it, and will that information be made public.

Timing of Requested Shipping Information

Should the information be required 24 hours in advance of container loading, as envisioned in the House bill, Nike would have to shift our Thursday and Friday production to the following week's ocean carrier sailing. This would mean adding over one week of inventory to our supply chain process. The cost impact to Nike would

be significant in terms of increased inventory, higher margin costs from closeouts, additional airfreight, and additional interest costs.

Requested Information

Nike has concerns about additional information requests, beyond what are listed after the first paragraph in this section. All Nike products are clearly identified at the style, color level on the manifest. Additional information like digitized product descriptions are perceived as adding little value to the cost involved by all parties to provide and transmit this information and have questionable national security relevance.

We are also concerned that additional information will expose our containers to greater risk of theft. Today, manifest information is not confidential and is sold to the media and published. It seems reasonable that if more information is required for national security purposes, that legislation be enacted to protect the privacy and property rights with respect to the cargo involved and to not make public any information beyond what is currently provided for census and/or commerce statistics.

Who Receives the Information

Nike believes U.S. Customs should continue to receive all manifest information. U.S. Customs can then share that information with any relevant Governmental agency who needs it for national security purposes. Again, we believe there should be limited public access to this information. We encourage Congress to increase funding of U.S. Customs' ACE system in order to expedite its development timeline.

Who Sends the Information

Ocean carriers are in the best position to transmit manifest information.

In-Bond Provision

Nike currently moves approximately 170 TEU's weekly from the West Coast to interior U.S. Customs' ports for cargo clearance (file consumption entry). This represents about 25 percent of Nike's weekly container volume. The in-bond provision provides an efficient and effective process to rapidly move containers from the port to the rail and on to its final inland destination. An effective in-bond program eliminates congestion at West Coast ports, promotes better distribution of U.S. Customs resources, and is a key program for Oregon importers who file consumption entries for containers in Portland that have discharged in Seattle/Tacoma. Users of the in-bond program request that carrier manifest document and processing requirements for in-bond shipments shall not be more extensive than those placed on other import shipments.

Summary

U.S. Customs seems to have confidence in their selectivity process to find rogue containers. The system can be enhanced if all shippers/importers and their cargos are properly identified and that shippers/importers work cooperatively with U.S. Customs in designated security programs. It's not obvious to Nike that additional information is needed from all shippers/importers. Instead legislation should focus on those shippers/importers who presently provide less information than cargo owners who deal directly with ocean carriers and/or airfreight forwarders.

The 'known' relationship between shippers/importers and their carriers may be the biggest security shield we can construct. The challenge may be with shippers/importers who use non-vessel operators, commonly referred to as NVOCC's. It is far more likely that through this transport arrangement, where no relationship exists between the ocean carrier and the ultimate cargo owner, that suspect cargo could pass, unimpeded, through the nation's transport network. Even so, with properly identified cargo and the current cargo manifest information transmitted to U.S. Customs' Automated Manifest System, that System should be capable of identifying suspect containers for inspection.

With this view, Nike believes legislation can be enacted to achieve our mutual goals of developing a more secure maritime infrastructure while maintaining an efficient system for the movement of goods.

Again, on behalf of Nike I thank you for your consideration of our views as well as the exceptional leadership you and your staff continue to have on this critically important issue to Oregon and the nation.

Senator WYDEN. Thank you very much. Very helpful. Let's keep this in the Isbell family.

Really, I'm going to make your statement part of the record, so if I can ask you again not to read them and just highlight some

of your key points it would be great and we'll have some extra time for questions.

**STATEMENT OF MONICA ISBELL, VICE PRESIDENT, PACIFIC
NORTHWEST INTERNATIONAL TRADE ASSOCIATION**

Ms. ISBELL. I'm speaking to you in my capacity as the vice president of the Pacific Northwest International Trade Association, which is commonly known as PNITA. I think you are very well aware of what PNITA is so I won't go into that.

We are very appreciative of the time and consideration that you've given to us over the last 6 months or so in listening to our thoughts on this very important issue. PNITA members have been very closely monitoring this development of Port Security legislation. I believe that you know that we're all very committed to making sure that our supply chains are more secure. We've done an awful lot of things so far in that regard.

We recognize that the cost of complying with new security provisions will be significant, but that the negative repercussions of us not doing that could be even greater if there was a terrorist act. We ask Congress to carefully evaluate the pending legislation that aims to protect our country, but also keep in mind that reasonable legislation should be enacted that has practical rules that don't have a deleterious effect on our national economy.

There are many things that importers can do to secure their supply chains. Many PNITA members are already doing things in this regard. One of the things that I can mention is that some members are including security procedure checklists to their factory audits that are done on an official basis. Just as they are evaluated on labor practices and on the quality of the products that they produce, these factories are going to be evaluated on their security procedures as well.

As part of the import supply chain, PNITA logistics service provider and broker members are doing their part to comply with U.S. Customs' and other Federal regulations in terms of security to ensure that the products they move through their networks are coming from known shippers and are protected from tampering as much as they can.

Positive voluntary steps like these will go a long way to protecting Americans. But despite all of these efforts to secure our supply chains, it may still be possible for terrorists to introduce weapons of mass destruction even in sealed containers without the knowledge of exporters, importers, logistic service providers. We need to acknowledge this fact and develop legislation that will make it difficult for terrorists to use containers for harmful purposes, while not jeopardizing the effectiveness that American businesses have fought so hard to gain over the years.

PNITA members were pleased that the provision for the container data pre-notification 24 hours prior to vessel loading was deleted from H.R. 3983. If legislation is enacted or the Secretary, as defined by H.R. 3983, determines that risk assessment must be done at the port of loading prior to loading, then PNITA members will have to change their import processes. Importers will most likely have to build extra time in their supply chains in case factories cannot provide this information prior to vessel loading in a

timely manner. This could result in increased inventory levels with the associated risks and costs.

In many parts of the world vessel sailings are weekly or maybe twice a week at best, so if documentation is not made available by the factories early enough, that means that those containers will miss that vessel and possibly have to be air freighted at a higher cost to the importers. Adding time to the importers' supply chain could have a dramatic impact. Depending on the level of requirements that the government might end up enacting, the negative effects on companies would most likely result in lost revenues and strained customer relationships for those importing companies.

Another area of concern is the potential requirement that importers provide a digitized product identifier to supplement the detailed product description that's already being provided via the vessel manifest. PNITA believes that fairly sophisticated importers shouldn't have too much trouble providing this type of detail with some programming and business process changes, but it's the small guys that are really going to have a tough time complying.

Congress needs to keep this in mind. As an alternative, we recommend that accurate and detailed cargo descriptions be required from all shippers at time of transmission of the vessel manifest to Customs. The cost for PNITA importers to comply with Federal security regulations will be passed on to consumers—it's just the way it's going to be—through higher retail prices. These costs may be especially hard on small and medium sized importers who are unable to pass these along to consumers. The ripple effect on the nation's economy could be enormous as consumers pay more and more for imported products.

This is not the result that the legislators intend when they're crafting this legislation, we're sure of that. But this is what's going to happen if the legislation includes provisions that are difficult for importers to follow. We believe that it would be far better to allow U.S. Customs to perform risk assessment while cargo is in transit as is the current practice, since this is an effective method.

As I stated earlier, PNITA members and importers understand and support congressional efforts to protect our borders from further terrorist attacks. However, we appeal to Congress to enact legislation that achieves a balance between the need for greater maritime and border security and the increased cost and disruption to the supply chain and the nation's economy.

[The prepared statement of Ms. Isbell follows:]

PREPARED STATEMENT OF MONICA ISBELL, VICE PRESIDENT, PACIFIC NORTHWEST
INTERNATIONAL TRADE ASSOCIATION

In my capacity as Vice President of the Pacific Northwest International Trade Association (PNITA), I want to thank you, Senators Wyden and Smith, for the invitation to speak at this hearing, as well as for your continued interest in listening to our thoughts and concerns on maritime and border security issues over the past six months.

PNITA is a private, non-profit organization committed to supporting global competitiveness under a fair and equitable trading system. We work hard to have a direct impact on trade, tax and transportation policies that affect the region's economic competitiveness. We are non-partisan in politics and regional in our approach, representing leading corporations and small businesses located in Oregon, Idaho, and Washington State. Our members include importers and exporters in all sectors of the economy including agriculture, service and manufacturing, as well as

customs brokers, logistics service providers, trade consulting firms, port authorities, legal firms, banks, and other interested companies and individuals.

PNITA members have closely monitored the development of Congressional maritime and border security legislation and initiatives introduced by such government entities as the U.S. Customs Service. A PNITA delegation spoke to you, Senators Wyden and Smith and your staff during our April trip to Washington DC about our thoughts on these issues. You know we are committed to doing all we can to improve security in our supply chains and protect Americans from harm. We recognize that our costs of complying with new government regulations could be significant, but that the negative repercussions of another terrorist act could be even greater. We ask Congress to carefully evaluate the pending legislation that aims to protect our country but with a view of enacting reasonable and practical rules that do not have a deleterious affect on our national economy.

There are many things importers can do to better secure their supply chains. Some PNITA importers are already in the process of voluntarily implementing security guidelines they expect their factories and logistics services providers to follow. These include adding security procedure checklists to annual factory audits. Just as they are evaluated on labor practices and quality of products they produce, factories will be graded on how well they adhere to recommended security procedures.

Many PNITA importers have already notified their ocean carriers, airfreight forwarders, customs brokers and consolidators that they expect these logistics service providers to exercise sound security procedures when handling their cargo. Moreover, PNITA importers are working to create company-wide security programs.

As part of the import supply chain, PNITA's logistics service providers and customs brokers are also doing their part to comply with U.S. Customs and other federal security guidelines to ensure the products that move through their networks come from known shippers and are protected from tampering as much as possible.

Positive, voluntary steps like these will go a long way to protecting Americans. But despite all the efforts to secure our supply chains, it may still be possible for terrorists to introduce weapons of mass destruction into containers without the knowledge of exporters, importers, and logistics service providers. We need to acknowledge this fact and develop legislation that will make it difficult for terrorists to use ocean containers for harmful purposes, while not jeopardizing the efficiencies that America businesses have fought so hard to gain over the years.

PNITA members were pleased that the provision for container data pre-notification for risk assessment 24-hours before vessel sailing was deleted from H.R. 3983. If legislation is enacted or the Secretary, as defined by H.R. 3983, determines that risk assessment and/or container inspection be done at the foreign port prior to cargo loading to a vessel, then PNITA members and importers in general will have to make changes to their import process. Importers will most likely need to build extra time into their supply chains in case factories are unable to present documentation in a timely manner. This could result in increased inventory levels with the associated risks and costs. In many parts of the world, vessel departures are weekly or two times per week at best. Delays necessary to complete such risk assessment or inspections will likely result in scheduled shipping dates being missed. Importers may then have no alternative but to ship time-sensitive product by more expensive airfreight.

Adding time to an importer's supply chain could have dramatic impact. Depending upon the level of requirements that the government might end up enacting, the negative effects on companies would likely result in lost revenues and strained customer relations for importing companies.

Another area of concern is the potential requirement that importers provide a digitized product identifier as a supplement to a detailed product description prior to vessel arrival at the first U.S. port. PNITA believes that fairly sophisticated importers should be able to abide by this requirement in the future through systems programming and substantial changes in business processes, particularly as it relates to earlier presentation of commercial documents by factories. However, Congress needs to keep in mind that most importers are small with limited means, and will, therefore, have a very difficult time becoming compliant. As an alternative, we recommend that accurate and detailed cargo descriptions be required from all shippers for transmission to U.S. Customs via the vessel manifest.

We also understand that container content information will be shared among government entities for risk assessment and intelligence purposes. We understand and accept the necessity of this, but request that confidential information beyond what is currently collected in transport carrier manifests for census purposes not be made public. It is important that the rights of importers be protected and the efforts they've made to prevent cargo theft not be compromised.

The cost for PNITA importers to comply with federal security regulations will be passed on to consumers through higher retail prices. It is not unrealistic to think about this scenario multiplied thousands of times as importers across America do the same thing. These costs may be especially hard on small and medium size importers who are unable to pass them along to their customers. The ripple effect through the nation's economy could be enormous as consumers pay more to purchase imported products and businesses struggle to remain profitable.

This of course is not the result that our national leaders intend when they craft maritime security legislation. But this is what will happen if the legislation includes provisions that importers find difficult to implement and follow. All forms of government regulation cause increased cost regardless of what inspires it. PNITA believes that it would be far better to allow U.S. Customs to perform risk assessment while cargo is in transit as is the current practice, since this is an effective method.

As I stated earlier, PNITA members and importers understand and support Congressional efforts to protect our borders from further terrorist attacks. However, we appeal to Congress to enact legislation that achieves a balance between the need for greater maritime and border security and the increased costs and disruption to supply chains and the national economy.

Thank you very much for your time and consideration. I am happy to answer any questions that you may have.

Senator WYDEN. Very good. Let's go to our non-Isbell witnesses. Ms. Patrice Iverson-Summer.

Senator SMITH. Mr. Chairman, at the risk of being rude to our witnesses, I have an audience awaiting me at a luncheon speech, and I want you to know I have staff here who'll have some questions we'll submit to you for the record. But I apologize. I have to leave before everyone is concluded. Thank you so much all of you for being here. It's a very important hearing and each of you from labor to the Coast Guard are making a great contribution in getting this important piece of legislation just right. Thank you very much.

Senator WYDEN. Thank you, Senator Smith, as well. This is exactly the kind of issue that requires all hands be on deck in terms of protecting Oregon's position in the conference. I look forward very much to working with you when we get back to DC following up.

All right. Let's go to our next witness.

**STATEMENT OF PATRICE A. IVERSON-SUMMER, PRESIDENT,
COLUMBIA RIVER CUSTOMS BROKERS AND FREIGHT
FORWARDERS ASSOCIATION**

Ms. IVERSON-SUMMER. I will comply with your request not to read my statement.

Senator WYDEN. Please do.

Ms. IVERSON-SUMMER. I think that there's some advantage to not having my reading glasses; I can't read it.

Senator first of all, I do thank you for the opportunity to testify in this most important legislation, and I want to take the time to thank your staff people, Joshua and Gerhard and also Rob Freeman for all the time they spent with us lending their ear, lending their advice, and I just want to give you my thanks for that.

Senator WYDEN. Very good.

Ms. IVERSON-SUMMER. I am a small business owner. I've had my own company for 8 years now. Just had our eighth anniversary yesterday. After lots of trials and tribulations. I'm also the president of the Columbia River Customs Brokers and Freight Forwarders Association, and as such I'm speaking on their behalf.

I've spent 25 years working for promotion of international trade in Oregon, helping both customers, particularly small and mid-size companies, to form really the foundation of business through this state. Thanks to Nike and Columbia Sportswear and Intel, the large folks, they help hold it together, but there are hundreds and hundreds of small and mid-size companies, mom-and-pop shops, mother-and-daughter teams, family operations, that do international trade. And so I'm going to be speaking on their behalf as well.

A customs broker is kind of an unknown entity in this whole process, and I just want to explain a little bit of what we do and how we're an integral part of this whole process. I look at customs brokers as being the head of the octopus. We have our tentacles throughout the whole network of international trade. We have face-to-face contact with of course our customers. We know them and we know how they do business.

We connect with all modes of transportation: the airlines, the rails, the ocean carriers, the truck lines. We touch with international bankers on the financial part of the transactions that we see. We are the filter through which raw data gets merged through regulations and requirements by different government agencies so that the information we receive is good and consistent and is complaint with what is required legislatively.

We work with 40 other Federal agencies and we certainly support the talking or the working together of these agencies after a long time of not doing so. When I say Columbia, a key role in understanding how all these players fit together, we'll orchestrate these so that the ultimate goal is that the customer has the merchandise delivered in the time they need.

There are, you know, essential things that are currently in the bill that we highly support. More information. I call it the four W's: the who, the when, the where and the what. The who is no problem. We support security requirements to know who's making the shipment and to whom it's going. We support what in the legislation about when it's to be filed.

We support a good description. And this is where we do differ. We support a good description and I would like the legislation to keep in mind a good description may or may not necessarily be a six digit tariff description. In the third panel we talked about flexibility. I would like flexibility in a multi-faceted and multi-level approach to providing the information. All the customers on the small and mid-size companies do not have a tight supply chain. They get the information as best they can and they can supply it as best they can, but the tariff classification may not be the best way to describe their product. It is certainly open to a lot of interpretation and a lot of error.

So what we're suggesting is that information be able to be supplied by the carrier electronically absolutely, but also be able to be supplied by the consolidators directly with benefit of confidentiality so that the end user is known to the people who are hands on, who handle the shipment when it is initiated is known. And that a description, however best can be described either by text in the case of chemicals, a cast number, which very definitely describes what that chemical is, by an import license issued by whichever agency

issued in the area of arms, those can all be part of the equation so that we're not limited by that particular 15E or 14.

There's over \$2 trillion worth of cargo that moves by land, sea and air; \$150 billion of that moves by sea. The port of Long Beach, Los Angeles moves over 8,000 containers a day, 3,000 of which are in-bond moves. Sixty-five percent of those direct arrivals, the entry port is filed prior to arrival. That leaves the other 35 percent that doesn't have to be filtered through definitely the system that Customs is using now. All the other agencies use these texts.

In a January 3, 2002 Washington Post article, Jan Holmes of the Coast Guard cited that a port shutdown of the port of Long Beach, Los Angeles could be sustained for approximately a week to 10 days. After a month we're talking economic devastation. He was addressing this particularly to weapons of mass destruction and what could happen to the port.

I'm suggesting there are two ways. One is weapons of mass destruction and one is in the legislation as it's written in that particular text. It could cause so much congestion in the port of Los Angeles that we will never see the cargo coming up to Portland in any length of time. We're talking approximately 1750 containers a day that could be held. Multiply that by ten and that's 17,000. Multiply that by 30 and you get my picture.

Senator WYDEN. Let me do this because we are short of time and I'm going to have some questions. I'm going to direct our staff to work with you to followup on each one of the suggestions that you're making. I think it is critically important that this be seen through the prism of someone like yourself, a small business person. Somebody who's sweated and toiled for 8 years. Joshua and Gerhard both are going to followup on each of your suggestions and just sort of walk through the system and try to do everything we can to get it right. OK.

Ms. IVERSON-SUMMER. Thank you, Senator Wyden. And about how important in-bond moves are for Oregon.

Senator WYDEN. Sure.

Ms. IVERSON-SUMMER. We think that there are 48,000 to 52,000 jobs in Oregon that depend on international trade. Seventy percent of our cargo comes in-bond. The maintenance of the in-bond program is vital. If we are forced to file basically entering at the port of arrival, what's going to go away is your customs people, your other Federal agencies. They won't be needed any more. Your ground handlers. All those people will be out of work.

[The prepared statement of Ms. Iverson-Summer follows:]

PREPARED STATEMENT OF PATRICE A. IVERSON-SUMMER, PRESIDENT, COLUMBIA RIVER CUSTOMS BROKERS AND FREIGHT FORWARDERS ASSOCIATION

Good Morning, my name is Patrice Iverson-Summer. I am the President and Founder of Global Trading Resources, Inc., located in Portland, OR. We are a customs brokerage and international transportation logistics provider. We just celebrated our Eighth year in business yesterday, July 1, 2002, surviving and flourishing even in these difficult times. I am also the President of the Columbia River Customs Brokers and Forwarders Association which counts over 30 customs brokerage and forwarding firms in Oregon and Southern Washington as well as having 20 other firms involved in international trade in the region. I am also a Director of the Pacific Coast Council of Customs Brokers and Forwarders. I also serve on the Oregon-SW Washington District Export Council and teach International Trade classes for the Small Business International Trade Institute. Overall, I have 25

years of experience in International Trade and particularly in the movement of cargo in and out of the country. I have worked for the promotion of trade and trade policy and most notably for trade moving through Oregon.

Today I am addressing you as President of the Columbia River Customs Brokers and Forwarders Association. The majority of our members represent small to mid-size companies like mine whose livelihoods and those of its clients depend upon the steady flow of goods in and out of the country. As a small company, most of my clients are based in Oregon. While we do everything possible to have cargo move directly through the Port of Portland, the reality is that nearly 70 percent moves in-bond, which is a Customs Program that allows goods to move from the first port of discharge to Portland where final Customs entry is made.

I am exceedingly grateful for the opportunity to testify before you this morning. Everyone knows where they were on September 11th, 2001 when they first heard the news of the events of the World Trade Center. We spent the day silently unloading an ocean container of Zambian artifacts for a warehouse sale to be held at our facility. Be assured that no one in our industry takes the issue of port security more seriously than we do. Since all of us in one way or another are either ourselves (or have close friends or colleagues) handling vast amounts of freight on a daily basis. Our organization has been following the developments of Port Security legislation very closely, more closely than at any other time in my career. We approach this with utmost seriousness and wish to contribute in the creation of legislation that not only promotes security but that makes sense and can be implemented in the real world of trade and transportation. We have had endless conversations via e-mail, phone calls and panel discussions with our association of Customs Brokers and Forwarders, Port representatives, and importers and exporters for the purposes of analyzing and evaluating the proposals to synthesize what really makes sense for real security.

As Customs brokers who are licensed by the Dept. of Treasury, we work as independent agents on behalf of our clients leading them through the maze of laws and regulations so that their goods are properly valued and classified at the time of entry and that they receive release of their goods in a timely manner. In this capacity we interface with carriers (Air, Land and Sea) as well as all other Federal agencies that have jurisdiction over imported cargoes i.e. the Coast Guard, U.S. Dept. of Agriculture, Food and Drug Administration, FCC, DOT, EPA, Bureau of Alcohol Tobacco and Firearms, The State Dept, Bureau of Export Administration as well as, of course, U.S. Customs. We are also in contact with the International Banking Community, Port officials and dock-workers. In the overall scheme of cargo movement, we act like the head of the octopus orchestrating its movement each step of the way.

Who are our customers? While some of us do handle the large importers that register on Custom's radar screen, the majority of brokers across the country handle small to mid-size customers much like mine. These are companies who do not have the big databases to control the entirety of their supply chain nor who are capable of electronic transmissions of all purchase orders within their system. Most of them are struggling just to get documents prior to arrival of their freight ... at the inland destination. More often than not, we receive copies of invoices only days before arrival if even that. Then we struggle to gather enough information to properly classify the entries. It is a certainty that carriers will not do this and cannot.

The process of entry filing is like one of taking pieces of a puzzle and making a complete picture out of it. We take steamship information, importer information and then apply rulings and regulations, other agency coding and notifications, then finesse it into intelligible computer speak. We verify quantities and take actual shipper and consignee information, verify values and descriptions and sort through literally thousands of rulings to make sure the tariff classifications are correct. In other words, we act as filters for the oil that goes into the engine. If the oil or gasoline is not refined, the engine chokes. We are in a unique position to see the broad picture of how trade really works today, to see where improvements can be made, who can handle them, and what could potentially be a loose nut in the engine of trade. You know what can happen in a car engine if a part becomes dislodged. When it gets stuck, the engine freezes. We do not want this to happen.

There are two types of terrorism, one type uses explosives and chemicals to kill and maim. Another uses fear to erode the public spirit and undermine its economy.

The U.S. has over 2 trillion dollars worth of cargo moving by land, sea and air. \$750 billion moves by vessel. The largest port on the West Coast, the port of Los Angeles/Long Beach sees over 5 million containers a year across its docks (8,000/day). 3000 containers are scheduled to move inland. J.M. Holmes of the Coast Guard, cited in a January 3, 2002 article in the Washington Post, that a shutdown of the port for a week could possibly be sustained, but a month would cause the

economy of the Western U.S. to come to a screeching halt. The cause of this could be a terrorist action or it could be done by ourselves by drafting legislation that is overly detailed in its requirements which does not allow for possibilities of providing fundamental information necessary for port security via a multi-layered and multi-mode approach. The language of this legislation should not be so specific or micro managing in its scope so as to preclude participation by the smaller and mid sized companies who together represent a major component in the equation.

What are the facts:

- Terrorists are worldwide and they are amongst us. A weapon of mass destruction of chemical/biological means could easily be put into place from within, as well as outside our borders.
- Terrorists are long range in their planning and terrorists do not necessarily rely upon sophisticated technology . . . i.e. box cutters, etc . . .
- The U.S. does not have the capability to physically examine all cargo that comes into the country, but must rely on shared intelligence.

Conclusion: We need as much (not limited) shared information by ALL parties of the trade.

Customs brokers have long advocated government agencies sharing information. We also are well aware that the current level of information is not adequate. I spoke recently to local inspectors on the Manifest Review unit who were pleading for more information so that they could do their profiling. Currently they are receiving descriptions of "freight all kinds", "general cargo", shippers and consignees who are forwarders and forwarders agents and piece counts that are skids rather than number of boxes.

We believe first that the U.S. Customs Service is the appropriate agency to receive and manipulate important arrival information. They have a system in place and can currently handle information as their systems such as the Automated Commercial Environment (ACE) and the International Trade Data System (ITDS) are being developed.

We have specific comments on the legislation as passed:

Section 108 of S. 1214 "Mandatory electronic filing of manifest information in a time frame needed by respective federal agencies." We suggest that this be done via the AMS system as most carriers already use this system. Programs are readily available and we have been advised that they are in the process of being enhanced to allow multilayered reporting by OTTs (Other transportation intermediaries). The way business is currently done, carriers only have the names of the consolidator where as the consolidators (non vessel ocean common carriers or NVOCC's) do have actual shipper and consignee information. This is done purposefully for purposes of confidentiality.

Sec. 431A Requiring full shipping papers 24 hours prior to loading. We submit that shippers filing via AES be allowed partial information particularly for agricultural products whose full quantity may not be known until after the ship has fully loaded.

Sec. 115(e)(A) Still remains the most problematic part of this bill. It distinguishes in-bond cargo from direct discharge cargo. In our minds a container containing weapons of mass destruction is as dangerous to the port of arrival as it is anywhere along route to a final inland destination. This section requires that the consignee/consignor, the country of origin and a description of the cargo by means of the Harmonized Tariff Code to the sixth digit level.

As stated above, we agree that actual consignee/consignor information is vital. It can be provided via the above means.

The country of origin is difficult to ascertain in this day of multi-country manufacturing. For entry compliance purposes, the country of origin can be very complex to ascertain. We feel much more germane to security is the country of export. Where the goods came from and who shipped them. Up until now only the last port of loading was part of the manifest. We feel that place of receipt should be part of the manifest data.

The most detrimental issue presently is the requirement for a 6 digit harmonized tariff number. While I do not wish to get into too much detail here, my colleagues and I feel that this issue is the most critical shortcoming. I will describe the issue briefly and be happy to provide additional testimony for the record, if you wish me to do so.

The harmonized code system is a complex and extensive nomenclature, which intends to cover all commodities. To its credit it is expansive, to its discredit it is subject to interpretation and error. This is the reason that there are thousands of rulings and disputes in the Court of International Trade. The usage of the 6-digit tariff

number has been suggested as being the best means of describing the goods being shipped. While we most certainly agree that there needs to be better descriptions than “freight all kinds” and “general cargo”, we cannot agree that the 6 digit requirement is appropriate language for the legislation. Once you get to 6 digits in many areas there is wide room for error and interpretation.

Case in point: I have several small textile importers whose jacket classifications change at the 4 digit level depending on whether or not the jacket length is above or below mid thigh. Sufficient information to determine a correct six digit classification is most likely not going to be provided on the carriers list of information that they have to file with the Coast Guard and Customs. It therefore would be incorrect and it does not add anything for security. The same goes for whether shoes have rubber soles or not. In addition, we do not find that this requirement allows for cargoes that may have 15, 20, 50, or 100 different classifications. In discussions we have had with Customs, they have suggested that the 6 digits would be required for all cargo not just in-bond. While this change would level the playing field for all cargo, there are major concerns about how this information will be provided. The result could likely be an even greater negative impact. It also does not address the issue of in-bond freight still being on the chopping block, as importers will not want to file “almost an entry” at the port of arrival, then add 3 more data elements at the port of entry. Customs has stated that importers and shippers would collaborate and provide this information to the carrier, who would in turn, report it on the manifest. This is a very unrealistic scenario.

We submit that Customs is now able to take text data. The customs automated targeting system takes text, INS takes text and so does the Coast Guard. It seems unreasonable that the legislative language should stipulate something that Customs cannot currently accept and that it should preclude any and all descriptions. Areas of particular concern are those covering chemicals and arms. Chemicals are much more appropriately described by using a CAS number and/or hazardous materials information, which in many cases are far more specific than the catch all “other” categories of the harmonized system. All arms or nuclear materials must have as part of their documentation import licenses. The issuing agencies have full details of all pertinent information.

If profiling is the main objective in information gathering and this profiling is being done to distinguish the legitimate cargo from those shipments that have incongruities, it would appear that a large portion of small and mid-size companies could significantly be disadvantaged by not having an HS number available prior to arrival when in fact they would otherwise have good descriptions on the manifest. This is a portrait of what could happen to a large portion of cargo destined for Portland. Should this happen, the Port of Portland would fold. The 40,000 jobs dependant upon trade would evaporate and there would be no guarantees that the country would be any more secure. The congestion at the ports of arrival, I suggest, would make the possible West Coast IWLU strike look like a picnic.

I believe that the efforts to secure our borders are highly commendable and so very important, but in those efforts I it is my hope that you will take the input from all of the concerned parties to assure that the final legislation is effective, flexible enough for changing situations and technological develops and most of all balanced.

We all want security but we also want and need strong and viable trade to assure a strong economy. For this we need a balance of security enforcement along side of trade facilitation. This is the mission set before us by the President and reiterated by Customs Commissioner Bonner and Director of Homeland Security, Tom Ridge.

Thank you again for the opportunity to testify today. My colleagues and I are ready and willing to assist you in every way possible as you go forward in finalizing this legislation.

Senator WYDEN. Well said. As I say, we’re going to followup on the suggestions you’re making specifically and just sort of walk through this legislation in the eyes of what it would mean for somebody like yourself. Thank you.

Senator WYDEN. Captain Townley.

**STATEMENT OF CAPTAIN JIM TOWNLEY, EXECUTIVE
DIRECTOR, COLUMBIA RIVER STEAMSHIP
OPERATORS ASSOCIATION**

Mr. TOWNLEY. Senator, good morning. I would like to repeat Patty's sentence with respect to the support your staff has provided, and Rob as well. Just a super job on preparing for this.

My name is Jim Townley. I'm the executive director of the Columbia River Steamship Operators, and that association is made up of owners, operators, agents, towing companies and barge interests on the Columbia River. I'm also executive director of the Columbia River Port Rejuvenation Coalition, which is an ever-growing number of shippers, forwarders, brokers, carriers, and business interests in Oregon and Washington who have concerns about the cost competitiveness of the Columbia River and its future. And I will serve in that capacity until such time as they find competent help.

That having been said, I really want to thank you, Senator, and Senator Smith as well, for giving us the opportunity to testify on a matter of grave importance to our nation and the region, and particularly as those relate to trade in securing our ports, which is so vital to Oregon, Washington and national commerce.

Many of the people in the room today are aware of the fact that our industry on the morning of September 11th, took immediate measures to tighten security on the river system. The Coast Guard later told us that the actions that we took, the procedures that we voluntarily imposed on ourselves later became the national standards that were adopted.

We pride ourselves on being proactive and innovative and very practical when it comes to meeting national, regional and global challenges and opportunities. As an example the Protector Alpha fire with loss of life in 1982, the flood of the century in 1996, the already twice mentioned New Carissa grounding and break up in 1999, and then two subsequent extremely low water situations which were very bad for commerce and the river reputation we had in fall of 2000 and fall of 2001.

Each one of those situations have given our industry the increasing experience of what I'll call the art and science of forging private/public partnerships, which we've done to good advantage. We've found ways of sharing those practices and in sharing lessons learned, and in finding innovative and cost effective solutions to the problems and challenges facing us. Unfortunately, the tragedy of September 11 has presented us with our greatest challenge thus far.

Beginning on September 13, the Columbia River Steamship Operators Association initiated a series of meetings with other maritime industry members and Federal agencies to assess our own vulnerabilities, consider our threats and develop cost effective approaches to increased security, while minimizing adverse impact on commerce. We were looking for checkpoints not show points. These efforts led us to the concept establishing a regional maritime security coalition throughout our entire river system and along our coasts and ports.

On Monday, June 17th, the Transportation Security Administration confirmed a Federal grant award of \$623,000 to the CRSOA,

to conduct a proof of concept test and demonstration of a prototype “Regional Maritime Security Coalition.” The grant will allow the establishment and testing of a public-private model that will serve as an umbrella seaport security organization. Under this concept, the technical and information resources from the ocean shipping and public seaport sectors will be combined with the resources of pertinent Federal agencies, such as Coast Guard, customs, immigration, agriculture, FBI and FEMA, and with regional, state, and local law enforcement, emergency management, and possibly with national guard and reserve military assets.

We believe the coalition should be operated as a public-private partnership that aims at making maritime transportation security an integral part of daily trade and transportation operations, and that is financed—and this should probably be of great interest to you, Senator—from both public and private sector sources with regional generated moneys staying in the region.

This coalition would integrate and coordinate government and industry information, intelligence, and operations to ensure appropriate and cost effective levels of security and that do not unnecessarily impede commerce.

We believe that the proven wisdom of Congress as expressed in the Oil Pollution Act of 1990 presents a model for prevention of terrorist events and for first response to security incidents. We believe successful elements of OPA 90 can be integrated in the legislation currently under consideration and that that particular legislative model is generally adaptive to homeland security purposes.

Our experience tells us that best practices for homeland security prevention, detection, deterrence, the whole enchilada, could be used to augment whatever standards are put in place with additional nonregulatory standards of care. This is something we use routinely here and in the Puget Sound area, and it’s generally a self-policing system of inspections and audits which are augmented with Federal spot checks and oversight to assure compliance with these adopted standards.

One important goal we hope to achieve also is one-stop shopping for information collection from domestic and international carriers who currently have to deal with many, many Federal agencies, but primarily Customs and INS. Each one of the agencies has its own requirements and it’s own format and so on and so forth, and it would be very nice if we could in fact in the interest of security consolidate all that into one location and make it a lot more user friendly.

We believe risk analysis similar to what’s required by OPA 90 should be required and conducted for homeland security with the following specific enhancements: Risk and vulnerability assessments should be conducted on a continuous and real time basis as cargoes move through regional maritime transportation networks. While there are many ways by which these assessments could be conducted, fundamentally they would occur on a computer platform where as a minimum, information about cargoes on vessels could be combined with information about vessel locations, which could be combined with information about cargoes staged at waterfront facilities to give our intelligence and law enforcement agencies

more timely and valuable information than is currently available to them today.

Point of origin inspections and certifications, as other people have testified, should be investigated for both imports and exports allowing chain of custody security to be maintained over maritime transportation system passengers and assets as they move through the system from origin to destination.

And because the west coast is a high tech center for the country, computer and other high tech capabilities should be marshaled to enhance the goals of homeland security for everything from intelligence assessments to confirmation of successful cargo delivery.

And finally, Senator, I'll just mention a TSA grant once again has made even more critical a request we've made to your office for fiscal year 2003 Federal assistance that was made immediately following September 11th, to establish a vessel traffic information system here in the river. Since 1998, the ship operators and the Columbia River pilots have been working on a public-private partnership to establish a VTIS in this river. And in fiscal year 2000, the ship operators authorized a quarter million dollars in private sector money—which I have to add is a lot of money for an organization of our size—to do a proof of concept trial of the system. And the Department of Transportation Volpe Center is being retained under contract to do that.

Once the system is in place, location, course, speed, and status of every vessel, its cargo and crew, can be made immediately known to appropriate authorities instantly. The events of September 11th, have obviously made such information even more critical. This VTIS system that I just mentioned, the Regional Maritime Security concept that I've outlined for the hearing today would substantially increase the public safety and security of the Columbia River region. Support of the VTIS funding on behalf of the region will allow us to significantly increase security for trade and seaports in fiscal year 2003, several years ahead of what we would be able to do otherwise on our own.

Our industry is committed to establishing VTIS and building a Regional Maritime Security system and to providing needed support to any practical and cost effective idea that will improve the safety and security of our ports, waterways and commerce.

That concludes my formal statement. I'd be happy to answer any questions you may have.

[The prepared statement of Mr. Townley follows:]

PREPARED STATEMENT OF CAPTAIN JIM TOWNLEY, EXECUTIVE DIRECTOR, COLUMBIA RIVER STEAMSHIP OPERATORS ASSOCIATION

Good morning. I'm Jim Townley, Executive Director to the Columbia River Steamship Operators Association, a not-for-profit association of ship owners, operators, agents, and towing and barge industry members. Thank you Senator Wyden and Senator Smith for holding these hearings. We are grateful for the opportunity to testify this morning on a subject of grave importance to our nation and region, particularly as our actions relate to protecting trade and securing ports that are vital to Oregon, Washington, and to National commerce.

As many of the people in this room today are aware, the Columbia River Region's maritime industry took immediate measures to tighten security beginning on the morning of September 11th. The U.S. Coast Guard told us later that the heightened security procedures we voluntarily imposed on ourselves starting September 12th were subsequently adopted as the National standard several weeks afterward.

The Columbia River Region's maritime industry has earned a reputation for being proactive, innovative, and practical when it comes to meeting regional, national, and global challenges and opportunities. The burning of the grain ship Protector Alpha, with loss of life in 1982, the 1996 "flood of the century," the grounding and break up of the Motor Vessel New Carissa in 1999, and two successive very low water seasons in the Fall of 2000 and 2001 gave our industry increasing experience in the art and science of forging public private partnerships, sharing "best practices" and lessons learned, and implementing innovative and cost effective solutions. The tragic events of September 11 presented us with our greatest challenge thus far.

Beginning on September 13, 2001, the Columbia River Steamship Operators Association initiated a series of meetings with other maritime industry members and with Federal agencies to assess our vulnerabilities, consider threats and alternatives, and develop cost-effective approaches to significantly increase security while minimizing adverse impacts to the movement of ships and cargos where-ever possible. We sought to identify and establish "check points" not "choke points." We sought to combine our talents and resources into a single, unified regional security system.

These efforts led to the concept of developing and establishing a regional maritime security coalition throughout our river system and along our coasts. On Monday, June 17th, the Transportation Security Administration confirmed a Federal Grant award of \$623,000 to the CRSOA, to conduct a "proof of concept" test and demonstration of a prototype "Regional Maritime Security Coalition." This Grant will allow the establishment and testing of a public-private model that will serve as an umbrella seaport security organization. Under this concept, the technical and information resources from the ocean shipping and public seaport sectors will be combined with the resources of pertinent Federal agencies such as the Coast Guard, Customs, Immigration, Agriculture, FEMA, and FBI, and with regional, state, and local law enforcement, emergency management, and possibly with National Guard and reserve military assets.

The testimony I'm providing this morning outlines the concept we intend to prove with this Grant.

The Columbia River maritime industry believes a regional maritime security coalition should be established that is operated as a public-private partnership, that aims at making maritime transportation security an integral part of daily public and private sector maritime trade and transportation operations, and that is financed with public and private sector funds where regionally generated monies remain in the region.

The mission of the coalition would be to regionally integrate and coordinate government and industry information, intelligence, and operations that ensure appropriate and cost effective levels of security and that do not unnecessarily impede commerce.

We further believe that the proven wisdom of Congress as expressed in the Oil Pollution Act of 1990 presents a model for prevention of terrorist events and for first response to security incidents. We believe successful elements of OPA 90 can be integrated with legislation currently under consideration and is generally adaptable to homeland security purposes.

Our experience tells us that "Best Practices" for homeland security prevention, detection, deterrence, and response could be translated into non-regulatory "Standards of Care" clearly and explicitly expressing the consensus of local government and industry on what is going to be done to prevent, detect, deter, and/or respond to homeland security incidents. We believe a self-policing system of inspections and audits, augmented with Federal spot checks and oversight, will assure compliance with these adopted standards.

One important goal we hope to achieve is the establishment of "one stop shopping" for information collection from domestic and international carriers who currently must deal with several Federal agencies when arriving or departing U.S. ports and waterways (most notably the U.S. Coast Guard, Customs, and INS). At a minimum the diverse requirements for providing similar ship, cargo, and crew information to different Federal agencies at different times and places, using different formats and reporting rules, should be consolidated into single, uniform reporting requirements that will facilitate knowledge of vessel operating status, emergent vulnerabilities and risks, and intelligence interest for those involved in the safe and secure movement of people and cargos through our maritime transportation system.

Communications and coordination between CRSOA and Puget Sound Steamship Operators Association, and between Columbia River and Puget Sound Harbor Safety organizations are being expanded and improved. We are sharing our collective experience and resources, ideas, and "best practices." We are investigating ways of expanding the scope of security work that could be facilitated by organizations such

as the Pacific Northwest Waterways Association and the Pacific Northwest Economic Region. Plans for doing even more are under development.

We believe Risk Analysis, similar to what is required by OPA 90, should be required and conducted for homeland security with the following specific enhancements:

Risk and vulnerability assessments should be conducted on a continuous and "real time" basis as cargos move through regional maritime transportation networks. While there are many ways by which these assessments could be conducted, fundamentally they would occur on a computer platform where as a minimum, information about cargos on vessels could be combined with information about vessel locations, which could be combined with information about cargos staged at waterfront facilities to give our intelligence and law enforcement agencies more timely and valuable information than is currently available to them today.

"Point of origin" inspections and certifications should be investigated for both imports and exports allowing "chain of custody" security to be maintained over maritime transportation system people and assets from origin to destination.

Because the West Coast is the high tech center for the country, computer and other high tech capabilities should be marshaled to enhance the goals of homeland security for everything from intelligence assessments to confirmation of successful cargo delivery.

Finally, the TSA Grant award has made even more critical a request for FY 2003 Federal assistance made immediately following September 11th for establishing a Vessel Traffic Information System. Since 1998, the CRSOA and the Columbia River Pilots have been working on a public-private partnership to establish a VTIS in the Columbia River. In FY 2000, the CRSOA authorized the expenditure of \$250,000 of private sector funds to conduct a proof of concept trial of the system. The Department of Transportation's Volpe Center is being retained under contract to conduct this trial. Once in place, the location, course, speed, and status of every vessel, its cargo, and crew, can be made known to appropriate authorities instantly. The events of September 11 made the availability of such information even more crucial.

This VTIS system, when integrated with the Regional Maritime Security concept, would substantially increase the public safety and security of the Columbia River region. Support of the VTIS funding on behalf of the Columbia River region will allow us to significantly increase the security of our trade and seaports in fiscal year 2003, several years earlier than would be possible otherwise. Our industry is committed to establishing the VTIS, to building our regional maritime security system, and to providing needed support for any practical and cost-effective idea that will improve the safety and security of our ports, waterways, and commerce.

That concludes my formal statement. I'd be happy to answer any questions you may have as well as provide additional written comments as necessary.

Senator WYDEN. Very good, Captain. Mr. Holte.

STATEMENT OF BRUCE HOLTE, PRESIDENT, LOCAL 8, INTERNATIONAL LONGSHORE AND WAREHOUSE UNION

Mr. HOLTE. Senator Wyden, my name is Bruce Holte. I'm the president of the International Longshoreman Warehouse Union, ILW 8, representing 600 working men and women in the Port of Portland. I'm pleased to submit comments regarding the security of our nation's ports.

Within the lower Columbia River there are approximately 1350 ILW representing longshoremen, marine clerks, and foremen working in the ports of Astoria, Oregon, Vancouver, Washington, and Long View, Washington. The members of the ILW are committed to making our ports and surrounding areas safe, secure and free of criminal or terrorism activities. Just as important, we are absolutely committed to the security of our work force as well as the surrounding communities where we all live and interact.

This is especially so since ILW members face direct risk to their personal safety and livelihood from such criminal and terrorism

acts simply by virtue of the jobs we do and the areas where we work. Following the horrendous terrorist attack on September 11, ports throughout the country went on immediate security alerts. In Portland meetings have been held between the Coast Guard and local interests to discuss the threats we now face and the actions we must take.

Familiarities have been established between key Coast Guard personnel and key local aid officers so that regular and constructive dialog can take place around security issues. The Port Marine Security Act S. 1214 initially focuses on criminal activities rather than national security and terrorism. The present need to secure our ports from the threats of international terrorism now overrides all other issues.

There are substantial areas of omission in S. 1214 that need to be retracted to truly enhance our nation's seaport security. The U.S. Coast Guard has basically been a waterside enforcement agency within the Federal Government. For purposes of clarity, understanding that landside enforcement is a different matter altogether and major American ports, including areas of ILW jurisdiction, landside security enforcement has been a function of local port and terminal operators.

The Port Marine Security Act S. 1214 focuses heavily on longshore workers as a significant security risk. It is absolutely contrary to the fact and to the goal of maintaining secure seaports to treat longshore workers as security risks. Longshore workers are not the problem, but rather a critical part of the solution to keeping our ports safe and secure.

It is the well-established longshore work force that knows how things work best at ports, and perhaps most importantly it is ILW members who are best able to detect and report suspicious and unusual activities in the ports. The government should therefore enlist these dedicated workers as partners rather than as suspects in efforts to secure our nation's ports.

In times of shrinking tax receipts, the most cost effective first line security available is the very workers who toil on the docks daily. The longshore worker must be embraced as part of the solution not part of the problem. In that the superstructure activity levels and operating procedures at ports vary substantially, it is imperative that local communities, investors, government and stakeholders work together to develop and maintain security procedures that meet the certain standards at a given port.

As a significant stakeholder ILW must be actively included as a general matter of policy. ILW opposes background checks on any of our workers. During investigation of the Integrity Commission on Seaport Security, Gram Commission, ILW challenged the commission to prove their assertion that internal conspiracies are a problem at many of our nation's ports. We asked them for an example of an internal conspiracy where the committed crime involved ILW longshore workers. They could not produce one example of ILW workers at our nation's ports involving criminal conspiracies. Not one. Not one.

In fact the only involvement our members have with serious criminal activities is reporting to the authorities suspicious activities and cargo. In previous testimony before the Senate Congress,

Science and Transportation Committee we pointed out that the action of one longshore worker at the port of Tacoma led to the largest cocaine seizure in the port's history.

In times of war the ILW members have delivered on their promise to load military cargo in the safest most efficient way possible. It is equally agreeable that the government not respond to new terrorisms against our country in ways that harm the productivity of our commercial seaports. Excessive or imprudent regulations that fail to account for the true realities of port operations will only result in further damage to the national and world economics at a time when they are in perilous circumstances.

We must not through rash government regulations accomplish the very result our enemies seek, and we are trying to avoid the—I'd like to for a second, if you don't mind, I'd like to go off my written statement and hit on a point you talked about earlier. We have a major concern, longshoremen in general, in the ports of what you talked about seals and cans not being inspected. The Port of Portland, and this is just a scenario, a can can be taken off a ship, put on a truck and brought right out to the rail system, loaded on a rail and shipped out without anybody checking the seal, looking at the seal. Who knows what could be in there?

For an example, you could have these al Qaeda or whatever you want to call them guys on that ship, they could unleash that can, they could load those guys in there, lash that back up, load that on a rail and off they go. You just don't know. Another example is they could make that a hot can, where it comes on the dock, as an example the topside operator might grab that can off a truck, put it on the ground and a yard guy will load that on a commercial truck and off they go.

Senator WYDEN. Just 1 second. Do any of you in the business community disagree with what Mr. Holte just said? Let the record show Mr. Holte talked about the threat of unsealed containers, containers that again have essentially no verification process, and his point, a point made by the labor union that deal with this, have been echoed by all the business witnesses on the panel. Go ahead, Mr. Holte.

Mr. HOLTE. Thank you. With that I'll just go back to my written statement.

Senator WYDEN. I'll tell you what, can we put the rest of that in the record so I can get to a couple questions?

Mr. HOLTE. Sure. It was thanking you for being here.

[The prepared statement of Mr. Holte follows:]

PREPARED STATEMENT OF BRUCE HOLTE, PRESIDENT, LOCAL 8, INTERNATIONAL LONGSHORE AND WAREHOUSE UNION

As President of the International Longshore and Warehouse Union (ILWU) Local 8 representing 600 working men and women in the Port of Portland I am pleased to submit comments regarding the security of our nation's ports. Within the lower Columbia River there are approximately 1350 ILWU represented longshoremen, marine clerks and foremen working in the ports of Portland Oregon, Astoria Oregon, Vancouver Washington and Longview Washington. The members of the ILWU are committed to making our ports and surrounding areas safe, secure, and free of criminal or terrorist activities. Just as important, we are absolutely committed to insulating the security of our workforce as well as the surrounding communities where we all live and interact. This is especially so since ILWU members face direct

risk to their personal safety and livelihood from such criminal and terrorist acts simply by virtue of the jobs we do and the areas where we work.

Following the horrendous terrorist attacks of September 11, ports throughout the country went on immediate security alert. In Portland meetings have been held between the Coast Guard and Local 8 representatives to discuss the threats we now face and the actions we must take. Familiarity has been established between key Coast Guard personnel and key Local 8 officers so that regular and constructive dialogue can take place around security issues.

The Port and Maritime Security Act (S.1214) initially focused on criminal activities rather than national security and terrorism. The present need to secure our ports from the threats of international terrorism now overrides all other issues. There are substantial areas of omission in S. 1214 that need to be rectified to truly enhance our nation's seaport security. The U.S. Coast Guard has basically been a waterside enforcement agency within the federal government. For purposes of clarity, understand that landside enforcement is a different matter altogether. In major American ports, including areas of ILWU jurisdictions, landside security enforcement has been a function of the local port and terminal operators.

The Port and Maritime Security Act (S.1214) focuses heavily on the Longshore worker as the significant security risk. It is absolutely contrary to the facts and to the goal of maintaining secure seaports to treat longshore workers as security risks. Longshore workers are not the problem but rather are a critical part of the solution for keeping our ports safe and secure from crime and terrorism. It is the well-established longshore workforce that knows how things work best in the ports and, perhaps most importantly, knows who belongs where in the marine terminals. It is ILWU members who are best able to detect and report suspicious and unusual activity in the ports. The government should, therefore, enlist these dedicated workers as partners rather than as suspects in the efforts to secure our nations ports. In times of shrinking tax receipts the most cost effective first line of security available is the very workers who toil on the docks daily. The Longshore worker must be embraced as part of the solution, not part of the problem.

In that the superstructure, activity levels and operating procedures of ports varies substantially it is imperative that local committees of industry and government stakeholders work formally together to develop and maintain security procedures that meet the circumstances of a given port. As a significant stakeholder the ILWU must be actively included.

As a general matter of policy, the ILWU opposes background checks on any of our workers. During the investigation of the Interagency Commission on Seaport Security (the Graham Commission) the ILWU challenged the Commission to prove their assertion that internal conspiracies are a problem at many of our nation's ports. We asked them for an example of an internal conspiracy to commit crimes involving ILWU Longshore workers. They could not produce one example of ILWU workers at our nation's ports involved in criminal conspiracies. Not one. In fact, the only involvement our members have with serious criminal activity is reporting to authorities suspicious activities and cargo. In previous testimony before the Senate Commerce, Science and Transportation Committee, we pointed out that the actions of one longshore worker at the Port of Tacoma led to the largest cocaine seizure in the Port's history. In times of war, the ILWU members have delivered on their promise to load military cargo in the safest, most efficient way possible.

It is equally critical that the government not respond to the new terrorism against our country in ways that harm the productivity of our commercial seaports. Excessive or imprudent regulations that fail to account for the true realities of port operations will only result in further damage to the national and world economies, at a time when they are in perilous circumstances. We must not, through rash government regulation, accomplish the very result our enemies seek and we are trying to avoid—the disabling of waterfront commerce.

Accompanying this statement is a detailed proposal designed to pinpoint critical security-sensitive areas with specific delineations between landside and waterside operations. The proposals are designed to increase and improve port security protections in an economically feasible way.

Waterside Security Issues

Match Personnel with Provided Documents

Legislation should require crew and passenger lists including names, addresses, passports, and mariner documents be matched up in person with the documents submitted. Currently, when the Immigration and Naturalization Service (INS) is given the documentation, they merely go through the documents without requiring the individuals presence to insure he or she is who the documents say they are.

Implementation of Integrated Systems

Implementation of integrated systems allowing Customs to inspect and/or review manifests containing identification of shipper, port of origin, and cargo shipped prior to vessel entering American waters.

Advance Security Clearances of Vessels

The legislation should require advance security clearance requirements for all vessels, their owners, operators and crew before entering a U.S. port. Presently, these vessels operate under secrecy and without regulations by the scheme of flying the flag of a country (flag of convenience) that lacks any meaningful regulations and scrutiny. The *London Times* reported that the terrorist group Al Qaeda presently operates flag convenience vessels.

Landside Security Issues

Container Security Seals

Like luggage on airplanes, the containers on vessel and in port facilities need to be subjected to security screening to protect U.S. seaports and international maritime commerce. Obviously, it is both impractical and cost-prohibitive to inspect every one of the tens of thousands of containers that flow in and out of our ports each day. Proposed legislation should at least mandate that port workers who receive containers inspect the integrity of the outside seal on each container. Seal inspection must be done to insure that the seal number matches up with the consignee who was the last person who sealed that container up and is responsible for the cargo therein. To insure port security, this is one of the "primary" actions that must be undertaken. *This act must mandate that the integrity of the seals be checked and rechecked against terminal documentation to insure the origins of that cargo.* A broken seal would alert the port facility that the container has been tampered with and that it needs to be carefully inspected before entering a facility or being placed on a vessel, and should be immediately earmarked to Customs for inspection. A systematic check of container seals provides authorities with a record as to the parties responsible for placing the seal on any container that may be the means of a terrorist act.

Documentation

The industry trend is that we are seeing less descriptive documentation of a container's contents. Where not too many years ago, every container entering a terminal was accompanied by a load plan describing in detail its contents from head to door, that practice is being replaced to the point that the contents of many containers entering the terminal are completely unknown or the description is so vague as to be useless. Requiring full disclosure of a container's contents is only prudent before allowing access to a terminal.

Empty Containers

One of the most overlooked of potential security risks to terminals, ships, and port infrastructure is the proper handling of empty containers. On any given day as much as forty percent of cargo delivered into any facility is comprised of empty containers. A physical inspection of these containers is vital for a number of reasons: (1) Terminal safety- knowing that in almost all port facilities empty containers are very rarely inspected, the potential for placement of some kind of explosive device is something that must be considered and planned for; (2) Vessel Safety or remote site endangerment—the concept where an uninspected empty container containing an explosive device would be loaded onto a vessel for detonation. In many ports throughout the world the inspection of empty containers is a requirement, for exactly many of the reasons that were outlined! What would happen if a terrorist cell in a foreign country for example were to take an empty container, place an explosive device inside, then load it up and ship it for detonation elsewhere? In the Port of Portland ILWU marine clerks inspect many of the empty containers, but the practice is mixed from terminal to terminal and from operation to operation within terminals. For years, inspection of empty containers was regularly done in America's largest seaports; however this procedure was abandoned some years ago. Once again, if we truly are desirous of creating safe and secure seaports then the full return to these inspections is a must.

Non Inspection of Truckers

The primary threat to American seaports is the ability of truckers to gain access to dockside marine container terminals with "carte blanche" accessibility. THE MAJORITY OF ALL TRUCKERS ENTERING MARINE FACILITIES IN AMERICA'S LARGEST PORTS DO SO WITHOUT HAVING TO EXHIBIT ANY KIND OF

IDENTIFICATION WHATSOEVER. Prior to the terrorist attacks in New York and Washington, DC, there was no requirement for truckers to produce any identification upon entrance to marine terminal facilities. However, even following the attack, only two marine container facilities in California now demand ID. upon entrance through marine terminal gates, but there still is no match-up of photo ID with the truckers themselves because they only have to produce the California drivers license number for entrance. **Truckers entering docks in Portland are not required to produce any form of identification.** The truckers entering these marine facilities have virtually unobstructed access to the entire facility, enabling them to place anything, anywhere, at anytime. They regularly leave their trucks to use restroom facilities, to visit with other truck drivers, to open empty containers for personal inspection, to unlock chassis, etc. Truck drivers entering the terminal should be confined to the truck.

The Failure to Provide Secure Cargo Holding Areas

In many ports throughout the world, the local workforces take the cargo (now in steel cargo shipping containers almost all the time) and place them in secured "holding areas, many times located next to marine facility entrance gates, awaiting truckers who are allowed only in these secured areas to pick up containers, usually on an appointment basis. This is an excellent concept that has resulted from years of experience realizing that the best way to secure your facility is to only allow those on the terminal that have immediate business needs. They then realized that to allow trucker's unlimited carte blanche" access to all areas of the facilities was a dramatic error as it compounded the problems of security and congestion. What followed was the establishment of secure "holding" for cargo retrieval.

Utilization of Existing Security Personnel

Minimum manning standards and uniform, training procedures must be adopted for the existing professional security personnel to meet the growing security needs of our ports.

The above outlined points are a collection of the most critical procedures that must take place if we are to safeguard our American seaports. We have worked within these ports every day for many years and our experience enables us the opportunity to share with you, the Committee, some of the protocols and procedures in a marine environment.

I appreciate the opportunity to submit comments for the record on behalf of the International Longshore and Warehouse Union and I am prepared to answer any questions from Committee members. I look forward to the opportunity to work with you as we solve the problems of reviewing security issues so that commerce within our nation's seaports may continue uninterrupted in a manner prosperous, safe, and secure for many years to come.

Senator WYDEN. That's just the story of my life. Gets right to the point. Let me ask you what really just leaps out at me. All of you have suggestions and that was why I wanted to followup on Mr. Holte's point on unsealed containers. Mr. Townley has some proposals with respect to how we get additional resources. Our business community has made a number of very good suggestions in my view from Nike and the trade community and the various broker groups to streamline the bill. And I just wonder what's being done here to have more of a working partnership between all of you that are at this table?

I know, I'm not going to put anybody on the spot here. I know there are not a lot of ongoing meetings between business and labor on these kinds of discussions. I think that's got to change. I think we've got to have more of a partnership, a day-to-day ongoing partnership with respect to the people at this table. PNITA does terrific work. I've worked with PNITA all through my years in Congress. I think you've got to have labor people more involved in these kinds of discussions, because if we're going to get it right—we have security provisions that are important, people in the community and we're not putting business through bureaucratic water torture, and needless red tape—we've got to have you all talking. We've got to

have people like yourselves leading discussions like this, walking out there and saying, Let's get together for coffee next Tuesday at nine o'clock. Let's followup on the things that Gordon Smith and Ron Wyden talked about and let's give them some suggestions.

They're on a conference committee that's dealing with these kinds of issues. As far as I can tell the point that Mr. Holte is talking about that I got you all to agree on, is that everybody agrees we've got to do something about seals. The debate is over how you do it. And it seems to me that the labor people are volunteering to play a bigger role. I mean they're showing that they want to be constructive and work with business in this area, and I think we need business people to pick up on this.

So tell me, if you would, what can we do to have a better partnership between all of you at this table to better attack some of these concerns that all of you here quite acknowledge are out there. Mr. Holte.

Mr. HOLTE. I just want to say one thing about what you just said. We already have people on the docks. We have marine clerks and longshoremen that are willing, they're already there, to check the seals and to look at the cans. This is on the record. I want you to know that. We have got people already on the dock ready to do it.

Ms. IVERSON-SUMMER. Senator, we have been in dialog. We have been in dialog with PNITA people, with Customs. After 9/11 we met and said what can we do to help this situation? We have been more than willing to invite you, to engage you in conversation as well as with the port. The Portland community, the international trade community, is a tight knit group. They're very willing to work together. Federal agencies and people in our industry are open with ideas and very willing to listen to us. We've got the forum so we can do it right here.

Senator WYDEN. I want to hear a report of those kinds of discussions, OK? I feel very strongly about this subject. I mean I think you know so much is coming up with home grown solutions, and we need to have people having these discussions, for example, about who can do what with respect to the problem of unsealed containers. I think it's clear it's serious and none of you suggests otherwise; but it means people are going to have to start working with some folks that probably over the years they have said, "Oh, those people are just on the other side; there's no possible way we can find common ground."

And I just don't buy that. The times are too serious to just say we're going to stick with our position paper and you can read it at committee and Congress. And in the last 5 years we've got some people to set aside their position paper and try some new things. Other ideas?

Mr. ISBELL. Senator, there's a lot of containers that move, and when you talk about unsealed containers, we also talked about sealed containers and a seal can be jeopardized on that container. Nike has invested over \$50,000 a year in Jakarta alone to put different types of locking seals on containers. One of those things that is of a major concern for us is this 24-hour pre-notification. It does leave containers on docks in countries that are less sophisticated than the U.S. in terms of the security of those containers.

In fact I was in Jakarta a week ago, and the day I left, one of our containers, even though it was supposedly double stacked with doors facing end-to-end the container was broken into. Did thieves use container information provided to port officials? Fortunately our container seal type lock on that container identified that that container had been opened and a couple of cartons of Nike shoes had been taken out. Staging containers at foreign ports is the other problem with the 24-hour pre-notification process.

We think the current system works today. Yes, we can invite the longshoremen as a vehicle today until the technology can arrive to maybe suggest that they take the electronic information from the data that is provided to them on the manifest with the seal number and develop maybe a good effective game plan that increases—doesn't jeopardize productivity on the port, but yet allows that seal number to be validated against the documentation. Because a container can be opened at a foreign port, a new seal can be put on that container but that seal number doesn't register. The technology that we need, Senator, is intelligent seals that can be passively read with technology as the container moves via a truck, via a rail car at 40 miles an hour, 50 miles an hour. Whatever the speed it could be read and could be validated that that container seal has not been tampered with.

Senator WYDEN. Mr. Isbell, not only do I agree with your point, I'm going to followup and our staff is going to talk to the marine people and see if there's somebody already working on this. Because, again, this is how we're going to, you know, build this, the value added part of that last answer, because part as you know—it's something you talked about in your testimony and it is something I agree with—the value added part of that last answer is you want to reach out to the longshore people and everybody else that you can find to work on an issue that we know is indisputably critical; and that's technology.

And to be on this side of the dais, constructing the partnership, we're going to try to get you together with some of the people at RAINS, which is taking a leading role in cybersecurity, and see if you can find someone who's working on these intelligent seals as you call them and make sure that we've got all hands on deck in terms of providing a working solution.

Mr. ISBELL. We would be very welcome to do that. Protection of our cargo is just as important as, you know, protection against harmful acts to the container.

Senator WYDEN. Mr. Townley, who are you talking to in terms of this idea you have for trying to get extra revenue? Something your group likes? Are you out talking to labor or PNITA or somebody else to show that you're building a coalition?

Mr. TOWNLEY. Yes, Senator. The discussions so far have involved the federal agencies I mentioned in my talk, the presentation this morning, as well as most of the ports up and down the river and including Coos Bay.

Senator WYDEN. Ever talk to Mr. Holte about it?

Mr. TOWNLEY. I haven't talked to Mr. Holte yet, and there's a couple reasons for that mostly to do with negotiations with BMA and the ILWU. I want to make two points that I think are important for all of us in the room to be aware of, Senator. One is that

CPR, the Columbia River Port Rejuvenation, one of its top goals is to find, and has been from the day they were formed, is to find new channels with the ILWU and ways of sustaining continuous communication with them. That's No. 1.

Point No. 2, sir, the Regional Maritime Security Coalition that we're talking about, the concept itself involves getting everyone involved in the system thinking in terms of security with respect to every single task they perform in moving cargo. That means more than just making pilots on the ship or stevedores on the docks additional eyes and ears for our Federal agencies. It involves keeping them intimately involved in planning and procedures and all the processes that we put together as equal partners. And it's employing their talents, their knowledge and their skills on a continuous basis. That's the challenge of the concept that we're trying to improve.

Senator WYDEN. Anything you'd like to add, Ms. Isbell?

Ms. ISBELL. I'd like to just say that I think PNITA might be a very good vehicle to start this kind of dialog because we're neutral, we're non-partisan. We have a lot of different kinds of members. We're already talking to the brokers association here in Portland as well as in Los Angeles, and it might be a real good way to be the host organization. We have a transportation committee that is active in many different issues right now. So I would invite that as a vehicle.

Senator WYDEN. I'd love to see you do that. I think, you know, I've talked with you all on the channel deepening project over the years about getting the environmental people, the downriver ports and the labor people into it, and I think you're ideally positioned to play a bigger role in terms of trying to address some of these regional issues. And certainly today we're working on Port Security. But much of what you can build in these partnerships would be useful on other issues as well in terms of deepening the channel and other kinds of concerns.

In a sense you're the ideal panel to wrap up with. I think we have prided ourselves in the Pacific Northwest. We're a long way from Washington, DC and much of what we have been able to contribute is that we get people like yourselves together and we come up with home grown creative ideas that work for us. And then people around the country say, Look what they're doing in Oregon again. Here they are leading the country. And I think there's a chance to do this on Port Security kinds of questions.

You've been terrific to stay with us here I guess well over 3 hours, and I'm going to followup on this. The business people please note I feel very strongly about the points that you have made, and I'm committed to making sure that we see that through the prism of what it's like for somebody who is a small business person and the cargo comes in from Los Angeles or somewhere and then makes its way, you know, to Oregon. And we've got to make these procedures and processes work to use our labor folks. A special thanks to you for being willing to be out front on security issues. Your people talked about it yesterday. You obviously were well briefed on it.

Mr. Holte, we thank you. Mr. Townley, you always represent your people well. Many creative kinds of ideas.

Is there anything that you all would like to add further? If not,
the Subcommittee is adjourned.
[Whereupon, the hearing adjourned at 1:20 p.m.]

