



A SHAMEFUL RECORD ON PORT SECURITY

The importance of seaport security, and the failure of the Administration to secure this critical component of our transportation system, was on full display as Dubai Ports (DP) World, a company owned by the government of the United Arab Emirates, sought to take over terminal operations at six U.S. ports. While talking tough on security, the Administration was apparently more interested in placating a foreign government than conducting a robust review and evaluation of the security risks inherent in this deal. Pressure from lawmakers has now forced DP World to announce that it will find a U.S. company to operate terminals along the East Coast, but the serious gaps that exist in maritime, terminal, and cargo security remain unaddressed. Congress must step in to fund port security needs and to ensure real enforcement of security mandates that are urgently needed to secure our ports.

The fact is that since 9/11, the Department of Homeland Security (DHS) has failed to provide adequate levels of funding for port security, has failed to enforce the many maritime security regulations under its jurisdiction, and has failed to effectively oversee its various agencies with maritime, cargo, and terminal security roles. As a result, despite transportation labor's repeated calls for action, real security measures have yet to be implemented and our ports remain extremely vulnerable.

Federal spending to secure our critical maritime infrastructure has been grossly inadequate and ports continue to struggle to meet a number of unfunded security mandates. Through FY 2005, ports had only been provided a total of \$650 million in federal funds for physical and operational security upgrades. After the passage of the Maritime Transportation Security Act (MTSA), the U.S. Coast Guard estimated it would take over \$7 billion to properly assess and correct risks at our ports. During Congressional hearings on the DP World deal, Coast Guard and DHS witnesses tried to excuse the lack of investment by claiming that the federal government was never meant to cover these costs, and in fact estimated the industry share to be \$5.4 billion to implement the MTSA. Pushing off the cost of our port security on private entities and assuming that they will foot the bill is unrealistic and runs counter to the concept of national security.

The Administration's FY 2007 budget request does no better. For the second year in a row, the budget proposes to lump ports, railroads, mass transit systems, and pipelines together into a single Targeted Infrastructure Protection (TIP) program funded at \$600 million. This amount of money is far too low to make a dent in the security needs of any one of these critical infrastructure systems, let alone all, and could ostensibly leave ports with nothing. Congress will once again have to reject this proposal and make a real investment in security.

Federal oversight of port security has also been lax at best. Terminal operators, many of which are foreign controlled, continue to resist container security measures and worker training in the name of productivity and cost savings – despite the fact that they have been required to do so by Coast Guard

regulations since July 1, 2004. Without effective enforcement by DHS, it is no surprise that terminal operators are not routinely checking containers, including the integrity and accuracy of seals, to ensure that containers entering the port have not been tampered with.

Terminal operators are also failing to control access of vehicles and cargo entering ports by truck. In addition, hazardous materials cargo is not always placarded and not separated from other cargo. Finally, longshore workers and other port workers are still not being fully trained on the specifics of facility security plans or the proper response and evacuation procedures in the event of an incident.

Administration testimony and fact sheets paint a rosy picture that U.S. Customs and Border Protection (CBP), as the entity charged with ensuring cargo security, has everything under control through inspections and screening of cargo at foreign ports. However, only a small fraction of cargo is inspected abroad, if it is deemed to be high-risk, and a GAO report last year highlighted management and staffing challenges within CBP that limit the program's effectiveness. While this program targets loaded containers with supposedly dangerous cargo, there is currently no plan in place to inspect containers marked as "empty" upon entry into a port facility to verify that they are in fact empty. Inspection of empty containers is a quick and relatively inexpensive way to confirm the absence of a dangerous substance in a port that will potentially be transported on our nation's roads or railroads, and would add a much needed additional layer of security.

The Transportation Security Administration (TSA) has also been roundly criticized for the lack of progress on another requirement of the MTSA, the implementation of the Maritime Transportation Workers Identification Credential (TWIC). As we have stated many times, transportation labor stands ready to work with TSA in implementing access control measures for seaports but we firmly believe that any credentialing must be used for security purposes only and must not undermine the basic due process and privacy rights of workers. Any security threat assessments of longshore and maritime workers should aim to identify any individuals who pose true and immediate security risks and workers subjected to background checks must be entitled to a fair appeal and waiver process.

TTD worked with Congress to implement several improvements to the threat assessment process for hazmat commercial motor vehicle drivers and we will continue to urge for these provisions to apply to maritime checks when they are implemented. Additionally, TSA should minimize any redundant checks for workers who have already undergone a threat assessment as a condition of employment, such as workers holding a Merchant Mariner's Document (MMD) or license issued by the U.S. Coast Guard.

At the same time, access to port facilities by ship crew members, ship visitors, those delivering supplies, union representatives, and others while a vessel is at a terminal continues to be an ongoing problem. Too many ports have decided that the answer to security is to bar access or contract with private security firms which charge crewmembers and others escort fees for access. As a result, ships have been forced to conduct crew changes and receive supply deliveries once the ship has left the port. The Coast Guard, in implementing facility security regulations, must strike the right balance between having access controls in place to ensure security while allowing routine shipboard activities to proceed.

Transportation labor remains deeply committed to ensuring that our seaports and marine terminals are secure. Indeed, for the men and women who work on the docks and on vessels, port security equates to worker safety in the most fundamental sense. TTD will continue to work with the Coast Guard, TSA, CBP, and DHS to advocate for a real investment in our maritime industry and its security. We will further work with Congress to make sure this Administration stops shirking its responsibility to fund and enforce the port security laws and regulations of this nation.

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