

THE KIMERY REPORT

100 Percent Air, Ship Cargo Screening Unlikely to Get Past Congress

Debate Centers on Technology Availability, Costs of Total Screening

WASHINGTON, D.C. MARCH 26, 2007 - The Department of Homeland Security (DHS) says it ain't so. Retailers and other special interest lobbyists opposed to the proposition say it ain't so. And Democrats and Republicans say it ain't so. What ain't so, all these disparate sources assure, is that 100 percent of air and ship cargo arriving on US shores can't be screened for conventional high explosive, radiological or nuclear bombs -- simply because the technology just doesn't exist. And even if it did, there's not enough manpower, they all maintain. Furthermore, even if it all could be screened, it'd slow commerce, bringing our way of life to a grinding halt, to hear them explain it.

Well, that is if you believe the likes of Wal-Mart and the hordes of lobbyists paid to argue against 100 percent screening.

The well-heeled Washington lobbyist cocktail circuit opposition includes some of the nation's largest business groups, retailers and importers, like the US Chamber of Commerce and the Retail Industry Leaders Association, which represents huge consumer retail megamarts like Wal-Mart, Target, Home Depot and Best Buy. Former House Homeland Security Committee Chairman Peter King once singled out Wal-Mart for its opposition to increased screening of cargo containers. Wal-Mart is the world's largest retailer and the nation's biggest importer.

This week, a 30-second ad produced by Wal-Mart critic WakeUpWalMart.com began airing in 16 cities that claims the company's opposition to 100 percent screening "leaves America's ports and cities vulnerable to a terrorist nuclear attack." Appearance of the ad was timed to coincide with the looming conference between the House and Senate to reconcile the differences in their respective legislation to implement the last of the 9/11 Commission's recommendations. The Maryland chapter of the American Federation of State, County and Municipal Employees has endorsed WakeUpWalMart.com's campaign.

"Wal-Mart is proud of our efforts to ensure a more secure supply chain and we will continue to play a central role in finding real solutions to enhance cargo security," Wal-Mart spokesman Robert Traynham said.

Other vested interests opposed to total cargo screening include the American Association of Port Authorities, the American Apparel and Footwear Association, the Coalition of New England Companies for Trade, the Grocery Manufacturers of America, the National Industrial Transportation League, the Pacific Coast Council of Customs Brokers & Freight Forwarders, the World Shipping Council and the International Air Transport Association.

Meanwhile, however, a new report from Ottawa on Canada's seaports states nationwide problems with organized crime, inadequate container screening, the lack of police and terrorist threats pose dangerously mounting security risks.

The Standing Senate Committee on National Security and Defense report stated that "seaports are exploited by organized crime to move contraband in and out of Canada, particularly illicit drugs.

Historically, the country's largest container ports of Vancouver, Montreal and Halifax have caused the greatest concern, simply because of the vast quantities of commercial cargo they handle."

Moreover, the report said, "all Canadian ports that receive international traffic are vulnerable to exploitation by organized crime."

The report further states that border officials inspect only a small percentage of shipping containers; security perimeters are porous; security forces are understaffed and ill-prepared to deal with organized crime and terrorism; there are training delays; boats could be used for terrorist attacks; and intelligence officers are needed in foreign ports."

Ports, organized crime and cargo containers? A person named last week in a *New York Daily News* investigation of New York City school bus drivers with criminal records is Frank "Fat Frank" Esposito, who told the *News* he worked for a *cargo container* company in Brooklyn. A 2005 federal indictment against Esposito identified him as an associate of the Bonanno crime family. He pleaded guilty to a book-making charge and was sentenced to three years' probation last July.

It's no secret among law enforcement and intelligence officials that there has long been an involvement by organized crime in cargo container businesses and port-side loading and unloading. As authorities told *HSToday* for its January cover story, "*Dangerous Cargo*," Southeast Asian and Russian crime cartels – some with ties to terrorist organizations – have infiltrated the cargo container business in a big way.

US and allied Western intelligence services and law enforcement are monitoring suspected stolen cars and questionable used car rings in the United States and Europe believed to have terrorist ties who are shipping these cars in cargo containers to the Middle East, where they are suspected of being used as car bombs, especially in Iraq, according to a variety of intelligence sources.

To the die-hard security-minded, there's no disputing that total cargo screening is what's in order. But is their self-assuredness on this issue a conviction the rest of us can take comfort in? Well, the truth of this hotly contested issue certainly isn't as cut and dried as the opponents of it assure it is. In fact, there's considerable dispute over whether all air and ship cargo can be screened quickly, efficiently and cost-effectively. Democrats so firmly believe it can – and are backed by technology and even some opposition industry insiders – that their ranks in the House passed controversial legislation, H.R. 1, to require all air and ship cargo arriving in the United States to be screened. Sure, it was an act of political necessity for Democrats, who'd promised to implement all the 9/11 reforms the Republicans didn't, but they also made a compelling case for it.

An attempt by the Dems in the Senate to pass similar legislation was, as any prognosticator could have divined in advance, bombarded by opposition lobbying that had the support of the administration. What the Senate's 9/11 bill ended up with was a proposal by Sen. Robert Menendez, D-NJ (whose earlier attempts at 100 percent screening legislation were soundly defeated) that would require DHS to come up with a plan with yearly benchmarks aimed at eventually getting to a system that *does* screen 100 percent of US-bound cargo before it gets here.

But even that noble security-intensive approach may be jettisoned. Opponents do not want -- ever, it seems -- a 100 percent screening solution. At least not until a piece of cargo slips by existing screening nets and explodes, leveling someplace like the District of Columbia or Manhattan. The ensuing collective screams to hold accountable anyone who allowed this to happen will be so deafening that few would dream of arguing against screening all future inbound cargo. Ours is a nation that tends to manage by disaster.

The 9/11 Commission determined that the risk of maritime terrorism is at least as great as, if not greater than, the risk of terrorism involving civilian aviation. It did not, though, see absolute cargo screening as the solution.

With the House and Senate having passed much different approaches to this problem, it's unclear what will emerge out of the upcoming conference committee that will have to hammer out compromise legislation acceptable to both chambers.

Current law requires inspection of all incoming cargo, but only after the secretary of Homeland Security first determines that a 100 percent screening system has overcome six technological and economic hurdles. That provision was approved as part of last year's port security legislation. Sen. Joseph Lieberman (I-Conn.), chairman of the Senate Homeland Security and Governmental Affairs Committee, said existing law should be given a chance to work and that the screening mandate is not yet necessary.

Critics say: "Read, 'not until we hear a boom.'"

We're Just Not Where We Need to be With Technology

During a hearing this month by the House Homeland Security Appropriations Subcommittee on the screening of containerized cargo, Customs and Border Protection (CBP) Assistant Commissioner for Field Operations Jayson Ahern testified that 100 percent scanning of US-bound containerized cargo just isn't feasible. He said that, due to the limits of technology and the investment and maintenance costs required, it is "basically an impossible task. ... It's unrealistic at this point in time."

Ahern said 89 percent of shipped containers already are scanned once they reach the United States, compared to 37 percent 11 months ago. "That's progress," he said, pointing out that, by the end of this year, DHS should be screening 98 percent of shipped containers entering the country.

Ahern noted, however, that screening cargo after it has reached a US port risks discovering a weapon of mass destruction after the fact. Meaning, after that "boom."

Currently, CBP uses intelligence and a risk-based strategy to screen *information* on 100 percent of cargo before it is loaded onto vessels destined for the United States. All cargo that is identified as high risk is inspected, either at the foreign port or upon arrival in the United States. Of the 11 million ship-carried cargo containers that arrive at US ports each year, between 5 percent and 6 percent are randomly inspected. CBP's Automated Targeting System and other measures are supposed to identify all the "high-risk" cargo to be singled out for inspection.

Dr. James Carafano, a former Army lieutenant colonel and one of the Heritage Foundation's leading scholars in defense affairs, military operations and strategy, and homeland security, has said the House bill's cargo screening "requirements run counter to the current national strategy, which, to deter terrorists from exploiting international trade, relies on counterterrorism and intelligence programs combined with risk assessments, random checks and the inspection of suspicious high-risk cargo. The House bill would replace that system with one that mandates 'strip-searching' every package and container coming from overseas.'

But the existing approach isn't without significant problems. As the January *HSToday* cover story, "*Dangerous Cargo*," exclusively pointed out, high-risk intelligence targeting doesn't necessarily tag cargo containers carrying mislabeled or misdeclared contents – a widespread and growing security problem. Cargo inspection and intelligence authorities cited this problem as reason enough for better screening.

A Canadian government report, "*Exploring the Involvement of Organized Crime in Motor Vehicle Theft*," notes that "vehicles that are stolen for export overseas are often loaded into shipping containers and accompanied by false documentation claiming the container holds a different type of cargo. In some cases, the organized crime groups may have a link to a port in the form of individuals in key positions who are influential in the movement of commercial cargo off a vessel and within the port environment."

And while DHS and its industry supporters argue for CBP's primary methodology of using intelligence to single out "high-risk" and suspicious cargo to be physically inspected, "eventually the terrorists will discern what criterion constitutes high risk and will include their murderous cargo among the 95 percent of

containers that are deemed low risk," Menendez said. "Scanning 100 percent of cargo containers entering US ports must be a top national security priority."

In September 2006, Sen. Norm Coleman, a Republican who introduced legislation requiring DHS to provide a plan within 90 days to screen 100 percent of inbound maritime shipping containers, noted that "the system that we now use to determine which of the five percent of containers [entering the US each year that are randomly inspected] is riddled with flaws."

Coleman said, "Customs inspectors rely on manifests and intelligence data, both of which can be either unintentionally incorrect or even manipulated, to develop algorithms that tell them which containers to open."

HSToday highlighted this problem in the report, "*Dangerous Cargo*."

"We cannot take the risk that complex mathematical equations relying on faulty inputs will catch a nuclear, chemical or biological weapon shipped into our ports," Coleman stated.

Congress' own investigative arm, the Government Accountability Office (GAO), and DHS's Inspector General found CBP's targeting system is seriously flawed.

Menendez has agreed, saying "manifests ... are often incomplete, often incorrect. Relying on manifests is simply not the way to ensure that cargo containers do not contain items that they should not, items that could endanger the security of our ports, the surrounding communities, the people on our shores."

But The Technology *Does* Exist

Rep. Ed Markey, the primary backer of the House 9/11 bill's total cargo screening provision, and supporters of 100 percent screening maintain that not only is total screening cost effective but the technology also exists. But opponents and DHS have continued to assert that the technology to scan every container overseas just doesn't exist.

"We have the technology to accomplish 100 percent scanning overseas, according to technology vendors who already manufacture and deploy it and port operators such as DP World, which is building in the capability to scan all containers in designs of its port terminals," Markey responded.

"Moreover, DHS just announced that 100 percent scanning would be occurring at several large overseas ports as part of the requirements of the SAFE Port Act. DHS clearly believes that the technology exists to accomplish these pilot programs," he said.

Last year, a demonstration project that operated at marine terminals in Hong Kong, one of the world's busiest ports, demonstrated that 100 percent scanning can be accomplished effectively and efficiently. In Hong Kong, every container passed through a gamma-ray content-scanning machine and a radiation portal to record levels of radioactivity within the container. Companies such as Rapiscan Systems already deploy non-intrusive scanning systems at seaports.

Rapiscan currently deploys 50,000 scanning systems in more than 100 countries around the world. According to the company, "The question of the availability of technology to inspect cargo containers both before and after they enter the US already has been answered."

"Moreover, last month," Markey highlighted, "DHS announced the Secure Freight Initiative, a pilot program that implements a provision in the SAFE Port Act and will result in deployment of technology that will scan for radiation and density all US-bound containers."

David Sanborn, DP World senior vice president and managing director of the Americas, called for a universal radiation and imaging scanning initiative at the Maritime Security Council Conference last October. Sanborn said, "The SAFE Port Act limits the building of integrated scanning systems to a small pilot program. Is imaging and radiation detection equipment necessary to protect us? If we believe it is,

we should agree to do it everywhere and establish the standards and procedures to facilitate it. ... If the best way to reduce risk is to ensure that all containers are scanned, then we should implement a universal radiation and imaging scanning initiative. Some people say this is too ambitious. But we are convinced something can be done, if only there is the collective will to do so, and the universal standards that can galvanize such will into action."

"Should we await the technologies of the future and the process of a democratic system, it will be with dire consequences," HSToday.us was told by Stephen V. Krockner, chairman of the board of directors of SeaAway, a firm that has developed a pre-port cargo screening system.

"Container screening is not the type of problematic imperative that can't be solved," Krockner stated. "It is a simple problem of who is going to pay for it. ... Retailers argue that it will interfere with the efficient movement of cargo and further delay the delivery of goods to destination points, thus costing more to deliver these goods. Shippers argue that they cannot afford the required equipment to offer these additional security measures as prescribed by the government, once again costing more. Government does not want to burden the already over-burdened taxpayer or pass these costs on to the maritime states. Then who pays? And who tackles this job? And what part does the government play in this system?"

Krockner said, "Obviously, it will come down to the consumer of these goods. Why the consumer? Because they're the only ones in this equation that have the choice to 'purchase or not to purchase.' Estimates place the actual costs to the consumer for these imperatives at less than \$0.01 per item purchased, *if* the industries referenced above are mandated *not* to add costs to the scanning effort under management and related paper fees."

However, Krockner pointed out, "if these industries work with these imperatives, they will see and experience a more efficient system with real-time, quantitative, cost-saving results."

Continuing, Krockner said, "All containers must be 'screened' at the departure port and then again at the arrival port. Some of today's vessels carry 10,000-plus containers, and that cannot be accomplished by a handful of Customs agents working in a foreign port. It must be done by technology that is 'now available,' cost-effective and *provides* benefits to all involved: the retailers, manufacturers, government and shippers. It must be a level-headed technology. In this first important step, the Container Security Device (CSD) must be considered. Containers then can be activated at the point of 'stuffing' prior to arrival at the debarkation port. This helps to ensure that our critical infrastructure is protected from domestic threats that may already be in place.

"As an integral part of the system, a CSD must have at the very least chemical, biological, radiological, nuclear and explosive (CBRNE) components and a breaching component, and will possess the ability to relate this information at 'prior-to-port,' *any port*. This does not require the exclusive use of satellite tracking that will prove to be cost-prohibitive; rather, it can be accomplished utilizing RF (cell phone) technologies that are already cost-effective and, more importantly, proven and developed."

Krockner explained that "this same CSD need also provide information on hazardous materials that a ship owner, ship's captain and insurance companies would like to be aware of. In addition to these elements, human detection is also required to prevent various incidents. The retailer also benefits from being able to accurately predict time of departure, time of arrival to port and can tighten just-in-time inventory or manufacturing. These additional elements to a CSD will reduce taxes on inventories while increasing productivity; reduce costs related to ship down time, maintenance and repair; and help to stem illegal human transport or the importation of terrorists or their devices."

Second, "a 'Prior-to-Port' system must be deployed to be able to accomplish more than just container screening," Krockner continued. "At 12 nautical miles from port, this system would also acquire passenger and cargo manifests, scan hulls for anomalies and record vessel acoustical signatures. AIS and the 96-hour rules can be coordinated earlier and provided to the port for verification. Maritime traffic can be controlled from this point and accurate real-time data (weather, sea conditions, etc.) can be available to in-coming as well as out-going vessels.

"The third component of the system will be the ability to inspect, remove and save any container that has proven to be a threat. Vessels carrying a suspect container will be placed in a 'safe anchorage' at the 'prior-to-port' point and met by a special purpose vessel designed to remove containers from container vessels. (This task will be accomplished within a 12-hour window, allowing for the continuation of the vessel into port.) It will possess the equipment to X-ray and contain the suspect container within a blast containment portion and, if necessary, safely 'submerge' the suspect container to further reduce the threat. This same special purpose vessel will be utilized to expand the intermodal system to ports that cannot accommodate the container vessels."

"We need to appreciate that we are vulnerable," Vice Adm. Barry M. Costello, commander of the US 3rd Fleet in San Diego, told a gathering of defense authorities in February. "Containers are cheap missile systems, or cheap bombs, that can come into our country" and represent a huge vulnerability that terrorists will exploit.

And terrorists "will spare no effort to attack us," warned retired Capt. Joe Bouchard, a former commander of Norfolk Naval Station.

Total Screening Isn't Necessary

DHS Secretary Chertoff favors the status quo. In his recent address to the American Association of Port Authorities, he said, "We do not believe in security at any cost. We believe in risk management, which means looking at threats, vulnerabilities and consequences, weighing what are the risks we should be most concerned about, considering the measures we are looking to undertake, in terms of whether they are cost beneficial, and then weighing that in terms of making up a strategic plan."

Chertoff said, "We also believe in layered security. That's recognition of the fact that there's no magic bullet for security, whether it be our ports or elsewhere. Any single approach can fail. Therefore, the right answer is to build layers of security that build rings of protection. What that does is it counts on redundancy and on randomness as allies in building a total security network.

"And this approach recognizes, of course, that ports themselves are part of a large network, a network that extends across the globe and requires us to measure security at every point from the element of manufacture, where you first take that which is going to be shipped and assemble it, all the way through to the ultimate delivery at the destination of the person who is receiving the consignment.

"A third element of our strategy," Chertoff said, "is to recognize that every port is different. A cookie-cutter approach to security will not work, and we don't want our security measures to do more harm than good. One of my favorite proposals is that which says we are derelict because we don't physically inspect every single container that comes into the country. How many here want us to do that? I guess I have my answer. We know that to do that would be to destroy the ports. We have to, in fact, use a risk-managed approach and a layered approach and a cost-beneficial approach to triage and select those elements of the container supply chain that we should take a close look at while letting the vast majority of flow go unimpeded.

"Another area where we want to use common sense, for example, is the suggestion about doing all of our scanning for radiation overseas. That, again, is a very interesting proposal; it's one that in many places is a very good idea and we are working, as I'll explain shortly, to do that. But again, a cookie-cutter that says we must do it everywhere would fail to take account of our need to accommodate the requirements, legal and regulatory, of our foreign partners, as well as the fact that the footprint and architecture of ports are not identical. Ports with a lot of transshipment are much harder to do scanning in than ports with a large physical footprint where everything comes in through a central portal.

"So, using all of these concepts, we have to apply a strategy to the objectives I've outlined to come up with a common-sense way to maximize port security, but always making sure that we are not damaging the system of maritime trade that we're trying to protect," Chertoff said.

Continuing, Secretary Chertoff turned to the issue of keeping dangerous cargo from entering ports from the maritime side. "How do we keep dangerous cargo from entering the ports?" He mused. "Well, first we have to extend our reach, and that's consistent with this approach of layered security. Our Container Security Initiative is now active in more than 50 overseas ports, accounting for 85 percent of container traffic bound for the United States. This includes nine CSI ports in the Western Hemisphere – ports in Canada, Brazil, Argentina, Honduras, the Dominican Republic, Jamaica and the Bahamas; and four more CSI ports will come online later this year in Colombia and Panama. This begins the process of inspection, in many cases, overseas before containers are loaded on a ship."

Chertoff said, "Our Secure Freight program is increasing the data we collect on containers that are going to transit the international supply chain. What that does is give us better information in order to select what containers we have to look at. And we are now testing the feasibility of overseas scanning for radiation to prevent the entry of WMD into our maritime domain. And again, that's the approach of trying as much as possible to move the scanning, where practicable, overseas at the earliest point at which containers enter the international freight domain."

"As part of this effort to continue to extend our reach, we're working with six foreign ports, including Puerto Cortez in Honduras, to install radiation detection equipment to scan cargo for radiological and nuclear emissions. Construction began in Puerto Cortez in November, and operational testing will begin next month."

"This program of overseas scanning has already exceeded the requirement of the Safe Ports Act to conduct 100 percent scanning of cargo in at least three foreign ports. And what it will do is test the viability of integrating this suite of scanning in some of the world's largest and most complicated port environments. What we learn during this first rollout is going to help inform everything we do as part of this general enlargement of our security envelope through the Secure Freight program."

"Secure Freight is also, by the way, a great example of international cooperation, which is indispensable in securing the supply chain, because it can't work without the cooperation of multiple international actors," Chertoff stated.

Concluding, Chertoff emphasized that "we need to continue to work together to educate members of our own Congress on the nature and interdependence of the global supply chain, and to make sure that mandates that sound good as sound bites don't get imposed in a way that actually cripples the maritime trade, which is an engine of our very successful economy."

"I also should point out," he added, "that as part of our layered approach, we have built and enhanced our capabilities of scanning at our US domestic ports, as well. In our own US ports, which are ports that you all own and manage, we are now scanning more than 90 percent of the cargo for radiation, and we're going to reach 98 percent at our major seaports by the end of this year, and almost 100 percent for all ports of entry, sea and land, by the end of 2008. This is from the year 2000, where we scanned exactly zero percent. So that is a huge, huge revolution in our capability to protect this country from people smuggling in nuclear or radiological materials."

"Maritime trade is too important to our nation to continue with the status quo - a dismal five percent inspection rate," Republican Sen. Norm Coleman said a year ago. "One hundred percent screening is a goal we should demand ... Port security must become one of our nation's top priorities, rather than an afterthought. Instead of security being a cost of doing business, it needs to become a way of doing business."

But in their Heritage Foundation analysis, "*How to Fix the 100 Hours Homeland Security Bill*," authors Carafano, Baker Spring, James Sherk, Brian W. Walsh, Lisa Curtis and Helle C. Dale wrote that the House provision for 100 percent cargo container inspections "is seriously flawed" and is "counter to the current national strategy, which deters terrorists from exploiting international trade by relying on counterterrorism and intelligence programs combined with risk assessments, random checks and inspection of suspicious high-risk cargo."

Carafano and his colleagues wrote that, "while terrorists could use a shipping container to smuggle a weapon of mass destruction or other dangerous items into the United States, this is only one of dozens of attack scenarios. Many experts argue that other threats are far more likely and dangerous. Over-investing in countering one possible tactic when terrorists could easily employ another is dangerously myopic."

The group pointedly states the House bill simply is "not a feasible solution for screening cargo. It is not clear that technologies for screening and sealing containers are affordable, effective and efficient. Even if they were, it is not clear that the data could be evaluated in a timely manner. For these reasons, Congress passed legislation in 2006 requiring further tests of the screening of shipping containers. Notably, the 9/11 Commission also recognized these limitations and did not recommend 100 percent screening of shipping containers."

Last November, CBP spokesman Mike Milne told the *Seattle Post-Intelligencer* that "tracking technologies are really a vital part of supply chain security in a post-9/11 environment. A lot of different companies are experimenting with technologies to put on containers ... with smart seals, from the manufacturer overseas all the way to the buyer here in the United States. It is not only good for the people in the industry, but certainly good for us to know that if something was sealed up at the factory, that it hasn't been tampered with by the time it comes in across the border for inspection."

Total Screening Will be Way Too Expensive

Still, the Heritage Foundation analysis states "there is no business case for conducting 100 percent screening of cargo. The bill expects the private sector, foreign countries and the US government to spend billions of dollars on these inspections even though they would likely be no more effective than current programs. It might cost over \$1 billion to screen just the 11 million containers that enter the United States every year. However, this figure may represent only a fraction of the total cost. There are no firm assessments of all the infrastructure and operating costs that might be incurred. Diverting energy and resources into mass screening is a poor strategy that would likely make Americans less safe, not more safe.

"While any one these concerns might be sufficient to scuttle the proposal, when taken together," Carafano and his colleagues believe, "they establish that the 100 percent inspection requirement simply makes no sense."

Maryland port spokesman Richard Scher said last week, "We are in favor for as high a percentage as practical, but the key is finding the right balance between effective and efficient trade and security, and that balance is critical so to not negatively impact the flow of commerce."

Scher said by the end of April, the Port of Baltimore expects to be screening 100 percent of its incoming containers for radiation or radioactive materials.

Mark Laria, port director for customs and border protection, Virginia Port Authority, says the authority spent \$22 million in security after 9/11, which includes scanning each container before it's trucked out.

"The Port Authority very aggressively installed radiation detection equipment. We do 100 percent screening here," Laria said.

Steve Pfister, the National Retail Federation's (NRF) senior vice president for government relations, said in a letter to Sen. Lieberman that "this provision is unnecessary, unworkable, a poor use of limited resources and would threaten serious harm to global commerce and the US economy."

An umbrella group representing major US importers and retailers, NRF has urged the Senate to adhere to the pilot program authorized in the SAFE Port Act.

"There is simply no need to revisit this issue. Rather than rushing through an ill-considered container scanning requirement, we need to let the provisions in the SAFE Port Act work," Pfister stated.

"Our hope is that Republicans hold the line," said Jonathan Gold, the Retail Industry Leaders Association's vice president for global supply chain policy.

The International Cargo Security Council (ICSC) also is opposed to the 100 percent screening of all inbound air and ship cargo that the House bill would require. An ICSC statement proclaimed "provisions in the House 9/11 Commission Recommendations Act of 2007 are not in the nation's interest."

"*Not in the f-in national interest of who?*" angrily reacted a veteran counterterrorism official HSToday.us frequently talks to. "Joe and Mary Suburbia, or big business? I guaran-goddamn-tee you if a nuke stashed in some cargo container ever goes off, Joe and Mary are going to want to know who allowed it to happen. And when they find out who opposed it, they aren't real likely to be waltzing down to the local business who said it was a bad idea to be buying their baby formula from. And they probably won't be real inclined to vote for their congressman and senator who agreed, either."

Christopher Koch, president of the World Shipping Council, which has been hard at work lobbying Democratic and Republican staff on the Senate Homeland Security and Governmental Affairs Committee and Senate Commerce Committee, said, "I just don't believe [Congress] is going to act in a way that is going to damage the American economy ... I cannot conceive of [the requirements in the House's bill ever] being signed into law."

But a former US ambassador to Canada, Paul Celluci, said in 2003 that "security trumps trade."

"Every container entering our country *needs* to be checked for weapons and other hazards," said Sen. Frank Lautenberg, a Democrat who is one of the biggest advocates for scanning all cargo before it gets to our shores.

So what about the opposition's position that the costs of total cargo screening are just too damned expensive?

Well, it may be too difficult – for the time being, anyway - to gauge the cost benefits. For instance, this month, Office of Management and Budget analysts did not incorporate the dollar value of an air cargo-screening program in their draft annual report on the costs and benefits of federal regulations because they said they're very hard to measure.

The Congressional Budget Office, though, has estimated the costs of H.R. 1 to be \$21 billion over five years — which translates into about half the entire homeland security budget for this year.

But that price tag is for *all* the provisions in the bill, not just cargo screening, although most of the new spending — \$13.1 billion, by CBO's calculations — would be for aviation security measures, which include the inspection of all cargo loaded onto passenger jets. To inspect all cargo containers inbound on ships would cost the federal government only \$32 million a year, assuming, as the bill envisions, that foreign ports picked up the cost of the screening devices -- \$1.5 billion over three years.

According to the Federal Bureau of Investigation, Department of Transportation's (DoT) Office of Transportation Security and the National Cargo Security Council (NCSC), cargo theft alone is estimated at upwards of \$10 billion annually. And "the majority of this theft occurred at cargo terminals and terminal transfer facilities," DoT said.

FIA International Research and NCSC stated in 2001 that organized-crime groups were involved in everything from the hijacking of computer products in California to cigarette smuggling in North Carolina, and that cargo thefts account for about \$25 billion in direct merchandise losses each year in the US.

Nevertheless, Margrit Wetzel, a spokeswoman for Germany's Social Democrat Party, said, "With the current technical opportunities, [100 percent cargo screening] is surely not feasible ... security is important, but, please, no one-sided approach to the disadvantage of our port and transport industries."

Wetzel said full screening would lead to congestion in European ports.

Meanwhile, the price tag of H.R. 1 set off a quarrel between House Homeland Security Committee Chairman Bennie Thompson and ranking member Peter King, who prior to his party's defeat in Congress had seemed to be in favor of increased homeland security measures across the board.

"This bill was rushed to the floor without the Democratic leadership giving us any indication of its massive cost - and now we know why," King declared, adding, "I think this \$21 billion estimate makes it clear that the bill actually contradicts 9/11 Commission recommendations, which called for a risk-based allocation of homeland security resources. Had we known this before the bill was brought to the floor, it would have been a different story."

"This nation deserves better than bargain basement security," Thompson responded. "Perhaps there would not be such sticker shock if the Congress and the Bush administration had addressed these security gaps identified by the bipartisan 9/11 Commission over three years ago."

Carafano is among those who believe total screening "is not cost effective. There is no business case for conducting 100 percent screening of cargo," he has written. "The bill expects the private sector and foreign countries, as well as the US government, to spend billions of dollars on these inspections, even though they would likely be no more effective than current programs. It might cost over \$1 billion just to screen the 11 million containers that head to the US every year. That number, however, might represent only a fraction of the cost. There are no firm assessments of all the infrastructure and operating costs that might be incurred. Diverting energy and resources into mass screening is a poor strategy that is likely to make Americans less - not more - safe.

"While any one these concerns might be sufficient to scuttle the proposal, taken together they argue that the requirement simply makes no sense," Carafano stated.

When the House passed its 9/11 legislation with Rep. Markey's provisions for 100 percent screening, Markey issued a little publicized "fact sheet" which stated, matter of factly, that scanning every container *can* be cost effective and will not "bring commerce to a halt."

According to port security expert and former Coast Guard officer Stephen Flynn, the Hong Kong screening project "is being carried out without impeding the operation of busy marine terminals [and] could be put in place in every major container port in the world at a cost of \$1.5 billion, or approximately \$15 per container."

The total cost of a 100 percent scanning system, including containers with effective tamper-proof seals, would likely reach about \$100 per container, Flynn contends.

Advocates contend that scanning can be accomplished at a reasonable cost, noting that the cost of a successful attack on a port or ports would be surpassingly astronomical. Markey said the documented reasonable costs of screening "is made even more insignificant when compared to the average \$66,000 value of the goods shipped in each container, and compared to the \$4,000 it costs to ship containers to the US from Asia. Moreover, the cost of a disruption of US port operations if a terrorist attack were successful could reach \$58 billion, according to an estimate prepared by Booz Allen Hamilton. The 10-day West Coast port lock-out that resulted from a longshoreman strike was estimated to have cost up to \$19 billion."

And "terrorists already have tried to exploit loopholes in port security," Markey said. "On March 14, 2004, two Palestinian suicide bombers were discovered at the Port of Ashdod in Israel, where they had been smuggled in a cargo container outfitted with a secret compartment and a cache of weapons. Although they were intercepted before they reached their intended targets - the port's fuel and chemical storage tanks - the terrorists killed themselves along with 10 Israelis. Italian authorities arrested a man trying to ship himself from Egypt to Canada inside a cargo container. It was equipped with a makeshift bed and enough food and water for the three-week journey. The stowaway was a trained airplane mechanic and he was carrying a laptop computer, a satellite phone, fake credit cards and an airport security pass."

To screen or not to screen is shaping up to be potentially one of the most contentious issues to be faced by the House and Senate conferees chosen for the unenviable mission of reconciling what each congressional body has voted they want. At this point, it's a crapshoot. If good legislation emerges, it'll probably comport with the old adage that good legislation is like good sausage, but you really don't want to see it being made.

The Case for and Against Screening All Air Cargo

The air cargo industry is expected to grow at an average of 5.3 percent between now and 2010 -- a period during which the industry finally is expected to "return to profit," said Giovanni Bisignani, director general of the International Air Transport Association. "This is good news," Bisignani said, "but a long way from the 7 to 8 percent return that the industry must generate to cover its cost of capital. Thus, it's "imperative" for the industry "to focus on efficiency," he said.

Consequently, the air cargo industry has a huge stake in whether the House-Senate conference committee makes good or bad sausage. It is not clear if any senators are going to push for the same cargo scanning requirements as are in the House bill.

"Most of the six billion pounds of cargo carried on passenger planes every year is loaded onboard without being scanned for liquid, plastic or conventional explosives," Markey complained. While passenger luggage is subject to stringent security checks, only a tiny percentage of commercial cargo is screened.

In October 2003, the Allied Pilots Association (APA) said, "The only solution to air cargo security is 100 percent inspection of all cargo on all commercial aircraft."

But "this type of requirement would grind the transportation of air cargo to a virtual halt, or it would also result in a situation where passenger carriers would be denied the ability to transport cargo and guarantees the final nail in the bankruptcy coffin of our ailing major airlines," declared Rep. John Mica in October 2004, when legislation was being debated to require all air cargo to be screened.

The air cargo industry and its supporters continue to argue this point.

The Air Transport Association (ATA) says total cargo screening will "undermine the viability of passenger air service, dramatically increase costs for air cargo shippers and jeopardize cargo services to many small communities." The ATA also believes that the "just-in-time inventory strategy that is indispensable to US industries would be thrown into disarray." The ATA instead champions "a multi-layered, risk-based approach to maintaining the security of air cargo" – one that identifies potentially risky shipments and applies layers of security at various points throughout the supply chain. The ATA believes that such measures would balance the need and desire for security in air cargo with the needs of the US economy.

"Once again, this argument was made and refuted when 100 percent screening of passengers' checked baggage was debated. Closing the cargo loophole is not a matter of money but a matter of priorities and a matter of will," Markey said. "After September 11th, we decided to require 100 percent screening of passenger baggage. At the time, opponents said it would cost too much and bring air travel to a grinding halt - making many of the same arguments that we've heard about 100 percent screening of cargo."

TSA and the Congressional Research Service have estimated that the cost of screening all cargo on passenger planes would be about \$360 million per year – "a reasonable sum," Markey said, "particularly given the costs associated with a successful terrorist attack and the risk of exploitation of this glaring loophole."

"Securing all cargo carried aboard commercial airlines is a very achievable goal. The technology exists right now to screen this cargo. These systems provide an accurate picture of 'what is in the box' and do not impede the flow of commerce," says Paul Onorato, Vice President of the Coalition of Airline Pilots Associations.

"If properly implemented into an airport flow of cargo, security can be improved with minimal impact to the flow of commerce," wrote Rick Mastronardi, a VP of American Science & Engineering, Inc., in support of total air cargo screening.

The Technology Also Doesn't Exist to Screen All Air Cargo

But "it's not technically feasible to screen 100 percent of air cargo at this time. The technology does not exist," TSA says.

"This is a red herring repeated over and over again despite facts to the contrary," Markey responded. "Three years ago, a representative from Boeing testified at a hearing held by the House Select Committee on Homeland Security. Boeing told the committee that the technology to screen 100 percent of cargo transported on passenger planes not only exists but is ready to be deployed.

"Specifically, in response to my question about the ability to screen all cargo loaded aboard passenger planes, the representative from Boeing told me:

'I certainly believe that the technology is available. There are a number of companies that have technology [for screening cargo]. As you may be aware, the systems deployed today are made by InVision and L3, but we are evaluating and working with the Transportation Security Administration, looking at some 30 other companies that are offering technology that not only meet the current standard but could potentially enhance it.'

In May 2005, one of these companies, Rapiscan, told Markey "the question of the availability of technology to inspect air cargo has already been answered. Included in our portfolio of systems is an air cargo inspection system that can inspect fully-loaded cargo containers."

Continuing, Markey said "numerous authorities also have stated that 100 percent screening is operationally impractical. This argument was also made during the debate over passenger baggage screening and was shown to be false. TSA estimates that about 40 percent of cargo carried on passenger planes is individual boxes, not pallets of boxes wrapped together. Much of this cargo could be scanned using the Explosive Detection System (EDS) machines currently used for checked baggage. Prior to the 9/11 terrorist attacks, passengers' checked bags were not physically screened; but after 9/11, we decided such screening was required to strengthen homeland security. We now screen 100 percent of passengers' checked baggage before it's loaded onboard - cargo placed on the very same passenger airline also should be physically inspected."

Flaws in Checking High-Risk Air Cargo

Government officials have said that existing risk-based systems that target high-risk shipments for additional screening is the best approach.

Markey says the Known Shipper program "is a dangerously flawed and easily exploitable program. In fact, in September 2003, an employee of a Known Shipper exploited the program to ship himself from New York to Texas!"

A year later, employees at an air cargo facility at Miami International Airport happened to discover a young woman hiding in a wooden crate shipped via DHL when they heard her muffled voice while off-loading the small filing cabinet-sized box she was in from a cargo jet from the Bahamas.

A year after that, GAO issued a report titled "*Federal Action Needed to Strengthen Domestic Air Cargo Security.*"

GAO reported TSA only had information on less than one-third of the estimated 1.5 million known shippers in business today.

In late 2005, TSA conceded it hadn't audited most of the known shippers in its database. Packages weighing less than 16 ounces are not subject to the Known Shipper program, despite the fact that the bomb that brought down Pan-Am Flight 103 contained less than 16 ounces of explosives.

That was two years ago. What about now? Well, last month, Cathleen A. Berrick, director of Homeland Security and Justice Issues at GAO, told the House Committee on Appropriations' Subcommittee on Homeland Security that "the federal government and the air cargo industry face several challenges that must be overcome to effectively implement technologies to inspect air cargo, such as ensuring that air cargo can be inspected in a timely manner to meet the delivery time frames of air carriers. GAO also found that more work is needed to fully implement a risk-based approach to securing air cargo, including finalizing a methodology and schedule for completing assessments of air cargo vulnerabilities and critical assets. TSA stated that the agency intends to perform a vulnerability assessment of US air cargo operations and activities, as recommended by GAO, and plans to complete this assessment in 2007."

Berrick said, "While TSA conducted a variety of compliance inspections to determine whether air carriers or indirect air carriers were complying with TSA security requirements and had begun to analyze the results of these inspections, it had not developed measures to assess the adequacy of air carrier compliance with air cargo security requirements or systematically assessed the results of its compliance inspections to target higher-risk air carriers or indirect air carriers for future reviews."

But more disturbing than that, and probably coming as a big shock to the flying public more than five years after the 9/11 attacks, GAO found TSA has made "limited progress ... in fielding explosives detection technology at *passenger screening checkpoints*."

"While TSA has begun to systematically plan for the optimal deployment of checked baggage screening systems and to identify funding and financing strategies for installing these systems, the agency has identified that, under current investment levels, installation of optimal checked baggage screening systems will not be completed until approximately 2024," Berrick said.

Berrick further informed the now drop-jawed lawmakers that "limited progress has been made in developing and deploying technologies due to planning and funding challenges."

For some of the legislators, Berrick's revelations weren't surprising – GAO has been repeating itself for several years.

In introducing his total air cargo screening provision to the House 9/11 bill, Markey stated that "the federal government has spent about \$3.5 billion since the September 11th attacks to purchase and install equipment to scan all checked bags. Some of this investment can be leveraged to screen cargo," Markey said. "Moreover, it makes no sense to invest billions to screen passengers' bags while the cargo in the very same cargo bay as these bags is not screened at all! The cargo screening provision calls for the same level of scrutiny for cargo on passenger planes as is applied to passengers' checked bags transported on the very same planes. The security screening fee that passengers pay on each airline ticket they buy - \$2.50 for a one-way ticket and \$5 per roundtrip - has been reinstated. This fee helps to cover the cost of screening passengers' checked bags. Passengers are willing to pay a small additional fee to improve security. Likewise, shippers should pay a modest screening fee to make sure that their cargo going on passenger planes is safe."

"It is pointless to require air passengers to wait in security lines if we then allow packages to go on flights with no inspection whatsoever," wrote Bob Masters, senior vice president of Manna Freight Systems Inc. in the *Minneapolis-St. Paul Business Journal* on Dec. 23, 2002. "Look, we're going to pretend to say there's security inspections in place, but is that security protection equal to the rigorous protections that people go through? No, not even close. First, you have to define a known shipper. By definition, that's somebody you've met, not somebody you've known. If [the company has an office] seven days from now, we can move their freight. I only have to verify that you are in fact a business and by doing a secondary verification by a credit report or checking the phone book."

"Air cargo is routinely inspected in several other nations and, given that the US is target number one, we can no longer afford to roll the dice," said Republican Rep. Christopher Shays two years ago when he and Markey authored legislation that would have required 100 percent air cargo screening. "I think we owe it to all families who have lost loved ones in acts of terrorism to make our airlines as safe as we can. If we cannot screen cargo, then passengers deserve to know their safety is being compromised."

"Our state of aviation security is incomplete without including mandatory cargo screening for passenger planes. No passenger can feel safe without knowing that all baggage and cargo has been screened for explosives and dangerous materials, just as each passenger and hand luggage must be screened before boarding," said Carrie Lemack on behalf of the Families of September 11. "In a time when we are constantly warned of looming threats against our safety, it would be negligent not to take the necessary precautions to make flying in our nation as safe as it can be."

In the end, Congress' next big legislative answer to plugging the post-9/11 gaps in ocean and air cargo security is likely to be a hodge-podge of compromises having a lot more to do with the profitability of shoring up these walls of security than it does with actually doing what's needed to ensure their structural integrity. And it will, as it often is, be compounded by a lack of consensus among the experts dirtied by political gerrymandering.