

Marine Cargo Handling Security

Effective Regulations for the Private Sector

Presentation to

U.S. Coast Guard

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Summary of Principles

1. We want to work with the government
2. Governments perform government functions
3. Private control ends at the line . . .
fence, shore & water
4. Entire cargo facility must be secure
5. One set of port security rules

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Principle 1

- We want to find ways to work with the government to enhance port security
- We want to reach a common agreement on responsibility
- We are making substantial capital investments & financial commitments for security

Common Ground

- Support TWICs—sooner, not later
- Support cargo chain security—sooner, not later
- We support clear, explicit and objective requirements

Private Sector Responsibility

- Establish & monitor secure physical perimeter
- Monitor people & containers entering, on & exiting facility (domain awareness)
- Report incidents

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Principle 2

- Governments must perform government functions
- Government functions (especially law enforcement) are non-delegable . . . cannot compel private sector to assume responsibility

Government Responsibilities

- Protecting the borders
 - Land, water & air
- Controlling immigration
- Cargo interdiction

Why Government is Responsible

- Law enforcement activities
 - Searches, seizures, arrests and investigations
- Governments meet force with force
 - Armed individuals
 - Explosives
 - Nuclear, biologic & chemical (NBC) agents
 - Trucks, vessels and/or aircraft
- Classified information
- Sovereign immunity

Liability

PRIVATE

- Liability (tort & commercial)
- Uninsurable risks

PUBLIC

- Sovereign immunity
- Tax/Bonding authority

Two Specific Government Responsibilities

- Searching cargo
- Searching trucks & chassis

Searching Cargo

- Cargo interdiction is a government responsibility
- Private sector cannot search cargo
 - Opening containers destroys security system
 - Compromise investigations
- Private sector can
 - Report any suspicions (domain awareness)
 - Support government efforts

Searching Truck & Chassis

- Searching trucks & chassis is a government responsibility
- Private sector cannot search trucks and chassis for bombs and other threats
- Private sector can
 - Confirm driver identity (TWICs)
 - Report any suspicions (domain awareness)
 - Support government efforts

Who is Responsible?

PRIVATE

- Landside barriers
- Technology
 - Monitoring equipment
 - Alarms
 - Computer systems
- Lighting
- Recordkeeping

PUBLIC

- Air patrols
- Shoreline patrols
- Divers
- Armed presence
- Bomb squad
- NBC expertise

Cargo & People Threats

PRIVATE

- Monitor/domain awareness
- Verify
- Ask individual to leave
- Pull cargo for gov't inspection
- Notify authorities
- Evacuate facilities

PUBLIC

- Search
- Seize
- Arrest
- Investigate
- Force response
- Contain & manage crisis

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Principle 3

- Our influence & control ends at the “line”
 - Fence line
 - Shoreline
 - Waterline
 - Airspace
- Responsibility must end where influence & control ends

No Control Over

- ICBMs
- Aircraft
- 3rd party vessels in navigable waters
- Petrochemical, nuclear & other types of neighboring facilities
- Outside rail lines & roads
- People & entities outside facility

Assessment/Plan

Vessel/Facility Plan

- Focus on internal threats, not involving force
- All other—response is to call government

Port Plan

- Outside threats
- Threats involving force
- Law enforcement activities

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Principle 4

- The government must require a single secure perimeter for a marine cargo handling facility
- For container facilities . . . all containers must be within the secure perimeter
- The line sets the limits of our security responsibility

Segregating Known Hazmat

- “Universal precautions”—known Hazmat may not be the risk
- Creates an attractive target (security through disbursement)
- Violates Hazmat laws and laws of physical chemistry

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Principle 5

- There can only be one set of port security rules . . . federal
- Federal preemption must be explicit in the regulations
- Additional state & local requirements will
 - Create confusion
 - Divert private & federal resources

State & Local Role

- Should participate in the federal process, but not create their own, parallel process
- Address their concerns by providing input into port security assessments & plans

Federal Preemption

- Explicit regulatory preemption for
 - Security Assessment & Plan
 - Who can be on a port facility
 - What can be on a port facility
 - When & how to gain access to a port facility
 - Container security (when finalized)

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Questions/Comments?

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