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Before the House Armed Services Committee

Mr. Chairman and other distinguished Members, I am honored to testify before the House Armed Services Committee today.<sup>1</sup> I commend Congress, and this Committee in particular, for their concern with the critical importance of safeguarding America's ports and recognizing the vital role maritime transport plays in national security. In my testimony today I would like to: (1) emphasize why secure ports are essential to the nation; (2) describe the significant security threats the U.S. faces today and in the future; (3) assess the impact of foreign-owned assets on existing and emerging threats; (4) identify the critical problems that must be addressed to enhance port security, and; (5) propose the next steps that this Committee take to make the seas safer.

### **Why Do We Care?**

The importance of the maritime domain cannot be overestimated. Almost one-third of the U.S. gross domestic product (GDP) is derived from trade. As you know, 95 percent of American overseas trade traffics the maritime domain. According to the American Association of Port Authorities, \$1.3 billion worth of U.S. goods move in and out of U.S. ports every day. In addition, many major urban centers (more than half of the U.S. population) and significant critical infrastructure are in proximity to U.S. ports or are accessible by waterways.

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Maritime security also has a critical defense dimension. The vast majority of U.S. military forces and supplies projected overseas transit through U.S. ports. In fiscal year 2003 alone, for example, the U.S. Military Traffic Management Command shipped over 1.6 million tons of cargo in support of Operation Iraqi Freedom.<sup>2</sup>

Ports can also be tempting for terrorists. As points of entry and exit, they are critical nodes that affect terrorist travel and transiting of material support or weapons. They might also be prime targets for terrorist strikes. The economic, physical, and psychological damage that would result from a significant terrorist attack targeting maritime commerce or exploiting America's vulnerability to sea strikes is difficult to estimate. The September 11 terrorist attacks on New York and Washington incurred well over \$100 billion in losses to the U.S. economy alone.<sup>3</sup> Given the nation's overwhelming dependence on ocean-going commerce, a similar sudden, unexpected attack in the maritime domain might exceed these costs. The stakes are high. A significant breakdown in the maritime transport system would send shockwaves throughout the world economy. In fact, in a worst-case scenario, a large attack could cause the entire global trading system to halt as governments scramble to recover. Drastic and inefficient solutions could also be put in place, such as the complete closure of some ports and duplicative and lengthy cargo checks in both originating and receiving ports.<sup>4</sup>

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<sup>2</sup> Most military supplies and hardware move through only 17 seaports. Only four of these ports are designated specifically for the shipment of arms, ammunition, and military units through Department of Defense (DOD)-owned facilities. For an overview of the military's reliance on ports and associated security risks, see U.S. General Accounting Office, "Combating Terrorism: Preliminary Observations on Weaknesses in Force Protection for DOD Deployments Through Domestic Seaports," GAO-02-955TNI, July 23, 2002. See also U.S. General Accounting Office, "Combating Terrorism: Actions Needed to Improve Force Protection for DOD Deployments Through Domestic Seaports," GAO-03-15, October 2002, pp. 5-10.

<sup>3</sup> Estimates of the damage wrought by the 9/11 attacks vary depending on the criteria used. Insurance Information Institute set the initial cost at \$40 billion. See Insurance Information Institute, "Catastrophes-Insurance Issues-Part 1 of 2," January 9, 2002, np. A study by the Federal Reserve Bank of New York put the cost at \$33 to \$36 billion. The Federal Reserve Bank's estimate included only immediate earning losses, property damage, and clean-up and restoration costs through June 2002 and did not cover long-term productivity and tax revenue losses. Jason Bram, et al., "Measuring the Effects of the September 11 Attack on New York City," FRBNY Economic Policy Review, Vol. 8, No. 2 (November 2002), p. 5. The City of New York Comptroller set the total economic impact on the city at between \$82.8 and \$94 billion. Comptroller, City of New York, *One Year Later: The Fiscal Impact of 9/11 on New York City* (New York: City of New York, September 4, 2002), p. 1. The U.S. GAO Office reported that it believed the most accurate assessment places the total direct and indirect costs at \$83 billion. U.S. General Accounting Office, "Impact of Terrorist Attacks on the World Trade Center," GAO-02-7000R, May 29, 2002, p. 2. In addition, Wilbur Smith Associates estimated the long-term costs of the 9/11 attacks resulting from reduced commercial aviation range from \$68.3 to \$90.2 billion. Wilbur Smith Associates, "The Economic Impact of Civil Aviation on the U.S. Economy-Update 2000," (2002). **[Where was this published?]**

<sup>4</sup> A preliminary estimate in 2003 placed this cost at tens of billions of dollars, nearly \$60 billion for the U.S. alone. Organisation for Economic Co-operation and Development, "Directorate for Science and Technology and Industry, Maritime Transport Committee, Risk Factors and Economic Impact," July 2003, at [www.oecd.org/dataoecd/19/61/18521672.pdf](http://www.oecd.org/dataoecd/19/61/18521672.pdf) (October 29, 2004).

During the next 20 years, maritime commerce likely will become an even larger and more important component of the global economy. The main elements of this transformation probably will include continued growth in the seaborne shipment of energy products, further adoption of containerized shipping, and the continued rise of mega-ports as commercial hubs for trans-shipment and deliveries. Barring substantial and unanticipated reductions in the cost of air transport, this level should persist for the next few decades.

Seaborne transport will remain critical to defense as well. Despite the anticipated development of a new generation of long-range global strike aircraft and rapidly deployable future Army combat forces, it is highly unlikely that the U.S. military will be able to undertake a sustained major campaign in the foreseeable future without the capacity to transport significant assets from the continental United States by ship.

The future maritime system will be robust, yet fragile. Maritime shippers increasingly have concentrated their traffic through major cargo hubs (mega-ports) because of their superior infrastructure. In the United States, 50 ports account for approximately 90 percent of all cargo tonnage.<sup>5</sup> Their specialized equipment is essential for the loading and off-loading of container ships, which constitute a growing segment of maritime commerce. Today, U.S. seaports unload approximately 8 million loaded containers annually.<sup>6</sup> Analysts forecast the volume of global container traffic will double over the next 20 years.<sup>7</sup> Some of this increase could result from the development of still larger ships able to carry 10,000 or more twenty-foot containers or from increased traffic by existing classes of ships.

The rising use of container shipping and mega-ports has lowered the costs and improved the reliability of maritime commerce, leading firms to rely increasingly on rolling inventories and just-in-time deliveries. These trends have produced significant economic benefits for many industries engaged in international commerce, but have also made individual companies in the supply chain more vulnerable to interruptions.<sup>8</sup>

Both the concentration and decentralization of seaborne traffic in the United States are also concerns. Some 42 percent of U.S. imports come through the port of Long Beach/Los Angeles. Similarly, over 50 percent of U.S. tanker imports come through the

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<sup>5</sup>U.S. Congress, House of Representatives, "Maritime Transportation Security Act of 2002," Conference Report, 107-777, p. 4.

<sup>6</sup>"Marine Insurers Contemplate Increased Security Regulations," *Claims Magazine*, December 2003, p. 12.

<sup>7</sup>William G. Schubert, Maritime Administrator, Department of Transportation, Testimony before the Committee on The Judiciary, Hearings on the Security of our Seaports, February 26, 2002, at <http://usinfo.state.gov/topical/pol/terror/02022701.htm>. (February 27, 2005)

<sup>8</sup>For a comprehensive discussion of these vulnerabilities, see Daniel Y. Coulter, "Globalization of Maritime Commerce: The Rise of Hub Ports," in *Globalization and Maritime Power*, edited by Sam J. Tangredi (Washington, D.C.: Institute for National Strategic Studies, National Defense University, 2002), pp. 133-142.

Lower Mississippi Waterway and the Houston Ship Channel. At the same time, there is an ongoing shift from West Coast ports to East Coast alternatives, driven by the increased cost of surface transportation, congestion at Los Angeles/Long Beach, and strategic business decisions and reduced costs associated with maritime transportation due to containerization. Accordingly, retailers have begun building major distribution centers around smaller ports such as Norfolk, Virginia. Intermodal congestion may potentially make maritime commerce increasingly vulnerable to disruption from terrorism or other hazards.

### **What Should We Worry About?**

A special report prepared by the Maritime Security Working Group (chaired by The Heritage Foundation) was asked to address the long-term security threats to the United States in the maritime domain.<sup>9</sup> The group—consisting of experts from academia, research centers, the private sector, and government—concluded the major trends that will affect U.S. maritime security are:

- *Internal Threats from Rogue Actors.* The greatest vulnerability to maritime infrastructure may be internal threats, i.e., employees who have an intimate knowledge of operations and facilities and access to transportation and port assets.
- *The Growth of Maritime Criminal Activity.* Piracy, human trafficking, and drug smuggling will continue. Terrorists could mimic or partner with criminal enterprises.
- *The Lack of Visibility in Non-Commercial Maritime Activity.* Currently the United States lacks sufficient means to monitor maritime activity. Terrorists could capitalize on this failing in many ways, including mines and other underwater attacks, smuggling by private craft with small payloads delivered outside ports, or attacks by small craft.
- *The Maritime Domain as a Target and Facilitator of Threats against the Environment.* Opportunities for infectious diseases and other environmental threats carried by seaborne traffic will increase with greater maritime commerce.
- *Anti-Access Strategies a Real Possibility.* An enemy might attack vulnerable targets on U.S. territory as a means to coerce, deter, or defeat the United States.
- *Stand-Off Attacks from the Sea.* State and non-state groups will be capable of mounting short-range ballistic missiles and cruise missile attacks—possibly employing weapons of mass destruction—from U.S. waters.

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<sup>9</sup>James Jay Carafano, Ph.D., and Alane Kochems, eds. “Making the Sea Safer: A National Agenda for Maritime Security and Counterterrorism,” Heritage *Special Report* No. 3, February 17, 2005, at [www.heritage.org/Research/HomelandDefense/sr03.cfm](http://www.heritage.org/Research/HomelandDefense/sr03.cfm).

Since 9/11, some analysts have hyped the possibility of spectacular maritime attacks with nuclear weapons stowed in shipping containers or liquid natural gas tankers blown-up in U.S. harbors. The Maritime Security Working Group found these scenarios less plausible or felt that post-9/11 security regimes made them less likely.<sup>10</sup> On the other hand, the group found the challenges identified above as enduring, disturbing, and inadequately addressed.

### **What is the Impact of Foreign Investments on Future Threats?**

Nationality and geography do not guarantee security, nor do they assure economic growth. The notion that merely precluding foreign ownership of U.S. assets offers a measure of security or saves American jobs is fundamentally flawed.<sup>11</sup> Applying protectionist policies to homeland security would stifle innovation and increase costs, without making America any safer. The government's role is not to decide how the marketplace operates, but to perform due diligence to ensure that vital national interests are looked after.

In regard to foreign sales of maritime infrastructure, due diligence is conducted under the process established by Congress. The Omnibus Trade and Competitiveness Act of 1988 created the Committee on Foreign Direct Investment in the United States (CFIUS). The Secretary of the Treasury heads CFIUS, and 11 other agencies participate in it, including the Departments of Defense, Justice, Commerce, and Homeland Security. The Committee's task is "to suspend or prohibit any foreign acquisition, merger or takeover of a U.S. corporation that is determined to threaten the national security of the United States." The process is designed to be non-partisan and non-political because these decisions should not be based on political considerations, but solely on the merits of the transfer and appropriate security concerns consistent with U.S. policies.

The sale of facilities at six U.S ports by a British-based company to Dubai World Ports, a government-owned company in the United Arab Emirates has raised concerns among many over whether the Bush Administration exercised adequate due diligence in reviewing the sale. These concerns do reflect the importance of ensuring that the system created by Congress to review the sale of foreign investments in the United States is functioning properly. Congress should take 45 days to review the sale to Dubai World Ports. Because Congress has not closely reviewed this oversight process since 9/11, a brief delay is reasonable and warranted.

A review of the facts that are publicly available do not suggest that the sale would exacerbate risks in the maritime domain.

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<sup>10</sup>See also Alane Kochems, "Taking a Global Approach to Maritime Security," Heritage *Executive Memorandum* No. 980, September 22, 2005, [www.heritage.org/Research/HomelandDefense/em980.cfm](http://www.heritage.org/Research/HomelandDefense/em980.cfm).

<sup>11</sup>James Jay Carafano, Tim Kane, Dan Mitchell, and Ha Nguyen, "Protectionism Compromises America's Homeland Security," Heritage *Backgrounder* No. 1777, July 9, 2004, at [www.heritage.org/Research/HomelandDefense/bg1777.cfm](http://www.heritage.org/Research/HomelandDefense/bg1777.cfm).

- *Outsourcing Is Not the Issue.* That the facilities at several U.S. ports will be foreign-owned is not significant. These facilities are already owned by a foreign company, the London-based Peninsular and Oriental Steam Company. Indeed, much of the maritime infrastructure (e.g., ships, containers, and facilities) that supports U.S. seaborne trade and travel is already foreign-owned, including by some estimates almost 70 percent of terminal facilities in the United States. The globalization of maritime trade began decades ago, and this sale reflects the continuing globalization of a sector long-dominated by transnational firms. Globalization also provides options. The United States is not dependent on any one company or country. U.S. ports are free to contract with those who provides the best services.
- *Security Standards Will Not Change.* Security standards for ports are governed by the International Shipping and Port Security (ISPS) Code, which is based on U.S. maritime laws adopted after 9/11. The same law applies to any company operating in the U.S., regardless of its origin. The U.S. Coast Guard is responsible for overseeing the implementation of ISPS. Every U.S. port has a Coast Guard officer who is the Captain of the Port and is responsible for coordinating all port security. The Customs and Border Protection agency and the Coast Guard, *not* the owner of the port, conduct security screening on individuals and cargo entering the port.
- *Not a Terrorist Gateway.* The UAE government is not a state-sponsor of terrorism, nor has any evidence been presented that Dubai World Ports has ever facilitated terrorist activities. In addition, Dubai World Ports is a holding company, and would have little to do with the day-to-day management of U.S. port facilities. Its ownership alone does not entitle its employees to access classified or sensitive security information, unless, as now, they meet the requirements of ISPS and U.S. law. Moreover, almost all of the employees at these facilities are U.S. citizens. Additionally, with over \$6 billion invested, no company would want to see its facilities used by terrorists. Finally, terrorist tradecraft does not involve high-profile purchases of companies. Terrorism infiltration, like criminal smuggling, involves penetration by individuals, often at very low levels. That is a challenge for any company.

Congress certainly has the responsibility to ensure that the CIFUS process is being implemented as it is intended. The country needs confidence in the procedures meant to ensure that foreign investment does not harm national security. Addressing the existing and emerging threats in the maritime domain, however, requires more comprehensive efforts.

### **What Should We Do?**

Port facilities are just one of many aspects that should be considered in developing a comprehensive maritime security regime. The United States should approach cargo and port security from the perspective of a complex global system rather than attempting (and failing) to make ports and containers impervious to terrorist threats. Ports are just part of a system, designed to move people and things quickly in immense volumes. The best way

to secure a port is to keep bad things and bad people out of the port to begin with. And that means securing the system, not the port. That requires a system approach to security. As with much of homeland security, maritime security is a matter of prioritizing and balancing risks.<sup>12</sup>

The Heritage Foundation's Maritime Security Working Group has identified several areas that should be the centerpiece of U.S. efforts to help secure the maritime enterprise. I would like to raise three that have particular relevance for this committee. They are: (1) advancing network science; (2) enhancing the capabilities of the U.S. Coast Guard and harmonizing the U.S. Navy and Coast Guard requirements and missions; and (3) broadening international cooperation.

- *Better Science is Required.* Maritime trade and travel is a complex enterprise, a system of systems that is not controlled by any one country or company. Understanding how complex systems work is essential both to making good public policy and designing the right security. Ironically, while the United States is probably the world's leader in systems integration, the underlying science that should guide how to develop dependable, resilient, and adaptable complex systems is in its infancy.<sup>13</sup> Your committee and the Department of Defense should have a vested interest in advancing network science, as it can also be used to guide developments in network-centric warfare. Congress should require the Departments of Defense and Homeland Security to jointly develop robust network science research.
- *Fix the Coast Guard First.* U.S. Coast Guard operations are central to virtually every aspect of maritime security, from enforcing ISPS to interdicting suspect cargo under the Proliferation Security Initiative. Fully funding the Coast Guard's modernization program, Deepwater, at \$1.5 billion per year is essential. Likewise, Congress should establish more effective oversight of the National Fleet initiative and relevant committees should work together to ensure that the missions and the requirements of the Navy and Coast Guard efficiently and effectively support one another.<sup>14</sup> This Committee should play a leadership role in that process.
- *International Cooperation is Essential.* The U.S. National Security Strategy rightly calls for encouraging economic development through free markets and free trade and enhancing the capacity of developing nations to compete in a global economy. Concurrently, however, the United States is also rightly promoting international security regimes designed to prevent terrorists from attacking or exploiting global trade networks. Meeting these requirements is difficult not for

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<sup>12</sup>Alane Kochems, "Taking a Global Approach to Maritime Security," Heritage *Executive Memorandum* No. 980, September 22, 2005, at [www.heritage.org/Research/HomelandDefense/em980.cfm](http://www.heritage.org/Research/HomelandDefense/em980.cfm).

<sup>13</sup>See, for example, Committee on Network Science for Future Army Applications, *Network Science* (Washington, D.C.: The National Academies, 2005).

<sup>14</sup>Dr. James Jay Carafano, Statement before the Senate Committee on Commerce, Science, and Transportation, March 24, 2004, at [www.heritage.org/Research/HomelandDefense/tst032404a.cfm#\\_ftn2](http://www.heritage.org/Research/HomelandDefense/tst032404a.cfm#_ftn2).

the “Dubais” of the world, but for developing countries that lack mature infrastructure, robust human capital programs, and adequate financing. The Department of Defense and other federal agencies have disparate programs to assist these countries in enhancing their maritime security. These programs are not synchronized with each other or with those of our allies in Europe or Asia. Congress should begin to address this issue by requiring the General Accountability Office to inventory and assess the effectiveness of the various U.S. programs and their international counterparts.<sup>15</sup>

### **Winning the Long War**

President George W. Bush was right to suggest that we are engaged in a long war in his State of the Union Address. It is an important distinction. Protected conflicts like the Cold War or the War on Global Terrorism require different kinds of strategies—strategies that place as much emphasis on sustaining the capacity of the state to compete over the long term as they do on diminishing the enemy.

Good long war strategy requires meets four equally compelling priorities: (1) providing security; (2) promoting economic growth; (3) safeguarding liberties; and (4) winning the war of ideas. Each has relevance to the maritime domain.<sup>16</sup> This Committee and Congress need to insist that the Bush Administration implement measures to meet each of these priorities, not trading one off for another. This criterion should serve in evaluating *any* security issue, including addressing foreign investments in the United States

Thank you again for the opportunity to address this vital question.

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<sup>15</sup>James Jay Carafano, and Ha Nguyen, “Homeland Security and Emerging Economies,” Heritage Backgrounder No. 1795, September, 14, 2004, at [www.heritage.org/Research/HomelandDefense/bg1795.cfm](http://www.heritage.org/Research/HomelandDefense/bg1795.cfm).

<sup>16</sup>James Jay Carafano and Paul Rosenzweig, *Winning the Long War: Lessons from the Cold War for Defeating Terrorism and Preserving Freedom* (Washington, D.C.: The Heritage Foundation, 2005).