



**Testimony of Mary Alexander
Chair
Joint Industry Group**

**Hearing on “SAFE Port Act: Status of
Implementation One Year Later”
House Committee on Homeland Security
Subcommittee on Border, Maritime, and Global
Counterterrorism
October 30, 2007**



Testimony of Mary Alexander
Chair
Joint Industry Group

Hearing on “SAFE Port Act: Status of Implementation One Year Later”
House Committee on Homeland Security
Subcommittee on Border, Maritime, and Global Counterterrorism
October 30, 2007

Introduction

Madame Chairwoman Sanchez, Ranking Member Souder and other members of the subcommittee, thank you for the opportunity to testify on the one-year anniversary and implementation of the SAFE Port Act. My name is Mary Alexander, and I serve as the chair of the Joint Industry Group (JIG). JIG is a broad coalition of Fortune 500 importers and exporters, shippers and carriers, customs brokers and forwarders, trade associations, service providers, and law firms with a common interest in global commerce. In fact, a number of our members – including Hewlett Packard, Intel and Panasonic Avionics – are headquartered in California.

JIG frequently engages Congress and the Administration on a variety of international trade-related issues, often focusing on issues involving port and border security and customs. In particular, we work closely with U.S. Customs and Border Protection (CBP), the Department of Homeland Security (DHS), the Department of Commerce (DOC), USTR, and Congress to promote international trade policies that reflect the needs of both government and the private sector to secure the supply chain while facilitating legitimate commerce.

While I am here to articulate JIG positions, I also am here to represent my own company, Panasonic Corporation of North America, headquartered in Secaucus, NJ and employing more than 6,000 workers in the U.S. The company sells consumer electronics, industrial products and professional equipment to the American consumer and is the American subsidiary of Matsushita Electric Industrial, headquartered in Osaka, Japan. Panasonic North America is the third largest electronics importer, bringing more than 20,000 containers into the U.S. annually. While worldwide the company has over 300 factories, Panasonic ships products from Matsushita factories in nine countries, with nearly 90 percent of imports coming from ports in Singapore, China, Malaysia, and Japan and to Seattle/Tacoma or LA/Long Beach on the west coast.

In my testimony today, I will provide the views of JIG members regarding the implementation of government programs to provide needed security to our nation’s seaports one year after the enactment of the SAFE Port Act. I will also offer real life examples of how government policies affect businesses like Panasonic, their supply chains, and their efforts to provide products to the consumer safely, quickly and at affordable prices.



In order to remain competitive in today's global economy, Panasonic and other U.S. businesses face constantly increasing pressure from our customers to deliver high-quality products faster and more affordably. Unfortunately, shipping a container of multiple products to numerous consignees is a complicated business, and any disruption to the supply chain can adversely impact the efficient business process. For example, Panasonic's supply chain cycle for the Blu-ray disc player is now only six weeks, from the time the order is placed and transmitted to the factory in Japan, to the time the players arrive at the Best Buy distribution centers. This includes an ocean transit time of two weeks and an inland transit time to our distribution center of nine days. Our Lumix cameras, which are shipped by air, have only a four-week supply chain. The timeliness of these supply chains remains critical to the success of our company. Any delays create hardship for our company and increase costs and wait times for retailers and consumers. It is imperative to the viability of Panasonic and other U.S. businesses to guarantee the smooth flow of products for delivery to our customers.

JIG strongly supports the multi-layered risk based approach to supply chain security that has been developed by DHS and strengthened by Congress through the SAFE Port Act and other initiatives. The programs that have been enacted will strengthen our nation's security once they are properly implemented. JIG is concerned, however, that just as the need to strengthen border security is critical, so is the need to safeguard the smooth flow of legitimate international commerce. As more security-focused programs are created, the business community faces increasing burdens in their operations that can add debilitating costs and delays to doing business.

JIG therefore urges Congress and DHS to remain engaged in dialogue with industry on security initiatives in order to develop programs that are truly effective and minimize disruptions to the supply chain. JIG also urges the U.S. Government to propose incentives for companies to encourage participation in these costly and extensive new security regimes.

These issues come to light through JIG's comments on the programs created or affected under the SAFE Port Act noted below:

Customs - Trade Partnership against Terrorism (C-TPAT)

C-TPAT represents the core of CBP's cargo security program. This is a true government and private sector partnership program, based on industry self-policing and self-assessment with verification by government. In sheer numbers, this voluntary program is working well, as evidenced by the more than 7,500 participants, including Panasonic, which was one of the first to join the program. Participants, who attest to the integrity of their security practices and communicate their security guidelines to their vendors and business partners, have been promised a number of benefits, including fewer inspections on their shipments and speedier processing through customs. Real strides have been made on both the certification and validation/revalidation front.



While the membership numbers of C-TPAT continue to climb, the benefits being offered to participants continue to be more elusive. Presently, one real benefit at land-border crossings is evident through the use of FAST lanes, but tangible benefits for ocean cargo, such as reduced inspections, are not readily apparent and are hard to verify. While the investment in C-TPAT membership is real and substantial, members of the trade community increasingly feel as though they made these investments for promises that have not been fulfilled. Even today, five years after the program's inception, C-TPAT participants continue to seek solid benefits in order to justify the numerous costs they incur as a result of the program.

CBP has recently published a C-TPAT Cost – Benefit Survey (Executive Summary included as Appendix A). Based on the reported results, less than one-third of the respondents replied that the benefits of C-TPAT equaled or exceeded the costs from the program. These numbers argue for more tangible benefits. Benefits cannot be just about score reductions, especially as trade and security requirements converge. Suggested new trade compliance benefits, particularly for C-TPAT Tier II and Tier III partners, could include:

- An annual security fee off-set refund based on the number of import shipments and/or
- An expanded use of account-based principles within the C-TPAT program, such as an option for Tier II & Tier III participants to pre-file account-based commercial data in the aggregate.

Finally, in a global economy, programs similar to C-TPAT need to be adopted and recognized among all countries, such as proposed in the World Customs Organization SAFE Framework. A central component of the Framework is mutual recognition among countries, and, in the near term, mutual recognition between the USA and significant trading partners is the key to the success of the SAFE Framework and C-TPAT. Without this, the benefit of remaining in C-TPAT is substantially reduced. We strongly encourage CBP and DHS to continue working with our trading partners to ensure that mutual recognition is accorded to those programs implemented under the SAFE Framework.

Secure Freight Initiative

The introduction of a 100 percent scanning pilot program at isolated locations within several foreign ports serves as an excellent opportunity to assess the viability of implementing the Secure Freight Initiative program unilaterally. Such testing at these ports should be completed before rolling out the program to other ports. This would help to address the biggest concern to JIG members, which is the possibility of delays in inspection and processing containers if the technology has not been sufficiently tested before being implemented. We recommend that Congress, in its oversight role, carefully review the report from DHS, due to this committee in April, on the results of the pilot program. JIG continues to believe that the DHS should implement a pilot program to test scanning technology and only deploy such technology more broadly when it is proven effective and practicable. In addition, Congress should be aware that some of our trading partners have expressed concern about the imposition of requirements such as 100 percent scanning of cargo exported to the U.S.



Advanced Trade Data (“10+2”) Initiative

The trade community has spent considerable time working with CBP on developing the requirements for the additional data elements required under Section 203 of the SAFE Port Act to improve CBP’s Automated Targeting System (ATS). While the trade was pleased to work with CBP on these requirements, we remain concerned about compliance issues, which could result in an extra two or three days of inventory to meet the reporting requirements. In addition, businesses continue to wait to make any adjustments or rewriting of their own data collection systems until DHS puts out the Notice of Proposed Rulemaking (NPRM) and completes an economic analysis.

Industry has provided input into the development of the NPRM through a “strawman” proposal that was released at the November 2006 CBP Trade Symposium. In addition, the trade continued to provide input through the Trade Support Network and the COAC. The NPRM will provide an additional opportunity for input from the trade and certainly will clarify the many questions and concerns already raised. Unfortunately, nearly a year later, we still are waiting for the release of the NPRM. In addition, a JIG letter of February 5, 2007 requested CBP, when it publishes its NPRM, to give the trade community sufficient time to prepare for the changes. At a COAC meeting in August, the trade community was assured it would be released soon. It is now the end of October and the NPRM still has not been released. We understand it takes time for rulemaking to make its way through the government, but we urge that this NPRM be expedited and released as quickly as possible.

Per the SAFE Port Act, we also understand that CBP is required to complete a cost/benefit analysis and feasibility study in connection with any additional advance trade data initiative. We are not aware that this report has been completed or has been discussed with the trade. It is important that this report be completed and shared with the trade as soon as possible, as the feasibility and value of “10+2” should be demonstrated before implementing this costly initiative.

It is frustrating that almost a year later we still have no guidance on how this program will be implemented or even what the phase-in period will be. I would like to underscore that the trade community wants to “do the right thing” regarding the intent of “10+2.” However, unlike the advanced manifest requirements which merely drew from pre-existing data, the “10+2” initiative will require shippers to develop a brand new process. Panasonic’s logistics company says it cannot even begin to redesign its own customs and logistics management system and make other IT changes, let alone alert the factories of additional demands that will be put on them, until it has seen the proposed regulations. All current processes must be reviewed and analyzed to determine how best to have this information supplied from overseas and how to transmit the information. Reprogramming of IT systems can be a long and difficult process and complete information needs to be given at least a year and a half in advance to make sure everything is tested properly. So we need information. We urge the Subcommittee to help move the NPRM process along.



Global Trade Exchange (GTX)

In August of this year, JIG sent a letter to DHS Deputy Secretary Michael Jackson that raised several concerns about the proposed Global Trade Exchange. We understand that DHS envisions this program as the third leg of the Secure Freight Initiative, along with CSI and the “10+2” initiative. JIG circulated this letter widely within DHS and to a number of other government departments. Since then, we have met with government representatives seeking more information, but JIG still has not received any further clarification on the program.

Our questions and concerns remain largely unchanged and include:

- What is the incentive to participate, especially when companies traditionally are extremely reluctant to share confidential information with outside parties?
- What will be the cost of providing data to the exchange?
- How will security and confidentiality concerns be addressed regarding access by third parties and foreign entities?
- What is the added security value beyond what is accomplished by other on-going and proposed security enhancement programs?
- Will redundant programs such as advance security filings be eliminated?

JIG has neither supported nor opposed this program to date, and that is simply because we have never received enough information to develop a position one way or the other. CBP has been responsive to the trade community throughout most of the development of its various trade security initiatives. As a result of these discussions, numerous adjustments have been made to the proposed programs. This is exactly the manner in which the trade community seeks to work with Congress and the government. Unfortunately, however, development of the GTX has thus far taken place behind closed doors. The trade community has been offered little or no real information, and this is creating widespread concern within our membership.

Container Security Devices

Much of the focus on improving maritime container security has centered on technology in the form of electronic container security devices (CSDs). Considerable improvement in these devices has taken place since emphasis was placed on their development in the post 9/11 trade environment. JIG supports the continued development and voluntary use of CSDs, although we believe the current state of this technology does not yet warrant widespread use.

General acceptance by the trade community will not be achieved until CSDs demonstrate improved performance in several key areas:

Effectiveness: CSDs must be able to consistently detect container breaches and communicate this data to responsible agencies in a timely fashion.



Reliability: The single greatest hurdle CSD technology must overcome is false alarms. Former CBP Commissioner Robert C. Bonner suggested a minimum one percent false alarm standard for electronic container security devices. Even assuming such a standard is achievable, universal usage would hold the potential for false alarms in excess of 100,000 annually. Excessive false alarm rates will undermine confidence in CSDs and lead to costly delays to resolve anomalies. Compliance with minimum false alarm standards must be certified through independent testing by government approved laboratories.

Cost: CSDs must be affordable in order to be commercially viable. Costs range from a few dollars for a simple RFID device to hundreds and even thousands of dollars for sophisticated devices with multiple sensors and GPS, cellular and satellite communications capabilities. Expensive devices add to the cost of business and are thus a competitive disincentive. Incentives need to exist for industry to incur this expense, over the current use of cheaper but still ISO-approved bolt seals.

Response Protocols: Technology aside, there remains a significant need to develop standardized response protocols on how alarms are managed and responded to. Currently, when a CSD registers a container breach, who receives the data generated by the device, and even more importantly, who is responsible for resolving the alarm? Is it CBP, the port authority, the terminal operator, the carrier, the shipper, or the importer? If the CSD alarms overseas, is it the foreign customs administration that must respond? Such procedures are not yet in place for breach alarms generated by CSDs. Since there is no agreement as to who is responsible for resolving container breach alerts, such data now typically goes only to the shipper or the consignee. This may be useful for theft and pilferage analysis, but has no value for national security purposes.

International Customs Treatment of CSDs: The customs agencies of numerous countries have attempted to assess duties and tariffs on devices as they enter or leave the national customs territory. CSDs must be treated as instruments of international trade in language similar to that provided in the UN Convention on Containers. Appropriate HTS classifications must be established through the World Customs Organization and duty-free treatment assured by the World Trade Organization.

To summarize, electronic container security devices hold potential for enhancing the security of our maritime supply chains. To realize this potential, however, much work remains to increase their effectiveness and reliability, provide them at an affordable cost, and develop standardized response protocols to deal with the alarms they generate.

Conclusion

Since 9/11, several government programs have been developed to lower supply chain security risk, including C-TPAT, CSI, Secure Freight, etc. Roughly 30 homeland security programs in the U.S. have been identified to which businesses are asked to comply. JIG members need assurance from federal agencies and Congress that the numerous security-related



programs already in place, especially the older programs, are necessary, not duplicative, and remain essential to protecting our country from terrorism.

JIG and its members appreciate the openness and availability of CBP and DHS staff to consult with the trade on efforts to secure our nation's seaports. We are fully supportive of the DHS mandate. However, the lack of real information on proposed new federal security programs, the growing concern that increased costs far outweigh promised benefits from participating in these security programs, the growing skepticism that the panoply of supply chain security programs are all necessary, the added program costs and delays that affect the bottom line of American companies, and the concerns expressed by our trading partners, all need to be more seriously considered. Given these issues, the help of Congress to seek answers to these questions, through public hearings like today's, is greatly appreciated. Madame Chairwoman, on behalf of JIG, thank you for your help and support, and thank you again for the opportunity to present our comments to this subcommittee. I will be happy to answer any questions from you or anyone else on the subcommittee.



Appendix A:

Executive Summary of C-TPAT Partners Cost-Benefit Survey Prepared by the University of Virginia for U.S. Customs and Border Protection

II Executive Summary

C-TPAT Survey

- Of the 6,000 C-TPAT certified companies that were sent an invitation to participate in the survey, a total of 1,756 completed the survey (29.3%). Of the 1,756 responses received, 54.3% were received from importers, 20.6% from carriers, 17.8 % from service providers, and 7.3% from foreign manufacturers. The percentage of responses received by enrollment sector closely mirrors the size of each enrollment sector relative to total program membership

- The Center for Survey Research (CSR) at the University of Virginia conducted the 2007 C-TPAT Benefit Cost Survey from January to April 2007.

C-TPAT Partners Profile

- Nearly three-quarters of these businesses are privately owned (74.0%), while another quarter are publicly owned (24.0%). The participating companies have been C-TPAT certified for 2.6 years on average.

- Six out of ten (62.1%) companies that participated in the C-TPAT survey indicated that their company's headquarters were located in the United States. The remaining companies reported that their headquarters were located in Canada (25.0%), in Mexico (3.2%), or in other countries (9.7%).

- Of the 953 importers who responded to the survey, 64% have been validated. Of the validated importers, 21.7% were classified as Tier 3, receiving the maximum level of benefits provided under the program.

Prior to joining C-TPAT

- Prior to joining C-TPAT, survey respondents in more than half (54.8%) of the businesses surveyed did not know about the protection programs or initiatives their companies have put in place. In addition, nearly half of the businesses (46.6%) did not have a formal system in place for assessing and managing supply risk.

- Slightly more than one-third (35.7%) of businesses had a formal system in place for assessing and managing supply chain risk. Furthermore, about 4 out of 10 businesses had no formal supply chain continuity and contingency plans.

- However, because of their participation in previous Customs and Border Protection programs, or due to their company's risk management processes, half (50.3%) of the businesses had implemented most or nearly all the C-TPAT program criteria prior to applying for membership.

Motivations for Joining C-TPAT

- For all businesses, "reducing the time and cost of getting cargo released by CBP" is the most important potential benefit, followed by "reduced time and cost in CBP secondary cargo inspection lines." Of all the potential benefits presented to businesses, "reducing insurance rates" was the lowest rated item.

- According to Importers, the most important motivation for them to join C-TPAT is to "to reduce the disruptions to the supply chain". For non-importers, 62% indicated that their principle reason for joining the program was that their business partners required them to be C-TPAT certified.

Potential C-TPAT Implementation and Maintenance Costs

- Of all the potential C-TPAT implementation costs, "improving or implementing physical security costs (doors, windows, electronic access, cameras, fences, gates, lighting, etc.)" received the most mentions. It was also the highest among all the potential implementation costs with an average of \$38,471.

- Of all the maintenance cost items, "maintaining physical security" and "maintaining in-house education, training, and awareness" received the most mentions by all the businesses.



- With respect to the average amount of money spent, “maintaining the use of security personnel” (\$40,441) and “salaries and expenses of personnel” (\$28,454) were the highest costs to maintain the C-TPAT program.
- The results of the survey also indicated that the ease of implementing the C-TPAT program criteria was found across all business types. Overall, 59.3% of Importers, 59.1% of Carriers, 62.0% of service providers, and 59.2% of manufacturers found that it was somewhat or very easy to implement the C-TPAT program criteria.
- During the last full year before they joined C-TPAT, Importers’ total annual expenditures on supply chain security averaged an amount of \$35,006. The estimated annual expenditures on supply chain averaged \$66,353 in 2005 and were projected to be \$77,997 and \$69,905 in 2006 and 2007.
- For Non-Importers, total annual expenditures on supply chain security follow a similar pattern as that of Importers, with the total annual expenditures on supply chain security averaging \$57,406 prior to joining C-TPAT. However, the 2007 projected expenditures (\$100,025) were higher than the 2006 projected expenditures (\$61,964).

Benefits of C-TPAT Participation

- Almost one-third (32.6%) of businesses said that the benefits outweighed the costs, while nearly one-quarter (24.2%) of businesses said that the C-TPAT benefits and the affiliated costs were about the same.
- For all businesses, the major impacts of their CTPAT participation have been in the field of workforce security, time to release cargo by CBP, time in CBP inspection lines, and predictability in moving goods.
- More than one third (35.4%) of Importers reported that their participation in C-TPAT has decreased their number of U.S. Customs and Border Protection (CBP) inspections. In a follow-up question, these importers indicated that their number of CBP inspections decreased by more than half (51.7%).
- Importers that have been C-TPAT certified for a period of more than 3 years were more likely

to say that their number of inspections have decreased (42.8%) because of the C-TPAT participation than were those Importers which have been C-TPAT certified for a period of 2 to 3 years (33.8%) or less than 2 years (27.1%).

- Importers said that their participation in C-TPAT has increased their supply chain visibility and nearly one quarter (24.3%) indicated that their participation in C-TPAT has increased their ability to predict lead-time. Nearly 3 out of 10 Importers (28.9%) reported that their participation in C-TPAT has decreased the disruptions in their supply chain.
- Of highway carriers, 41.5% reported that their participation in C-TPAT has decreased their wait times at the borders, while 44.4% said their wait times at the borders have stayed the same.
- More than two-thirds (68.7%) of non-Importers said that their number of customers has stayed the same, while 17.0% have reported that their participation in C-TPAT has increased their number of customers. About the same proportion of non-Importers (17.4%) also indicated their participation in C-TPAT has increased their sales revenues.
- Overall, since becoming C-TPAT certified, non-Importers who reported an increase in customers have gained 35.2% new customers. Non-Importers who reported an increase in sales indicated that their company’s sales have increased by 24.1%.

C-TPAT Impact on Risk Management

- The vast majority (81.3%) of businesses that had a formal system in place for assessing and managing supply risk agreed or somewhat agreed that their businesses’ ability to assess and manage supply risk has been strengthened as a result of joining C-TPAT.
- Three quarters (75.2%) of businesses that had formal supply continuity and contingency plans before joining C-TPAT reported that their supply continuity and contingency plans have been strengthened as a result of joining C-TPAT.

C-TPAT Supply Chain Security Conferences

- Nearly thirty percent of businesses (29.3%) said they have participated in Supply Chain Security conferences. The vast majority of the



conferences' participants (98.4%) reported that the conferences were valuable, with 37.2 percent rating them as extremely valuable and 42.2 percent rating them as valuable. About half (50.2%) of the businesses would like to have these C-TPAT Supply Chain Security conferences presented once a year.

- Nine out of ten (92.6%) businesses have contacted the C-TPAT program personnel and 81.5% of these businesses said that they have not experienced difficulties in obtaining responses to their questions or concerns. In addition, 83.8% of these businesses indicated that C-TPAT responses to their questions or concerns were provided in a timely fashion.

- Businesses also had a positive evaluation of their Supply Chain Security Specialist (SCSS). An overwhelming majority (98.3%) of businesses reported that their Supply Chain Security Specialist was very knowledgeable (54.1%), knowledgeable (34.4%), or somewhat knowledgeable (9.8%). Interestingly, this appreciation of the knowledge of the Supply Chain Security Specialist was across all businesses regardless of their type, size, or the number of years they have been C-TPAT certified.

Overall C-TPAT Evaluation

- More than half (56.8%) of businesses indicated that C-TPAT benefits outweighed the costs (32.6%) or the benefits and the costs were about the same (24.2%). Slightly more than one quarter (26.4%) reported that it was too early to compare the benefits and the costs.

- While more than one-third (38.4%) of businesses indicated that their management was concerned about the potential impact on cost when their companies were considering joining C-TPAT, the vast majority of businesses indicated they have never considered leaving the C-TPAT program (91.5%) and that they would definitely (78.1%) or probably (18.1%) stay in the program.