

**TESTIMONY OF LEAL SUNDET, COAST COMMITTEEMAN
LONGSHORE DIVISION OF THE
INTERNATIONAL LONGSHORE AND WAREHOUSE UNION
TO THE
HOUSE SUBCOMMITTEE ON HOMELAND SECURITY SUBCOMMITTEE ON
BORDER, MARITIME AND GLOBAL COUNTERTERRORISM**



April 26, 2007

Good morning Madam Chair and members of the Subcommittee:

We would like to thank you, Chairwoman Sanchez and members of the Subcommittee for inviting the International Longshore and Warehouse Union (ILWU) to present our views on the six month status of the Safe Ports Act.

As you know, the ILWU represents longshore workers in the states of Washington, Oregon, California, Hawaii and Alaska. As a Union, we have been very active in attempting to develop and implement a system of checks and balances so as to limit the risk of terrorism activity at our work site - **and to keep our ports from** being used as a conduit to move weapons of destruction. To that end, we have long advocated that the ILWU workforce should be utilized as the first line of defense against maritime terrorist activities, and recognized as a natural ally by law enforcement and other first responders.

In each of the states where we have presence, key union officers participate as members of the Area Maritime Security Committee. Our relationship with the Coast Guard has never been better and we applaud that agency for its cooperation with the ILWU and for performing its job admirably — often with limited resources.

The ILWU is actively participating with Lockheed Martin and its TWIC Stakeholder Communications Committee. We are fully committed to cooperating to ensure that all

west coast longshoremen enroll in the TWIC program and are confident that all incumbent longshoremen will be deemed risk free from a “terrorist” perspective.

That being the case, we must also say that such credentialing will have little impact on actually securing the ports or their use as conduits. The reality is that in a modern container facility, the longshore worker has no real access to the cargo, and the documentation associated with a container’s contents is not available to the worker. TWIC credentialing is, as a practical matter, mostly a feel good gesture promoted by those who do not completely understand modern container terminal operations as a way to diminish public and political hysteria while doing little to mitigate the real threat – container access outside of the terminal throughout the supply/transportation chain. Furthermore, it makes little sense to implement a TWIC credentialing system without having card readers in place given that the primary purpose of TWIC is to control access to secure areas.

Given the majority support in Congress for background checks and TWIC cards after 9/11, we focused on advocating that the background check be limited to “terrorism security risks” and to ensure that there is due process for workers denied a TWIC card. However, we remain concerned that TWIC will be used to single out workers who may have a felony background but do not pose a terrorism security risk. It is imperative that waivers be granted by TSA when a worker shows no propensity to commit terrorist acts. It is also imperative that the Coast Guard have the resources and personnel to guarantee there will be sufficient numbers of Administrative law judges to review cases when a worker is denied a TWIC card.

Furthermore, the ILWU was approached last year by the Coast Guard to request that we help them identify our members to run their names through the terrorist watch list. We cooperated with that request and apparently they have found no matches. They apparently did not check truck drivers or many other workers with access to our ports. That process of selecting checking longshore workers and ignoring other workers makes no sense from the standpoint of ensuring that our ports are secure.

TWIC Rollout:

In spite of the rationale for TWIC and its questionable effectiveness as a deterrent relative to security incidents, the ILWU leadership has committed its membership to cooperate. The membership knows, however, what the leadership knows. The TWIC credential is widely viewed as an unnecessary facade and in many members' views, fundamentally a privacy invasion.

The challenge for the Union leadership is to ensure that the membership fully cooperates. To that end, it is incumbent that enrollment centers be conveniently located so that the local union leadership is able to ensure the greatest participation by the affected and covered workers.

Charging workers a fee is counter productive to ensuring broad cooperation. We urge the Committee to reevaluate the fee and consider legislation obligating the employer to pay the fee if our government is unwilling to appropriate funds to pay the fee. In our case, attempts to negotiate with our employer group, Pacific Maritime Association to pay the fee have not been successful to date. For some workers at our nation's ports, the cost of the TWIC card is a day's pay. We would further state that the protection against terrorist activities in our nation's ports is a matter of national interest and the cost of this national security protection should be borne by the Federal government.

The plan to selectively implement the actual usage of the TWIC by the Coast Guard Captain of the Port **Z**one is potentially unworkable on the west coast, with the exception of Hawaii. Longshoremen in Oregon, Washington and California are essentially casual workers who obtain their work assignments daily from a series of dispatch halls. There is an

established travel system whereby workers regularly move between ports and across zones.

Facility Security Plans:

Because of the interchange of workers, West Coast terminals should have consistent procedures with respect to TWIC application and entry. In approving facility security plan modifications, the Coast Guard should do so with that in mind and not allow a given terminal to be more restrictive than the Federal rules or associated NAVIC may require.

Training and Exercises:

It has been our experience that, to date, there has been little cooperation by our employer group, Pacific Maritime Association, in utilizing the ILWU workforce as a cognitive partner in terminal awareness and reporting of unusual activity.

Anything that may have the potential for slowing commerce is ignored.

To date, longshoremen have not been trained, except where the Union has taken initiative to train its own members.

One immediate concern should have priority. The Act calls for training involving evacuation procedures and for live exercises. With some minor exceptions, the vast numbers of longshoremen have no idea, other than to run, on how to orderly evacuate facilities. Our employers resist live exercises because it may temporarily disrupt commerce and without live exercises, any plan can not be tested and assimilated.

A second concern is that there is no plan for recovery in the event of an incident that may disable a key terminal. Given the reality, that no matter what efforts are made, it is impossible to always stop what a sophisticated “terrorist” is intent on doing, focus should be on recovery. Currently, we are in discussions with our employer group to identify cadres of longshoremen who would volunteer to specialty train and make themselves available to work in potentially hazardous environments. To ensure that this concept works, there must be cooperation to include that union leadership is integrated into emergency command structures.

Pilot Program on Empty Containers:

This very important aspect of the Act needs to be implemented. Our port facilities face a significant threat involving multiple scenarios from the domestic side. So called empty containers are a real risk as a means to transport weapons or people. Today, most terminal operators allow empty containers to pass through the gates of our ports without a visual inspection of the box to ensure that it is safe.

On March 14, 2004, ten dock workers were killed in the Israeli Port of Ashdod by suicide bombers, who were able to enter the port facilities undetected by hiding inside a cargo container. I understand that the Israelis have excellent security at their port facilities but were unable to detect people in containers being transported through their port facility. We should not have to go through a tragic event that takes our members lives before we get serious about the cargo and empty containers that enter our port through the landside.

On a related issue concerning containers, the integrity and correctness of all seals on containers must be checked as they enter a port facility and then as they are placed in inventory on the docks to detect and deter any tampering as required by regulation 33 CFR 105.265 (b)(4) and 105.265

(c)(4); presently this is simply not being done at all at most port facilities; in fact, since September 11, many facility operators have discontinued their past practice of checking seals in order to save themselves a few dollars.

Safety Impacts of Non-Intrusive Imaging Technology:

The Act requires the National Institute for Occupational Safety and Health and OSHA to evaluate the environment and safety impacts of non-intrusive imaging technology and to develop and put in place a radiation risk reduction plan to minimize the risks to workers and the public. Such evaluation needs to proceed. I am alarmed at the lack of independent study of the long-term effects of this technology on the human body. The ILWU will place the safety of our members' lives first.

Customs Initiatives:

As stated earlier, much of the focus of port security has been on ways to physically secure the terminals and scrutinize the backgrounds of port/transportation workers. While this has some marginal value, the real threat lies in the relatively unknown content of the container and at the various and numerous points in the transportation chain where containers can be accessed.

Access to the contents of a container at a modern container terminal by a rogue worker is nearly impossible. Containers are infrequently opened and done so only after approval from multiple customer levels requiring several layers of terminal management intervention. A rogue worker or

group of rogue workers accessing a container would be noticed! It is an unusual event.

Yet even assuming that the shipper (foreign or domestic) is a secure source, the container can be easily accessed en route to the overseas or domestic terminal. It can be accessed on the vessel. Rail operators often sidetrack containers on desolate spurs for days without security.

The best use of scarce resources is in this area. Voluntary Customs initiatives do not work. They need to be mandatory. The concept of “pushing our borders out” needs to be better financed and adequate personnel needs to be utilized.

As with anything that we do, there are trade offs. The industry has been willing to accept a higher level of risk rather than implement security measures that might slow commerce in any way. To largely placate the public, resources that should be used to secure the supply/transportation chain outside and around the nation’s ports are instead used to isolate and barricade the nation’s ports and their workforce. Yes, we check for radiation occasionally. And yes, we x-ray some containers. But we only do so after the container has arrived and after the facility and facility workers may already have been exposed.

The members of the ILWU are proud of what they do for a living. We built the West Coast ports into a model of efficiency and competitiveness. ILWU members are patriots. They do not want anything to happen to their ports. They make a good living on trade and unencumbered commerce. As an institution, we have cooperated on Port Security since 9/11 and will continue to do so even though we believe that priorities and resources have been poorly allocated and often misdirected.

Thank you for listening. We believe there were some very good aspects of the SAFE PORT Act including training and exercises, an empty container pilot program, and a

radiation worker safety study. We hope that the Department of Homeland Security is prioritizing these aspects of port security. At the Chair's pleasure, I will try to answer any questions that you may have.

LAS:dg/O.P.E.I.U., Local 29 - AFL-CIO

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