



Alliance of the Ports of Canada, the Caribbean, Latin America and the United States

AMERICAN ASSOCIATION OF PORT AUTHORITIES

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On behalf of the American Association of Port Authorities

Submitted for the Record of the

The United States Senate

Hearing: *Evaluation of Port Security: Progress Made and Challenges Ahead*

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The American Association of Port Authorities (AAPA) is submitting this testimony for the hearing record on the *Evaluation of Port Security: Progress Made and Challenges Ahead*. AAPA represents more than 130 public port authorities in the United States, Canada, the Caribbean and Latin America. These comments represent those of U.S. ports members.

Since the tragic day of September 11, 2001, America's seaports have been partners with the federal government and our local communities in developing and implementing a comprehensive port security program. Seaports are international borders and gateways to America, and the federal government has a clear Constitutional responsibility to protect them. Safe and secure seaports are fundamental to protecting our borders and moving goods.

My comments focus on port security grants, scanning equipment and requirements, staffing and facility design requirement and the Transportation Worker Identification Credential (TWIC) program. AAPA has also voiced support for Rep. Janice Hahn's GAPS Act, H.R. 1535, to study future needs of port security.

Port Security Grants

The Port Security Grant Program (PSGP) continues to be an indispensable tool for U.S. ports. This program allows ports to serve as strong partners with the Department of Homeland Security in our ongoing efforts to harden security and protect our homeland. In order for our country to be safe, AAPA believes that all ports must continue to be eligible for port security grants, which serve as aids in protecting this country from terrorist and other criminal attacks. We all must have the commitment and resources to keep our country safe.

In the decade since 9/11, a key component of our nation's effort to tighten the security of seaports has been the Port Security Grant Program, currently managed by the Federal Emergency Management Agency (FEMA). Port Security Grant funds have helped port facilities and port areas to strengthen facility security and work in partnership with other agencies to enhance the security of the region. Port Security Grant funding has been used to procure equipment such as vessels and vehicles, install detection systems such as cameras and sensors, and provide equipment maintenance for the systems recently installed. Each port may have different security needs, but the commitment and needed outcomes are the same. Securing our ports is an ongoing effort.

AAPA is concerned about recent dramatic cuts to the program, which originally had been funded at the authorized level of \$400 million but now only receives \$100 million. Additionally, FEMA changed the period of performance to a strict two-year period which has resulted in a focus on easy-to-do projects and easy-to-purchase equipment rather than looking at the highest risk needs. AAPA strongly urges FEMA to return to the system in which grants have a three-year term with a two-year extension allowed.

AAPA would also like to address the Administration's National Preparedness Grant Program proposal. This proposal was drafted several years ago, but just recently the Administration sent over the proposal in the form of an authorization bill to Congress. The proposed bill outlines how various programs would be changed and details how the new program would work. AAPA has been engaged in discussions with FEMA over the last few years and our concerns still have not been properly addressed in the proposal.

AAPA's first concern with the Administration's National Preparedness Grant Program is that it calls for funding of the program to be determined at the state level, along with other homeland security grants. Essentially, this amounts to block grant funding for our national security needs. This model may have worked for other agencies such as HUD's Community Development Block Grant Program (CDBG), but when dealing with security risks, continuity, details and coordination with other federal agencies are vital and are in the nation's interest.

AAPA strongly believes the Port Security Grant Program must be maintained at the federal level. Seaports are international borders and must comply with numerous federal regulations including those instituted by TSA, Customs and Border Protection, the Department of Agriculture and the U.S. Coast Guard. Port Security Grants are often used to help facilities address these federal mandates. Often states are unfamiliar with federal requirements and do not have the expertise to determine risks to these international seaport borders. AAPA has fought hard to ensure the program makes all seaports that serve as international borders eligible for the program. FEMA has provided grants to seaports at all levels in order to ensure that our nation does not have an exposed soft-underbelly of underprotected ports. We must not allow for a weak spot that terrorists can capitalize on. There is no mandate in the Administration's proposal requiring

states even to fund port security and this is likely to result in some ports not getting funding for needed projects. Additionally, other grant and oversight programs such as border security (land, air and maritime) are a national, not a state, responsibility. AAPA believes that weakening our national seaports would also weaken other national infrastructure resources such as airports and borders.

The Maritime Transportation Security Act, passed soon after 9/11, and the subsequent SAFE Port Act carefully laid out a system to identify risks and fund projects accordingly, with both national and local input. FEMA, with input from the U.S. Coast Guard and national intelligence information, determines which ports should be in each risk category while local area committees develop plans to decrease these risks. State officials are invited to sit on these local area committees, but the responsibility to determine who gets a grant resides with the Secretary of the Department of Homeland Security, based on evaluation from the local and national U.S. Coast Guard offices, FEMA and other federal partners. This is where AAPA believes the authority to determine grants should continue to reside – at the federal level, where the expertise exists and the national security needs as well as local needs can best be addressed.

Secondly, the Administration's proposal expands the grants to all hazards, and simultaneously cuts overall funding. With the expansion of the grants to all hazards, more projects will be eligible, resulting in less funding for port security. This would not be a sustainable model to keep our seaports, communities and nation safe. In addition to increased eligibility, the proposal calls for a significant decrease in funding overall. Currently, Port Security Grants are only funded at 25 percent of the authorized level of \$400 million. Merging the program into other homeland security grants is likely to result in a substantial decrease.

Finally, the separation of Port Security Grant funding served to highlight the need to focus on a component of the nation's critical infrastructure and international border that was largely ignored prior to the tragic events on 9/11. We fear that this focus will be lost if the Port Security Grant Program does not remain separate and fails to continue to grow to meet emerging security needs.

Financial Responsibility for Scanning

Ports have worked closely with Customs and Border Protection (CBP) to carry out 2002 and 2007 laws mandating that cargo scanning take place to prevent nuclear or other radiological devices from entering the United States. CBP has placed radiation portal monitors (RPM) in all container ports but problems exist related to a plan to maintain and replace RPMs and other scanning equipment.

Evidence collected by the DHS Office of Inspector General shows that Customs and Border Protection and the Domestic Nuclear Detection Office do not have a plan for continuing maintenance, replacement, or funding for these machines (e.g., Radiation Portal Monitors, VACIS, etc.). CBP has reached out to ports and terminal operators asking them to pay for these expensive systems. AAPA believes strongly that ports and terminal operators should not be required to fund this security program, initiated by the federal government in order to secure international borders.

AAPA requests that DHS conduct a study on how the agency intends to pay for the future use of scanning equipment, including needed changes due to port facility expansion or reconfiguration and for disposition of current scanning machines reaching the ends of their useful lives. CBP also needs to gather information on port expansions to determine future needs and costs. Additionally, DHS should fund the On-Dock Rail (ODR) radiation detection program, which has already undergone successful testing to efficiently scan containers moving directly to rail from ships. Direct On-Dock Rail scanning would help improve cargo moving efficiency at ports.

Transportation Worker Identification Credential (TWIC)

AAPA continues to work with DHS on implementing the Transportation Worker Identification Credential (TWIC) program, including monitoring and commenting on U.S. Coast Guard (USCG) regulations for facility compliance with TWIC. AAPA would like to see a TWIC rule finalized.

AAPA has concerns with the USCG's proposed TWIC reader rule for several reasons: the criteria used for determining which ports are subject to the reader requirement, the inflexibility of the risk analysis methodology, and the lack of tailoring reader requirements for the individual circumstances of each port or facility. Most facilities under the proposal rule would not require a TWIC. The question then becomes why have such a costly card that few will use other than as a flash pass. AAPA believes more robust use of card readers would result in increased security. The current proposal only requires facilities that handle Certain Dangerous Cargos and high passenger volumes to use readers. AAPA believes this requirement for readers is too narrow.

Finally, the delay in the final USCG regulations related to TWIC reader requirements has resulted in reprogramming of some TWIC grants to other priorities. Once the new rules are finalized, DHS should make TWIC grants a priority.

CBP Staffing and Facility Design Needs

Recently, Congress provided CBP with 2000 new officers to address increasing needs including those at seaports. AAPA would like to ensure that CBP has studied the needs of the seaport including projected changes in trade patterns and increased trade, and incorporate these current and future needs into its staffing plan. Emphasis should be placed on CBP availability to meet demands of trade without any additional cost to the trade to pay for overtime. Flexibility is

often missing to accommodate extended gates to address temporary or permanent changes in trade volumes. CBP is fee-based, but often will only provide flexibility if facilities agree to pay for overtime. There also is inconsistent policy with some ports getting 24x7 CBP service and others being asked to pay for overtime if additional officers are needed. Since this is a fee based system, CBP should be able to provide these services without charging a facility over time.

CBP also needs to provide officers and flexible low-cost facilities for the changing cruise market to provide needed officers, especially in seasonal areas as well as areas of growth. Flexibility is key to the cruise market. CBP's design standards, especially in the cruise area, also need to be more flexible and should not be so costly or over-built that they result in a large financial burden to seaports.

100% Scanning Mandate

AAPA has also joined with 70 other organization to support DHS's recent two-year waiver of the federal requirement that 100% of containers be scanned overseas. DHS has carefully reviewed the requirement that all cargo be scanned overseas before being loaded onto a U.S.-bound ship and has concluded that this mandate is unworkable. We ask Congress to look at the long-term viability of this mandate.

Conclusion

Thank you again for accepting AAPA's written testimony for this very important hearing. Key ways forward include:

- Passing the GAPS Act, Rep. Hahn's H.R. 1535, to study gaps in our nation's port security and make recommendations for the future;
- Keeping the Port Security Grants at the federal level, expanding the grant performance to three to five years and providing a level of funding that will allow continual progress;
- Provide the needed funding to CBP to study, maintain, replace and meet future trade needs for scanning technology;
- Require CBP's staffing and design standards to meet the needs of the industry. Encourage CBP to more fully understand the staffing and facility requirements at both cruise and cargo ports; and
- Require TWIC reader requirements to be broader than those currently proposed.

AAPA looks forward to continuing to work with the Homeland Security and Governmental Affairs Committee on ensuring that our seaport security challenges are being met. Please continue to consider us a partner and a resource.

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