

**100% AIR CARGO SCREENING:
CAN WE SECURE AMERICA'S SKIES?**

HEARING
BEFORE THE
SUBCOMMITTEE ON TRANSPORTATION
SECURITY
AND INFRASTRUCTURE PROTECTION
OF THE
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100 PERCENT AIR CARGO SCREENING: CAN WE SECURE AMERICA'S SKIES?

Wednesday, March 18, 2009

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
SUBCOMMITTEE ON TRANSPORTATION SECURITY AND
INFRASTRUCTURE PROTECTION,
Washington, DC.

The subcommittee met, pursuant to call, at 2:10 p.m., in Room 311, Cannon House Office Building, Hon. Sheila Jackson Lee [Chairwoman of the subcommittee] presiding.

Present: Representatives Jackson Lee, DeFazio, Luján, Cleaver, Massa, Thompson (ex-officio), and Dent.

Also present: Representative Markey.

Ms. JACKSON LEE. The subcommittee will come to order, and I thank you for your indulgence.

It is interesting that this happens to be a full calendar day. A number of committees are meeting, which include committees that I participate in; and it seems like it is timely because we are listening to testimony of Mr. Liddy in one committee and discussing legislation regarding no more greed. You would wonder why this is a timely hearing because all of them are operating with the, if you will, somewhat shock of the Congress that laws that we have passed or that statements that we have made have not been, if you will, adhered to.

We now are in a hearing where instructions have been given by this full committee and subcommittee on the issue of cargo screening; and it has come to our attention that the full impact, full action on our instructions have not been pursued. It raises an issue of security to the crisis level of great concern. So this hearing is about fixing it, about the instructive oversight that we should have on these issues and about fixing it; and this subcommittee intends to work diligently to do so.

Also, we will look forward to our hearings in the future being on a Tuesday, which will help all of us in terms of the schedule. So I thank all of you for your indulgence.

I am delighted to acknowledge the presence of the Ranking Member, Mr. Dent; the presence of the full committee Chairman, Mr. Thompson; Members of the subcommittee, Mr. DeFazio, Mr. Luján, and Mr. Cleaver—we thank you for your presence—and our guest, a former Member of the Homeland Security Committee and this subcommittee, Mr. Markey.

The subcommittee is meeting today to receive testimony on “100 Percent Air Cargo Screening: Can We Secure America’s Skies?”

Our witnesses today will testify about TSA and industry's progress and challenges to meet the 9/11 Act requirement to screen 100 percent of all passenger plane cargo by August, 2010.

Before I begin my opening statement, I would like to welcome the gentleman from Massachusetts, a former Member of the subcommittee and a champion of cargo security, Mr. Markey. Without objection, it will be our privilege to authorize Mr. Markey to sit on the dais, provide an opening statement and question our witnesses during the hearing today.

Mr. DENT. Madam Chair, I have no objections. I just wanted to ask the Chair's consideration should a Member of the minority party wish to make an address to this committee or a 5-minute opening, I would hope that you would receive that request favorably.

Ms. JACKSON LEE. Hearing no objection, so ordered.

Today, this subcommittee will continue its commitment to robust oversight of one of the most important issues addressed by Congress in the 9/11 Act, the screening of cargo on commercial passenger aircraft. This is my second hearing on this issue as Chairwoman of the subcommittee which has jurisdiction over aviation security, and we will continue to monitor TSA's progress in screening cargo during the 111th Congress.

I look forward to engaging with my colleagues on the subcommittee and learning from our witnesses about how TSA and industry are working together to achieve the cargo screening mandate. This mandate is a critical step toward securing aviation. Might I add, as I started out, it is important when Congress issues mandates to note that they are for the betterment of the American people; and we will work diligently to comply.

The subcommittee is determined to work with the new administration and conduct thoughtful oversight to make sure we can move forward and complete implementation of this essential element of the 9/11 Act.

The logic is clear. If we screen passengers and their checked baggage, we must screen the other cargo on-board the same aircraft. It is my intent to view a number of airports and to really see in action whether or not we are utilizing officers or, in fact, at these major airports, what are we doing to comply with the 100 percent screening.

Section 1602 of the 9/11 Act established two deadlines: the first required screening of 50 percent of cargo on passenger planes by February 3, 2009—already passed—the second requires 100 percent screening by August 3, 2010.

The February deadline has passed, as I indicated. Aside from receiving an e-mail from TSA stating that it had begun to enforce the 50 percent screening requirement on air carriers, this subcommittee has not received any further, more detailed confirmation that this requirement is being satisfied. Today, we are more than a month past the deadline; and I was concerned when I read GAO's testimony which states that TSA cannot verify that screening is being done at the mandated 50 percent level.

Now, let me at least say to the two witnesses here, this is not an attempt to excoriate either one of you. We hope you will present us with very forthright testimony. It is an attempt to express,

again, the word of the day, “outrage.” It fits quite squarely with actions of financial markets and what is happening here in this security area. Which means that the word “verify”—just as there could be no explanation of Saturday night bonuses given out, there seems to be no explanation. You cannot “verify.” That is the word for me.

This is not to say that TSA has not been working with industry stakeholders to fulfill the Section 1602 requirements. I know it has made progress in this endeavor, but the question remains can TSA positively verify that 50 percent of cargo on passenger planes are being screened and can this be formally reported to Congress? That is our large question here today.

Still, the most important thing is to achieve 100 percent screening by August, 2010, and we therefore need to be able to verify the 50 percent so that we can move forward to fulfill the 100 percent by August, 2010.

This afternoon, we will also examine whether TSA is on track again to meet the 2010 deadline. The scope of this hearing includes reviewing the programs and regulations that have been put in place in its efforts to achieve 100 percent screening by TSA on cargo screening on passenger aircraft, exploring TSA compliance and verification standards for ensuring that screening is taking place, and evaluating DHS progress in certifying new and effective screening technologies.

In addition, we want to know whether TSA has adequate resources and personnel to accomplish this mission. We want to know what kind of oversight and initiatives or new legislative action needed are to be taken by this subcommittee to draw upon the seriousness of our mission along with the full committee.

As we review TSA’s efforts to meet the screening deadlines, we also want to review the impact this is having on our industry partners, including air carriers, freight forwarders, and manufacturers who must make significant investments who have the greatest stake in an effective and efficient implementation process.

The importance of achieving 100 percent cargo screening cannot be understated. As such, and based on what we will learn here today, I will be asking GAO to conduct a follow-up assessment for the subcommittee to keep us informed about how the implementation process is progressing and alert us to any new hurdles that may arrive. I hope that the Ranking Member, Mr. Dent, will join me in making this request so we can proceed in a bipartisan manner.

I would like to thank our witnesses for coming today and presenting to us what I hope will be helpful in shedding light on this critical endeavor. I know that much work has been done, but there is still a lot more to be accomplished in order to achieve 100 percent screening by next summer.

We are always reminded that we have not had a terrorist act on our soil since 2001. One, it gives us comfort, but then it gives those who believe that we focus too much on security and the securing of our homeland or that we shouldn’t worry about it or why are you getting so excited, it gives them, I guess, the extra fodder for their belief.

But I am always mindful of our good Boy Scouts, and that is to make your camp better than you found it and to be prepared. We

are not prepared. If we cannot verify 50 percent, then we are certainly not prepared; and any moment a small package of any kind sent by anyone who endeavors to do this Nation harm can again create the atmosphere for a terrorist act on our soil.

It is well-known from hearings that we have had that we have decentralized terrorism. They can be found anywhere. So I am delighted that we have the opportunity to show that we mean business. All of the witnesses today are experienced, knowledgeable veterans of the aviation industry; and I look forward to hearing from all of you and working with you to make our skies secure.

I would like to enter into the record two statements, the first is by the Express Delivery and Logistics Association and the second is from the Air Cargo Security Alliance.

Is there any objection?

Hearing no objection, so ordered.

[The information follows:]

STATEMENT FOR THE RECORD SUBMITTED BY JOHN COSTANZO, PRESIDENT, EXPRESS DELIVERY AND LOGISTICS ASSOCIATION (XLA)

The Express Delivery and Logistics Association (XLA) understands that the Air Cargo Security Alliance is a coalition that was started to combat the 100% screening mandate. The alliance was established with the singular intent of charging the Transportation Security Administration and the Department of Homeland Security with screening at the airports much in the way that they have taken over passenger screening. In order to cover the resources required by TSA and DHS, the alliance is proposing to add a \$0.05 surcharge per pound on cargo to be borne by customers of Indirect Air Carriers.

Following discussions with our Government Affairs Committee and the security subcommittee as well as XLA members at large, the XLA Board of Directors has taken a position not to support or join the ACSA initiative. XLA will continue to endorse Certified Cargo Security Program (CCSP) and TSA's current implementation plan that is well underway. Our membership has embraced CCSP with many members certified or in the process of being certified, some with considerable investments in the project. Consequently we have recommended to our members that, should they be approached, they not lend their name or any other form of support to this effort.

STATEMENT FOR THE RECORD SUBMITTED BY MICHAEL WHATLEY, AIR CARGO SECURITY ALLIANCE

MARCH 18, 2009

INTRODUCTION

The Air Cargo Security Alliance would like to thank Chairwoman Jackson Lee, Ranking Member Dent and the other Members of the Subcommittee on Transportation Security and Infrastructure Protection for the opportunity to submit testimony for today's hearing.

Today's hearing topic—whether we can secure America's skies with a 100% air cargo screening mandate—is timely and critical to both our national security and the air cargo industry. My testimony focuses on TSA implementation of the 100% screening mandate and its impact on the thousands of small and mid-size freight forwarders whose very existence depends on reliable access to passenger aircraft for shipping cargo.

The Air Cargo Security Alliance (ACSA) is an alliance of over 225 indirect air carriers, direct shippers, airlines, airport authorities, customs brokers, and affiliated businesses Nation-wide that represent every part of the air cargo industry. Formed in 2008, ACSA is dedicated to developing and implementing an air cargo screening program that will meet our homeland security needs and allow all members of the air cargo industry to continue providing world-class service to their customers.

ACSA's mission is ensure a level playing field for the entire air cargo industry through the development of a multi-layered air cargo screening program that relies on two very important components: First, voluntary screening by members of the

air cargo industry and, second, a robust Federal screening program physically located at America's airports. Any program that fails to include both of these elements will create economic and logistical obstacles to effective screening and fair competition.

BACKGROUND

The air cargo industry is made up of over 4,200 registered indirect air carriers (IACs), which operate at over 10,000 separate facilities and utilize over 450 airports Nation-wide, as well as dozens of airlines which carry air cargo and millions of companies that rely on IACs (also known as freight forwarders) to move their goods through the air cargo supply chain. The volume of cargo that is shipped via commercial airplanes is immense—more than 50,000 tons a day, with over 12 million pounds moving on commercial passenger planes daily.

Air cargo can range from very small packages to loads that weigh several tons. On any typical day the cargo shipped on passenger planes will include anything from perishable foods and flowers to machinery and equipment. The cargo can be shipped in numerous forms including individually wrapped packages, wooden crates, assembled pallets, and large containers called unit-loading devices.

The companies that make up the air cargo industry are as diverse as the freight that they move. Obviously, there are several very large companies such as integrators, which own their own planes, trucks, and warehouses (such as FedEx, UPS, and DHL). However, the vast majority of the companies that make up the industry are small companies that do not own or operate aircraft, own limited (or no) warehouse space and contract with trucking companies for their trucking needs rather than own fleets of trucks.

Typically, when a small or mid-size IAC gets an order to move cargo from one city to another on a specific, time-sensitive schedule, the company will make arrangements with a commercial air carrier to transport the cargo and contract with a trucking company to deliver the cargo from its origination point to the airport for loading on the passenger plane. They will also contract with another company to pick the freight up at the airport following the flight and deliver it to its final destination. At no point during this transaction does the cargo go to a warehouse or central clearing station owned or operated by the IAC.

The consequences of the 100% air cargo screening mandate apply equally to every participant in the air cargo industry; from the shipper, trucker, and IAC to the airline and the ultimate consignee. It is vitally important to the existence of all of these companies that the mandate be implemented in a manner that takes into consideration their unique needs and business model.

9/11 ACT AND BUSH ADMINISTRATION RESPONSE

The Transportation Security Administration (TSA) is responsible for securing the air cargo transportation system without unduly impeding the flow of commerce.¹ In order to carry out this mission, TSA is responsible for establishing security requirements governing all domestic-originating flights (whether on domestic or foreign passenger air carriers) that transport cargo, overseeing the implementation of air cargo security requirements by air carriers and freight forwarders, and conducting research and development of air cargo security technologies.²

In order to meet these security requirements, TSA developed a multilayered, risk-based system that requires airlines to screen a percentage of cargo transported on passenger aircraft, requires IACS to screen (or provide to TSA for screening) all cargo that meets certain high-risk criteria and includes TSA screening of all cargo at Category II–IV airports.

Pursuant to the language enacted in the Implementing Recommendations of the 9/11 Commission Act of 2007 (“the 9/11 Act”), TSA is also required to establish a system to screen 100 percent of air cargo transported on domestically originated passenger aircraft.

Section 1602 of the 9/11 Act requires this system to provide a level of security commensurate with the level of security for the screening of passenger checked baggage, requires that 50% of all cargo be screened by February 2009, and require 100% of all cargo be screened by August 2010. The 9/11 Act also provides TSA with the authority to develop additional methods to ensure that cargo does not pose a

¹Transportation Security Administration, Air Cargo Strategic Plan, November 2003.

²GAO, *Transportation Security Administration May Face Resource and Other Challenges in Developing a System to Screen All Cargo Transported on Private Planes*, Testimony before the Subcommittee on Transportation Security and Infrastructure Protection, July 2008.

threat to transportation security—including the development of a program to certify the security methods used by shippers.

The 9/11 Act defines the term “screening” to mean “a physical examination or non-intrusive method of assessing whether cargo poses a threat to transportation security.” Examples of such methods include X-ray systems, EDS, ETD, explosives detection canine teams, and a physical search with manifest verification.

The costs of meeting the 100% screening mandate will be significant—in a 2007 study, the Center for American Progress estimated the total costs of screening 100% of the cargo tendered on passenger planes will be at least \$600 million annually.³

In response to the enactment of the screening requirements set forth in the 9/11 Act, the Bush administration announced that TSA would not conduct any screening of air cargo, but would instead develop a two-pronged approach that will rely on screening by air carriers and the development of the Certified Cargo Screening Program (CCSP).

The CCSP is designed to allow the screening of air cargo to take place at various points throughout the air cargo supply chain. Participants in the CCSP, including freight forwarders, direct shippers, manufacturing facilities, and perishable shippers, will be designated at Certified Cargo Screening Facilities (CCSFs) upon meeting security requirements established by TSA. In order to prove the validity of the CCSP approach, TSA has initiated a pilot program, in which TSA has purchased screening equipment for a limited number of large IACs in 18 major cities.

In addition to the development of the CCSP, TSA implemented regulations which require 100% of all cargo transported on narrow-bodied planes (airplanes that have only one aisle) to be screened. Due to the fact that the CCSP has not yet been fully implemented, compliance with this rule, which became effective on October 1, 2008, has fallen largely on the shoulders of air carriers.

Airline compliance with the Narrow-Body Rule, as well as industry participation in the CCSP Pilot Program are expected to achieve the 50% screening mandate set forth in the 9/11 Act.

IMPACTS OF THE CURRENT TSA APPROACH

The Air Cargo Security Alliance applauds TSA’s commitment to a multi-layered approach to air cargo security and the creation of the CCSP program. However, ACSA believes that CCSP must be a complement to—rather than a substitute for—a Federal air cargo screening program at America’s airports.

In order to participate in the CCSP, a freight forwarder will be required to purchase screening equipment, acquire (or already own) warehouse space to facilitate the screening, and hire and train employees to conduct the cargo screening.

As discussed above, the small and mid-sized companies that make up the vast majority of freight forwarding industry have very limited warehouse space—and operate at many airports where they do not have any warehouses at all. Unlike the integrators, who move all of their cargo through their own warehouses located at the airports prior to placing it on their planes, freight forwarders rely on a Nationwide network of trucking companies to route their cargo directly from the original pick-up point to the airport for tender with the airline for the vast majority of their shipments.

Given the business model that freight forwarders use, the costs of securing warehouse space, acquiring screening equipment, hiring employees to conduct the screening and training those employees in order to participate in the CCSP can be simply overwhelming. The purchase of the screening equipment alone will cost between \$150,000 and \$500,000 or more per facility.⁴ For a typical freight forwarder or customs broker, this will add up to an investment of several million dollars merely to continue servicing existing clients and accounts.

Although there are some companies which can afford these types of investments, there is simply no way that the vast majority of the 4,200 IACs Nationwide have the financial resources to participate in such a program. In order to remain competitive with the multi-national freight forwarders or integrators who can afford the investment in screening equipment, small and medium-sized IACs are forced to make a tough choice—they can either purchase the screening equipment (provided that lenders are able to extend them credit), or they face a continuing loss of business and are forced to downsize their operations. Considering the current economic con-

³PJ Crowley and Bruce Butterworth, *Keeping Bombs Off Planes*, Center for American Progress, May 2007.

⁴Testimony of Cindy Allen, National Customs Broker and Forwarders Association of America, before the Subcommittee on Transportation Security and Infrastructure Protection, July 15, 2008.

traction, the burden of making such a tremendous investment could not be placed on small business owners at a worse time.

In addition to the direct costs, the air cargo industry will also face reduced air cargo service because airlines have been forced to invest millions in cargo screening equipment in order to continue providing air cargo services. Given the volume of air cargo traffic, airlines are likely to make these investments at major hub-airports. However, airlines are simply not economically capable of making the substantial investments required to continue servicing all non-hub airports that are currently used by IACs.

In fact, over the last 6 months, air carriers have announced reduced or eliminated air cargo service to several regional airports including Colorado Springs, Anchorage, Palm Springs, and Buffalo. As airlines are faced with the costs of purchasing screening equipment, it is reasonable to assume that airlines will scale back air cargo services to hub airports only. This pull-back in cargo service will essentially force IACs and their customers to rely solely on hub-airports—and will likely force many to lay off workers and close their doors.

The impact that TSA's reliance on CCSP and airline screening to meet the 100% screening mandate will have on the air cargo industry will be devastating.

In addition to forcing airlines to restrict air cargo services to hub-airports only, denying them much-needed cargo revenues, it will:

- Force airlines them to spend millions of dollars in screening equipment at a time when they are least able to make such investments,
- Significantly reduce (or completely eliminate) cargo volumes at hundreds of regional airports Nation-wide,
- Force IACS to choose between spending millions to participate in the CCSP program or face restricted (and more expensive) access to passenger fleets for air cargo service,
- Significantly drive up shipping costs for businesses that rely on the air cargo industry to move their goods on an expedited basis, and
- Cause job losses as both regional airports and small to mid-size IACs lose air cargo volume.

A FEDERAL AIR CARGO SCREENING PROGRAM—A BETTER APPROACH

The Air Cargo Security Alliance believes that there is a better way to achieve the 100% screening mandate. In the 9/11 Act, Congress instructed TSA to establish an air cargo screening program “commensurate with” the checked baggage screening program already run by TSA.

In order to comply with the clear Congressional intent in the 9/11 Act, and in order to ensure that the thousands of small companies that make up an integral part of the air cargo industry are not significantly or unfairly disadvantaged, we recommend that TSA establish a Federal air cargo screening program that will operate at all American airports.

In order to be a fair and effective, a Federal screening program would ideally:

- Be funded by a \$.05 per pound security surcharge modeled on the passenger screening program currently operated by TSA,
- Provide screening at all American airports,
- Allow the screened cargo to go onto any airline that provides air cargo services,
- Reimburse any airline that conducts screening for the costs of such screening, and
- Work in conjunction with the CCSP program.

Such a program would preserve hundreds of thousands of jobs in the air cargo industry, enhance air cargo security, ensure that the entire air cargo industry would retain the ability to service their customers and maximize the flow of cargo at all American airports.

In addition to protecting hundreds of thousands of high-paying jobs in the air cargo industry, this Federal screening program would:

- Create thousands of new jobs without raising taxes or adding to the Federal deficit,
- Allow non-CCSP participants to continue to drop cargo at the airport,
- Allow non-CCSP participants to ship cargo on any airline,
- Allow companies to choose whether they want to participate in CCSP or not, and
- Effectively set a ceiling on screening charges.

Furthermore, where the individual IAC operating as a CCSF will screen only a limited amount of cargo, the Federal screening program would screen cargo received from multiple IACs, providing a much better return on investment.

CONCLUSION

The air cargo industry is as diverse as the shipping community it services. The companies that make up this industry come in all sizes and offer “niche” services as well as a full menu of offerings from managed global transportation to warehousing, distribution, trade compliance, and even financial services. The small to mid-size forwarder with an entrepreneurial bent can provide equally competitive service offerings as multi-national companies given a level playing field.

However, TSA’s current cargo screening regime will take away that level playing field and force the small to mid-size IACS to face insurmountable costs and logistical hurdles in order to remain in the market-place. For many, a 100% screening mandate without a Federal screening program operating at all American airports is a threat to their very existence.

The Air Cargo Security Alliance calls upon Congress and the Obama administration to fulfill the clear Congressional intent of the 9/11 Act and protect the air cargo industry by creating a Federal air cargo screening program that will operate at all American airports. As a Nation committed to both homeland security and economic growth, we must allow IACs to continue to serve their clients and provide essential services that create hundreds of thousands of jobs, ensure the timely delivery of essential goods worldwide and bolster the American economy.

Thank you for the opportunity to submit this testimony to the subcommittee.

Ms. JACKSON LEE. The Chair now recognizes the Ranking Member, the gentleman from Pennsylvania, Mr. Dent, for an opening statement.

Mr. DENT. Thank you, Madam Chairwoman.

Today, we plan on discussing the Transportation Security Administration’s attempt to meet a congressionally mandated 100 percent air cargo screening requirement included in the Implementing Recommendations of the 9/11 Commission Act. This law requires, “Not later than 3 years after the date of enactment the Secretary of Homeland Security shall establish a system to screen 100 percent of cargo transported on passenger aircraft operated by an air carrier.”

At the outset, let me compliment the TSA on their hard work. The men and women of the TSA labor tirelessly to ensure the security of our traveling public; and, quite frankly, air cargo security has not always received the time, attention, or funding it deserves. So, further, the Congress has seen fit to place upon you unrealistic mandates in order to score political points.

While 100 percent screening never equals 100 percent security, I did vote for the passage of the 9/11 Commission Act; and, despite these unrealistic 100 percent mandates, I will require the Department to meet the mandates of the law. I am therefore disappointed with what I perceive as the Department’s intention to provide the appearance of meeting its security mandate without actually meeting, at least in my mind, the actual mandate. The TSA’s use of fuzzy math to artificially inflate its aviation screening statistics is intellectually dishonest, and I look forward to hearing our first panel on this matter.

I am also disappointed that, with the 2010 deadline just a year off, the TSA is unable to tell me what consequences an in-bound aircraft might be subject to if it is determined to possess a piece of freight that has not already been screened. If it were an international flight bound for the United States, would it be diverted to another country? Would a domestic flight be required to land? What are the consequences of failing to comply with the law?

Ultimately, I hope for an honest and open discussion about what challenges the TSA expects to encounter in implementing the air cargo screening requirements over the next 17 months.

The TSA has a relatively small number of certified cargo screening facilities and relatively few transportation security inspectors authorized to inspect and enroll these facilities. Perhaps the biggest hurdle is that TSA has no clear way ahead in managing foreign air carriers bound for the United States with cargo. Much like the 100 percent screening requirement for maritime containerized cargo, screening air cargo overseas requires significant levels of international cooperation, which dramatically complicates the TSA's efforts to meet its congressional mandate. So I look forward to hearing from both panels on these many challenges and the way ahead for the TSA as it tries to meet this congressional mandate.

I think this is a very important discussion to have; and I thank you, Madam Chairwoman, for having this hearing today.

At this time, I would yield back the balance of my time.

Ms. JACKSON LEE. Thank you very much, Mr. Dent.

The Chair now recognizes the Chairman of the full committee, the gentleman from Mississippi, Mr. Thompson, for an opening statement.

Mr. THOMPSON. Thank you very much, Madam Chairwoman, for convening this important hearing today.

I also welcome our panel of witnesses, both the first and second, for bringing their important testimony to us.

This afternoon's hearing will evaluate progress made by TSA in implementing the 9/11 Act's requirement to screen 100 percent of all cargo aboard passenger aircraft. Section 1602 of the 9/11 Act also requires TSA to screen 50 percent of all cargo aboard passenger aircraft by February, 2009.

I would like to take this opportunity to applaud the efforts of my colleagues on this subcommittee and the full committee and champion this important mandate in ensuring that we take all necessary steps toward enhancing the Nation's aviation security. After all, the 9/11 Commission Report recommended that TSA intensify its efforts to identify, track, and appropriately screen potentially dangerous cargo in aviation. In an effort to fulfill this recommendation, Congress has provided TSA with the necessary tools and a great deal of flexibility.

Today, I would like to know if TSA can verify that it has met the 50 percent deadline and whether it will be able to meet the 100 percent deadline next year.

Mr. Kelly, I am particularly looking forward to your testimony, not because this is your first time on the Hill, but I want to hear what you have to say. I am interested in TSA's perspective on the challenges it faces in meeting the 100 percent deadline.

As you know, I am also interested in hearing about DHS's progress in exploring innovative technologies that can be applied to fulfill the requirements of this law.

It is important to evaluate any existing research and coordinating efforts between TSA and industry. We need to ensure that the work in progress made by industry relevant to screening can be leveraged by TSA to effectively screen and detect explosives hidden in air cargo.

Today, we will also hear from stakeholders who have concerns about TSA's plan to implement this mandate. This hearing is not just about TSA checking the box. It is about strengthening aviation security and protecting the traveling public.

This hearing is also being hosted well in advance of the August, 2010, deadline so that we can address the concerns of Government and industry stakeholders early in the process and remedy or avert potential obstacles to implementation.

Again, I thank the Chairwoman for hosting this important hearing and thank the witnesses again for appearing before us today.

Ms. JACKSON LEE. I thank the Chairman of the full committee for his insightful remarks.

I am noting that the Ranking Member of the full committee is held up in another committee.

We will recognize the gentleman from Massachusetts, Mr. Markey, for a statement of 5 minutes.

Mr. MARKEY. I thank the gentlelady for extending this courtesy to me. This is the first time in 7 years that I have not been a Member of the Homeland Security Committee, and it is a great honor and privilege that you have extended to me to participate in today's hearing.

As you know, on 9/11, there were two planes hijacked up in Boston that had 150 people on those two planes that were then flown into the World Trade Center. Obviously, that is still at the heart of my concern about these issues. Those two planes still and all of those people and their families who I knew who died that day still live on with me in terms of making sure that we not see another recurrence of that.

In 2007, when Congress passed the landmark legislation to implement the recommendations of the 9/11 Commission, it included the mandate to screen 100 percent of the air cargo carried on passenger planes within 3 years and 50 percent of cargo screened within 18 months. Now that last month's statutory deadline to screen 50 percent of cargo on passenger planes has passed, today's hearing, Madam Chairwoman, is particularly timely and important.

A year ago, Chairman Thompson and I requested that the GAO assess TSA's progress in implementing the cargo screening mandate to ensure that the agency's approach is consistent with congressional intent. I am pleased that today, Mr. Lord, you will provide GAO's preliminary findings and recommendations in this area.

GAO's testimony raises several important questions about whether the system that the Bush administration developed to fulfill the 100 percent screening mandate will meet the requirements of the law.

Specifically, GAO's testimony notes that:

No. 1, TSA cannot verify that it has met the February, 2009 deadline, for screening 50 percent of cargo on passenger planes as required by law.

No. 2, TSA does not expect to achieve 100 percent screening of in-bound air cargo, that is, cargo on passenger planes entering the United States from overseas, by the mandated deadline of August 2010. In-bound cargo is almost half of the total volume of cargo on

passenger planes, accounting for 44 percent of the total, or 3.3 billion pounds of cargo each year.

No. 3, the system developed by TSA relies heavily on shippers, freight forwarders, and others in the supply chain to screen cargo before it reaches the airport. However, as GAO has noted, there is a real risk that if these private-sector firms decide not to participate in TSA's system, it would make it difficult, if not impossible, to meet the 100 percent mandate.

These are critically important shortcomings in the implementation of this law that the Obama administration has inherited but which it needs to move quickly to correct. TSA has a duty to ensure that the 100 percent screening mandate is met and that the level of security that is applied to air cargo is commensurate with the level of security applied to passengers' checked bags pursuant to the law.

Again, it is my great honor, Madam Chairwoman, and I thank you, Mr. Dent, for the opportunity to testify. I have invested 7 years of my career in this provision; and it means a lot to me that the two of you, along with Chairman Thompson and the rest of the committee Members, have allowed me to participate.

Thank you.

Ms. JACKSON LEE. We thank you for your testimony, Mr. Markey. We thank you for your on-going interest on this very vital issue.

Let me also acknowledge a Member of our committee, Mr. Massa's, presence here today; and we thank him so very much.

We look forward to engagement of all of our Members.

Again, I welcome our panel of witnesses.

Our first witness is Mr. Edward Kelly, General Manager for Cargo at TSA. Mr. Kelly joined TSA in September 2006 and brings with him a wealth of knowledge and over 30 years of experience in the supply chain in the cargo industry. In his current capacity as general manager, he manages a \$70 million budget, with a staff of 55 transportation security experts, program managers, and contractors.

Our second witness, Stephen Lord, is a Director of GAO Homeland Security in the Justice Issues Division and is responsible for directing numerous GAO engagements on aviation and surface transportation issues. Mr. Lord was a key member of the 2007 Iraq Benchmarks Assessment Team that received a GAO integrity award for exceptional analysis of the Iraq governance progress for meeting 18 legislative, security, and economic benchmarks, which I believe would make him quite appropriately trained for the challenge we have before us.

Without objection, the witnesses' full statements will be inserted in the record.

I now ask each witness to summarize his statement for 5 minutes.

Mr. Kelly, we thank you for your service for this Nation. We thank you for the 30 years that you bring to the Department of Homeland Security in serving the Nation, and we look forward to the concept of fixing our problems together.

You are recognized, Mr. Kelly, for 5 minutes.

**STATEMENT OF EDWARD KELLY, GENERAL MANAGER, AIR
CARGO, TRANSPORTATION SECURITY ADMINISTRATION**

Mr. KELLY. Good afternoon, Chairwoman Jackson Lee, Ranking Member Dent, Chairman Thompson, Mr. Markey, and distinguished Members of the subcommittee. I am pleased to be here today to discuss progress by the Transportation Security Administration on the air cargo requirements of the Implementing Recommendations of the 9/11 Commission Act of 2007. The 9/11 Act gives TSA the responsibility to ensure that the airline industry screens 100 percent of the cargo on passenger aircraft by August, 2010, with an interim milestone of 50 percent by February 2009.

First, I want to assure the subcommittee that all indications are that the cargo industry has met the February deadline. This week, TSA began receiving from the airlines February's cargo screening data; and we will validate that the 50 percent screening milestone was, in fact, achieved. We will share the results with you by mid-April.

Thank you for your patience.

To achieve this milestone, TSA and our industry partners put in a great deal of effort to creatively rethink the logistics of air cargo security. Together, we have dramatically changed air cargo operation.

The key elements to TSA's approach is the Certified Cargo Screening Program. This program screens cargo at the most efficient and effective point in the supply chain. It provides optimal security with minimal economic disruption. TSA recognizes that air cargo is a vital part of our economy, and this approach to security supports the financial health of the airline industry.

Another step in achieving 100 percent screening is the requirement for all airlines operating narrow-bodied passenger aircraft from U.S. airports to screen 100 percent of the cargo transported on this aircraft. I am pleased to report that TSA achieved this milestone in October 2008, a full 22 months before the deadline. One hundred percent of the cargo on 96 percent of the flights originating in the United States is now screened. This point is worth emphasizing: 85 percent of the passengers flying each day from U.S. airports are on planes where all of the cargo has been fully screened. We have improved security significantly.

A number of challenges remain as we move toward the goal of 100 percent screening. The characteristics of cargo are vastly different than those of checked baggage. For example, 75 percent of air cargo is tendered on skids that cannot be screened with existing TSA-approved equipment. TSA is working with the DHS Science and Technology Directorate to develop technology adapted to the cargo screening environment. We are testing technologies now previously used to screen cargo for explosives such as metal detectors, vapor trace detectors, radio wave devices, and hand-held detection equipment.

Another challenge is to develop screening requirements for air cargo in-bound from foreign countries. To date, industry has accomplished 50 percent system-wide screening for international in-bound air cargo. However, TSA cannot implement a security regimen in a foreign country without extensive cooperative planning with and acceptance by our international partners.

Given these challenges, TSA does not expect that a 100 percent screening will be available for in-bound cargo on passenger aircraft by August 2010. Nonetheless, significant efforts toward reaching the 100 percent mark are on-going.

Through bilateral and multi-lateral arrangements, a proposed amendment to the International Civil Aviation Organization standards and partnering with CBP to use its automated tracking system, we are improving security on in-bound cargo. With the cooperation of the entire air cargo community, we are well on our way to achieving the 100 percent air cargo screening mandate of the 9/11 Act for domestic cargo.

We appreciate the important oversight of Congress and notably the support of this subcommittee. We will continue to work closely with the Government Accountability Office represented here today. We will continue to be transparent and to keep you informed of our progress.

Finally, I would like to recognize the efforts of the industry and the TSA employees who have worked tirelessly on developing innovative solutions to a daunting task.

I will be happy to answer any questions you may have.

[The prepared statement of Mr. Kelly follows:]

PREPARED STATEMENT OF EDWARD KELLY

MARCH 18, 2009

Good afternoon Chairwoman Jackson Lee, Ranking Member Dent, and distinguished Members of the subcommittee. It is my pleasure to appear today to discuss the progress the Transportation Security Administration (TSA) is making toward fulfilling the air cargo security requirements of the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), Pub. L. 110-53. These requirements mandate the screening of 50 percent of cargo transported on passenger aircraft by February 2009 and 100 percent by August 2010.

I am happy to report that while much remains to be done to fulfill this requirement, we are confident that the industry is currently screening at least 50 percent of air cargo transported on passenger aircraft on flights originating in the United States and we anticipate that the 100 percent screening requirement will be met by August 2010 for domestic cargo through our Certified Cargo Screening Program (CCSP). The requirement in the 9/11 Act to screen 100 percent of inbound air cargo continues to present significant challenges. Although it is unlikely that we can meet the ambitious timetable set by Congress, we are working with our international partners to address the many challenges and expect to continue to see significant improvements in the level of security for in-bound air cargo on passenger aircraft as we move forward.

COLLABORATIVE DEVELOPMENT AND TRANSPARENCY OF PROCESS

As TSA has previously noted in testimony and reports, the only means of meeting the 100 percent cargo screening requirement without a significant negative impact on commerce is through creative and dedicated collaboration throughout the air cargo community. Our involvement of stakeholders has been broad and inclusive in the planning stages and will continue as we implement the program. Since September 2007, we have reached out to more than 2,500 stakeholders in virtually all industry segments that are potentially affected by the screening mandate, including both individual entities and associations of air carriers, cargo forwarders, and shippers. Beyond meeting with stakeholders, we have brought into TSA a number of individuals with significant industry experience to provide key practical expertise to our program development and execution.

We have also reached out to other countries in an effort to draw on the lessons learned from air cargo security programs throughout the world, and to our Federal partners, particularly United States Customs and Border Protection (CBP), which also has responsibilities with respect to the security of in-bound air cargo. As I will

discuss below, this work will serve us well as we address the special issues of securing in-bound international cargo.

Throughout the development and implementation of TSA's air cargo security program we have been, and remain, dedicated to providing transparency. We appreciate the important oversight responsibilities of Congress and its various committees—and notably this subcommittee. We also continue to work closely with the Government Accountability Office so that they can fulfill their role to independently inform Congress on our air cargo security program. We will continue to brief you periodically and to facilitate field visits to key air cargo industry sectors to assure that you get both reports of our progress and an opportunity to see first-hand how the program is designed and implemented as it proceeds.

50 PERCENT MILESTONE REACHED

As noted above, I am confident that the industry is currently screening 50 percent of air cargo transported by passenger aircraft. Our confidence is based on numerous discussions with regulated parties and industry associations, coupled with the historically solid record of compliance with TSA security programs industry-wide. We are currently receiving hard data from airlines for the month of February. We are aggressively working to summarize this data and report back to you in mid-April. We will keep the subcommittee informed of our progress in that regard. We also understand that the 50 percent target is not a static figure, and we anticipate a continual increase as we move toward the August 2010 date for 100 percent screening.

A key component of achieving this milestone is the requirement, developed in coordination with air carriers and other stakeholders, that 100 percent of cargo transported on narrow-body (single-aisle) aircraft be screened. This requirement went into effect in October 2008.

The passenger security impact of this screening is significant: although these aircraft carry only 25 percent of domestic air cargo on passenger aircraft, they account for the majority—approximately 95 percent—of domestic passenger flights. More importantly, these flights carry more than 80 percent of all passengers on flights originating in the United States. Thus, even at the statutory deadline for screening 50 percent of air cargo aboard passenger aircraft, we are effectively protecting the vast majority of the flying public.

SUPPLY CHAIN APPROACH TO SECURING AIR CARGO

The dramatic shift in the air cargo security legal requirement—the addition of a 100 percent physical screening requirement to our otherwise layered, risk-based security regimen—has required a creative re-thinking of the logistics of security. The practical problems with physically screening all cargo on-site at airports throughout the Nation are formidable. Simply put, there is neither adequate space at airports to accommodate such an operation nor sufficient time at that point in the journey of cargo to accomplish 100 percent screening without crippling the flow of commerce. As we discussed in testimony before this subcommittee on July 15, 2008, we have designed and are implementing a total supply chain approach to air cargo security, the Certified Cargo Screening Program (CCSP). Under this program, the responsibility for screening is distributed throughout the supply chain to improve security while minimizing the potential negative impact on the integrity and movement of commerce.

This supply chain approach allows cargo screening at the most efficient and effective point in the supply chain for optimal security and minimal economic disruption. For example, screening might be performed at a shipper's facility before packing or at the facility of an indirect air carrier (IAC), or a freight forwarder, before consolidation and transport to an airport. Furthermore, sensitive commodities—such as foodstuffs and other perishable items and fragile goods—can be screened by the shipper or manufacturer and not have to be reopened at the airport, thus minimizing the potential for damage.

The CCSP is a voluntary program—facilities that seek approval as certified cargo screening facilities (CCSF) will be required to meet a variety of rigorous security standards and will be regulated by TSA. For example, a CCSF would be required to submit to security threat assessments of personnel, adhere to specified physical security standards, and maintain a strict chain of custody for cargo they screen and forward to the air carrier as a condition of its acceptance as screened cargo by the air carrier. A key characteristic of the system will be rigorous tracking of the chain of custody, including the use of tamper-evident technology to assure that, once screened, cargo remains secured in transit to the aircraft. Under the CCSP the air carrier will continue to have ultimate responsibility for ensuring that cargo has been

screened prior to flight; if the air carrier cannot verify that cargo has been screened, the carrier must screen it before allowing it to be transported.

CCSP shippers will benefit from participation in several ways. By screening their own shipments, shippers can significantly reduce the possibility that their cargo may be physically opened, and they can still tender full skids of cargo without having them taken apart to be screened. Additionally, they can bypass the expected delays that could occur if all screening is performed only by carriers. Similarly, IACs benefit by these same measures, and may also continue to take advantage of typical airline reduced rates for cargo tendered in bulk configurations.

As discussed above, we have effectively addressed screening for narrow-body aircraft with a 100 percent screening requirement. To address the broader task, we have concentrated our efforts by piloting the CCSP at the 18 U.S. airports that originate 96 percent of cargo transported on wide-body passenger aircraft, or more than 65 percent of cargo transported on all passenger aircraft. By focusing outreach in the pilots on IACs and shippers using the airports with the highest volume of cargo transported on wide-body passenger aircraft, we have been able to maximize the impact of the pilots. To date we have validated over 200 facilities in the pilot program and plan to ultimately roll out the program Nation-wide.

CHALLENGES OF CARGO TECHNOLOGY

As we address the security of the entire air cargo supply chain, we are simultaneously turning our attention to the development of appropriate technology for the screening of air cargo. One of the challenges we face is the limitations of the currently available technology—specifically, the effectiveness of existing technology for detecting explosives in cargo, its operational feasibility, and its general availability for deployment to the industry to meet the mandate of the 9/11 Act. Until recently the focus of research and development of explosives detection technology has been on the development of screening technology for checked baggage, not cargo. This has been dictated in no small measure by the fact that Congress imposed comprehensive checked baggage screening requirements on an aggressive time-table when it created TSA in 2001, while the comprehensive screening requirement for air cargo is relatively new.

The characteristics of checked baggage are vastly different from those of cargo—in size, weight, variety of content, and configuration. Consequently the technology designed to screen one is not automatically suitable to screen the other. Because checked baggage screening technology (for example, Explosives Detection Systems (EDS), Explosives Trace Detection (ETD), and X-Ray) is available, however, TSA is working with the DHS Science and Technology Directorate (S&T) to explore ways in which checked baggage screening technology can be adapted to the cargo screening environment. To this end, TSA has created a list of approved technologies to screen cargo based on checked baggage screening technologies. To ascertain the effectiveness of baggage technologies on screening cargo, we are conducting a voluntary pilot program with certain IACs participating in the CCSP pilot. To participate in this technology pilot, an IAC must agree to purchase specified technologies to screen cargo and report to TSA on its effectiveness. TSA is partially funding this research and the IACs are responsible for the remainder of the costs.

On a parallel front, we are partnering with S&T to test technologies that have not been previously used to screen cargo for explosives. These include types of metal detectors, vapor trace detectors, radio wave devices, and hand-held ETD equipment. American Airlines has agreed to allow S&T to set up test sites at two of its cargo facilities (New York and Miami) in order to test the effectiveness of some of these technologies in a real environment.

TSA has also deployed its proprietary canine teams at the 18 high-volume airports participating in the CCSP pilot. All of the 85 teams funded through the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, Pub. L. 110-28, will have graduated by the end of 2009. These teams dedicate 100 percent of their time to cargo screening functions. We foresee a greater use of these valuable assets in the air cargo screening environment as their experience base expands. In addition, we will continue to evaluate the appropriate number of proprietary canine teams devoted to air cargo screening.

Among other things, cost, effectiveness, and feasibility are all being weighed to determine the right mix of resources to accomplish this task, given the multitude of types and the configurations of commodities tendered as air cargo.

IN-BOUND AIR CARGO

Meeting the screening requirements with respect to air cargo in-bound from foreign countries presents unique challenges. As noted earlier, collaboration with all

involved stakeholders is critical to implementation of a mandate as ambitious as 100 percent cargo screening. Nowhere is collaboration more critical to success than in the international arena. As is true domestically, the physical space at foreign airports is often constrained; moreover, screening is regulated and often conducted by a variety of State authorities, each with its own requirements. Domestically, TSA is addressing this issue through the CCSP. As a practical matter, however, TSA cannot implement a security regimen such as CCSP in a foreign country absent extensive cooperative planning with and acceptance by our international partners.

TSA has the legal authority to require that a given percentage of in-bound cargo be screened before it reaches the United States. Given the physical limitations of many airports, however, requiring U.S. and foreign air carriers to screen 100 percent of in-bound cargo by a given date would significantly impede the flow of commerce into the United States. For example, a unilateral mandate of 100 percent screening would cause significant delays at origin airports because, as is the case in the United States, carriers are not equipped to perform this level of screening. Where all-cargo flights exist as an alternative, shippers would be forced to divert business away from passenger airlines, which rely on cargo as a major generator of revenue and profit. Such a reduction in volume would most likely be reflected in higher passenger ticket prices. Additionally, taking a unilateral approach would significantly undermine TSA's long-term efforts to develop common platforms and standards for air cargo security with our international partners, including work toward the development of commensurate systems of security partners cooperatively to enhance the security of civil aviation globally; our efforts in this regard are discussed below.

Another major complexity of the international environment is the sheer number of entities across a broad geographic span that handle and ship cargo to the United States and the nearly infinite points of origin for each cargo supply chain. In 2006, more than 2.4 million unique shippers and manufacturers shipped cargo to the United States on passenger aircraft. Moreover, TSA's assessment of the risks associated with the international environment indicates that the risks vary by location and demography. These risks begin well beyond our borders and are compounded by the fact that security practices vary with the foreign location.

Given these challenges, at this time TSA does not expect that 100 percent screening will be attainable for in-bound cargo on passenger aircraft by August 2010. This is a complex, long-term process. Nonetheless, significant efforts toward reaching the 100 percent mark are on-going. First, TSA has revised its security programs to improve the screening of cargo imported into the United States and we believe we have accomplished system-wide screening at 50 percent for international in-bound cargo. Countries such as the United Kingdom, Ireland, France, and Israel have programs similar to our CCSP. Through bilateral and quadrilateral arrangements, TSA is working with a number of countries to introduce the supply chain approach to securing air cargo into their programs and regulations. Our foreign partners involved in these arrangements are Canada, Australia, and the 27 Member States of the European Union.

In 2007, a total of 98 countries imported cargo to the United States on passenger flights. These countries all implement the Standards and Recommended Practices set by the International Civil Aviation Organization (ICAO) in Annex 17 to the Convention on International Civil Aviation and the associated air carriers are required to carry out the measures set forth in our security programs. TSA will be recommending an amendment to the Annex 17 standards on securing air cargo that would introduce the supply chain screening paradigm. A similar recommendation (called Secure Freight) is being submitted by the International Air Transport Association (IATA). This will undoubtedly be a long-term process, but if ICAO adopts this approach in Annex 17, all 190 Contracting States would be encouraged and obligated to implement a supply chain approach to screening.

CBP currently assesses the risk of the presence of illegal contraband, including explosives, in in-bound international air cargo as part of its supply-chain security programs and advance cargo requirements, and TSA and CBP are actively working on better integrating those processes to ensure air travel safety and security. For example, an opportunity we are actively exploring is using CBP's Automated Targeting System (ATS) to assess risk on in-bound freight. ATS is a proven system for evaluating certain risks associated with in-bound cargo based on information provided by airlines. We are proposing an enhancement to the system to perform an evaluation of risk for explosives in cargo shipments. If we find that this is an effective tool, we will work with CBP to have the information supplied early enough to assure that evaluations could be done prior to a flight's departure.

COMPLIANCE AND ENFORCEMENT

TSA has a robust compliance and enforcement regimen to support the implementation of air cargo security requirements. Since 2008, TSA has been authorized a total of 450 cargo inspectors dedicated exclusively to the oversight of air cargo. Over 420 inspectors have been trained and deployed to date. Our air cargo inspectors receive specific instruction on the security requirements of the CCSP as well as cargo screening technology and improvised explosive device (IED) recognition.

Our inspectors regularly assess all air carriers, freight forwarders, and their authorized representatives; those entities that have had previous compliance issues are inspected more frequently and thoroughly. The TSA-led canine teams discussed earlier are an integral part of our inspection program.

CONCLUSION

With the cooperation of the entire air cargo community, we are well on our way to achieving the 100 percent air cargo screening mandate of the 9/11 Act. We are comfortable that the 50 percent screening requirement has been met overall and, when fully developed, our CCSP promises to provide the framework for timely achieving 100 percent screening domestically. We will continue to work with our international partners to find a path to overcoming the considerable challenges of achieving the same mark with respect to in-bound international air cargo.

As always, TSA appreciates this subcommittee's support of our efforts as we move ahead with this important aviation security program. We look forward to our continued work together in finding the optimal path to full implementation of this important security mandate.

I will be happy to answer any questions you may have.

Ms. JACKSON LEE. Let me recognize Mr. Lord to summarize his statement for 5 minutes.

Mr. Lord, you are recognized.

STATEMENT OF STEPHEN M. LORD, DIRECTOR, HOMELAND SECURITY AND JUSTICE ISSUES, GOVERNMENT ACCOUNTABILITY OFFICE

Mr. LORD. Good afternoon, Madam Chairwoman, Ranking Member Dent, Members of the subcommittee, Chairman Thompson. I am pleased to be here today to discuss TSA's efforts to meet the congressional mandate for screening air cargo. This is an important issue as each year over 7 billion pounds of air cargo is flown on U.S. passenger flights.

As you know, Congress has mandated the establishment of a system to screen 50 percent of cargo by February, 2009, and 100 percent by August, 2010. Since TSA is addressing this mandate through two separate systems, my testimony will discuss TSA's efforts to meet the screening mandate for domestic and in-bound cargo separately.

Today, I would like to discuss two issues: first, TSA's progress in meeting the screening mandate as it applies to domestic cargo; second, the challenges that TSA and industry stakeholders may face in meeting the mandate, including challenges related to in-bound cargo.

To its credit, TSA has taken several important steps to meet the screening mandate.

First, TSA established a new screening requirement for air carriers. For example, effective October, 2008, and several months before the first mandated deadline, TSA required 100 percent screening of cargo carried on narrow-bodied passenger aircraft, such as Boeing 737s. These narrow bodies carry about 26 percent of the cargo and most of the passengers on domestic flights, as Mr. Kelly mentioned in his testimony.

Second, TSA revised or eliminated most of its screening exemptions for domestic but not in-bound air cargo.

Third, TSA created a voluntary program known as the Certified Cargo Streaming Program to allow screening to take place by freight forwarders, shippers, and others before it was consolidated and delivered to the airport.

Finally, among other steps, TSA established a technology pilot to allow industry participants to test approved screening technology.

In our recent discussions, TSA officials stated they are confident that the 50 percent screening mandate, as it applies to domestic air cargo, has been achieved based on feedback they received from industry stakeholders. However, it is important to note that TSA does currently not have an empirical basis for verifying that these mandated screening levels have been met. According to TSA, air carriers will provide the first set of screening data this month, and by next month TSA will be in a position to determine whether the mandated screening levels are being met. Until it completes this important analysis, TSA cannot verify that the mandated screening levels established by Congress are, in fact, being achieved.

A related question concerns TSA's current screening process. While the details of its screening requirements are considered sensitive security information, the implications are not. Thus, I am hoping that today's hearing will help us better understand how TSA's efforts to meet the screening mandate may result in variations in the percentage of cargo screened on individual passenger flights.

I will now discuss the potential challenges that TSA faces in meeting the screening mandate.

First, although voluntary industry participation in the certified screening program is vital to its success, it is unclear whether TSA will be able to attract the necessary industry participation. This is an important issue as TSA estimates that freight forwarders and shippers will conduct the majority of screening by the August, 2010, deadline.

Second, TSA faces a number of challenges related to technology. For example, TSA is evaluating the effectiveness of several technologies at the same time that screening entities are using these technologies to screen air cargo.

Third, TSA also faces challenges overseeing the Certified Cargo Screening Program due to the size of the inspection workforce and the thousands of newly regulated entities that may join the program.

Finally, with respect to in-bound cargo, TSA does not expect—I repeat—does not expect to achieve 100 percent screening of in-bound air cargo by the mandated deadline of August, 2010. This is due in part to existing in-bound screening exemptions and to challenges TSA faces in harmonizing air cargo standards with those of other foreign nations.

Madam Chairwoman, this concludes my statement. I look forward to answering any questions that you or other Members of the committee may have and thank you for giving me the opportunity for to appear before your subcommittee today.

[The statement of Mr. Lord follows:]

PREPARED STATEMENT OF STEPHEN M. LORD

MARCH 18, 2009

GAO HIGHLIGHTS

Highlights of GAO-09-422T, a testimony before the Subcommittee on Transportation Security and Infrastructure Protection, Committee on Homeland Security, House of Representatives.

Why GAO Did This Study

The Implementing Recommendations of the 9/11 Commission Act of 2007 mandates the Department of Homeland Security (DHS) to establish a system to physically screen 50 percent of cargo transported on passenger aircraft by February 2009 and 100 percent of such cargo by August 2010. This testimony provides preliminary observations on the Transportation Security Administration's (TSA) progress in meeting the mandate to screen cargo on passenger aircraft and the challenges TSA and industry stakeholders may face in screening such cargo. GAO's testimony is based on products issued from October 2005 through August 2008, and its on-going review of air cargo security. GAO reviewed TSA's air cargo security programs, interviewed program officials and industry representatives, and visited two large U.S. airports.

What GAO Recommends

GAO has made recommendations to DHS and TSA in prior reports to increase the security of air cargo, including completing vulnerability assessments and re-examining existing screening exemptions. DHS generally agreed with these recommendations and plans to address them. GAO discussed the preliminary observations in this statement with TSA officials. TSA agreed with GAO's findings.

AVIATION SECURITY.—PRELIMINARY OBSERVATIONS ON TSA'S PROGRESS AND CHALLENGES IN MEETING THE STATUTORY MANDATE FOR SCREENING AIR CARGO ON PASSENGER AIRCRAFT

What GAO Found

TSA has made progress in meeting the air cargo screening mandate as it applies to domestic cargo. TSA has taken steps that will allow screening responsibilities to be shared across the air cargo supply chain—including TSA, air carriers, freight forwarders (which consolidate cargo from shippers and take it to air carriers for transport), and shippers—although air carriers have the ultimate responsibility for ensuring that they transport cargo screened at the requisite levels. TSA has taken several key steps to meet the mandate, including establishing a new requirement for 100 percent screening of cargo transported on narrow-body aircraft; revising or eliminating most screening exemptions for domestic cargo; creating the Certified Cargo Screening Program (CCSP) to allow screening to take place at various points in the air cargo supply chain; and establishing a screening technology pilot. Although TSA estimates that it achieved the mandated 50 percent screening level by February 2009 as it applies to domestic cargo, the agency cannot yet verify that the requisite levels of cargo are being screened. It is working to establish a system to do so by April 2009. Also, TSA's screening approach could result in variable percentages of screened cargo on passenger flights.

TSA and industry stakeholders may face a number of challenges in meeting the screening mandate, including attracting participants to the CCSP, and technology, oversight, and in-bound cargo challenges. TSA's approach relies on the voluntary participation of shippers and freight forwarders, but it is unclear whether the facilities needed to meet TSA's screening estimates will join the CCSP. In addition, TSA has taken some steps to develop and test technologies for screening air cargo, but the agency has not yet completed assessments of these technologies and cannot be assured that they are effective in the cargo environment. TSA's limited inspection resources may also hamper its ability to oversee the thousands of additional entities that it expects to participate in the CCSP. Finally, TSA does not expect to meet the mandated 100 percent screening deadline as it applies to in-bound air cargo, in part due to existing in-bound screening exemptions and challenges it faces in harmonizing security standards with other nations.

Screening Air Cargo Using Explosives Trace Detection and Loading It onto Passenger Aircraft


Source: GAO (left) and © 2002 by Swissport International Ltd. Services (right).

Madam Chairwoman and Members of the subcommittee: I appreciate the opportunity to participate in today's hearing to discuss the security of the air cargo transportation system. In 2007, about 7.6 billion pounds of cargo was transported on U.S. passenger flights—56 percent of which was transported domestically and 44 percent of which was transported on flights to the United States (in-bound cargo).¹ In response to the terrorist attacks of September 11, 2001, the Aviation and Transportation Security Act (ATSA) was enacted in November 2001.² ATSA created the Transportation Security Administration (TSA) and required it to provide for the screening of all passengers and property, including cargo, U.S. mail, and carry-on and checked baggage that is transported on passenger aircraft. Recognizing the need to strengthen the security of air cargo, Congress passed, and the President signed into law, the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Commission Act), which mandates the establishment of a system to physically screen 50 percent of cargo on passenger aircraft—including the domestic and in-bound flights of foreign and U.S. passenger operations—by February 2009, and 100 percent of such cargo by August 2010.³

The 9/11 Commission Act establishes minimum standards for screening air cargo, and requires that such standards provide a level of security commensurate with the level of security for the screening of checked baggage. Although the mandate is applicable to both domestic and in-bound air cargo, TSA stated that it will address the mandate for domestic and in-bound cargo through two separate systems. For example, while TSA interprets these standards to mean that all cargo, with certain exceptions, must be screened by TSA-approved methods, the exceptions vary greatly between domestic and in-bound cargo. This testimony will therefore address efforts to meet the screening mandate as it applies to domestic and in-bound cargo separately.

My testimony today includes preliminary observations on: (1) TSA's progress in meeting the 9/11 Commission Act mandate to screen air cargo transported on passenger aircraft as it applies to domestic cargo, and (2) the challenges TSA and industry stakeholders may face in screening such cargo, including challenges TSA may face in meeting the mandate as it applies to in-bound cargo. My comments are based on GAO reports and testimonies issued from October 2005 through August 2008 addressing the security of the air cargo transportation system.⁴ More detailed information on our scope and methodology appears in our published reports.

¹For the purposes of this statement, domestic air cargo refers to cargo transported by air within the United States and from the United States to a foreign location by both U.S. and foreign-based air carriers, and in-bound cargo refers to cargo transported by air from a foreign location to the United States.

²Pub. L. No. 107-71, 115 Stat. 597 (2001).

³Pub. L. No. 110-53, § 1602, 121 Stat. 266, 477-80 (codified at 49 U.S.C. § 44901(g)).

⁴GAO, *Review of the Transportation Security Administration's Air Cargo Screening Exemptions Report*, (Washington, DC: August 15, 2008); *Aviation Security: Transportation Security Administration May Face Resource and Other Challenges in Developing a System to Screen All Cargo Transported on Passenger Aircraft*, (Washington, DC: July 15, 2008); *Transportation Security: Transportation Security Administration Has Strengthened Planning to Guide Investments in Key Aviation and Surface Transportation Security Programs, but More Work Remains*, (Washington, DC: May 13, 2008); *Aviation Security: Federal Efforts to Secure U.S.-Bound Air Cargo Are in the Early Stages and Could Be Strengthened*, (Washington, DC: April 30, 2007); and *Aviation Security: Federal Action Needed to Strengthen Domestic Air Cargo Security*, (Washington, DC: October 17, 2005).

This statement also includes information from our on-going review of air cargo security requested by the Chairman of the House Committee on Homeland Security, Bennie G. Thompson, and Congressman Edward J. Markey. The results of this review will be issued later this year. To determine the progress TSA has made in meeting the 9/11 Commission Act mandate, and to identify any on-going challenges, we reviewed TSA's air cargo security programs, and interviewed TSA air cargo program officials and representatives from various air cargo industry associations. We also conducted site visits to two large U.S. commercial airports that process domestic and in-bound air cargo to observe screening operations and technologies, and interviewed local TSA officials and representatives from air carriers, freight forwarders, and shippers to obtain their views on TSA's system to implement the screening mandate.⁵ Our site visits and interviews with industry stakeholders were based on a judgmental sample and are not generalizable to the entire air cargo industry.

We conducted our work in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

SUMMARY

TSA has taken several key steps to meet the air cargo screening mandate of the 9/11 Commission Act. These include the following:

- Requiring that each air carrier ensure that 100 percent of domestic cargo transported on its narrow-body passenger aircraft is screened as of October 1, 2008, and that each air carrier ensure that 50 percent of domestic cargo transported on its entire passenger aircraft fleet is screened as of February 1, 2009.⁶ Effective February 2009, TSA also revised or eliminated most of its screening exemptions for domestic, but not in-bound, cargo;⁷
- Creating the Certified Cargo Screening Program (CCSP) to allow screening to take place earlier in the shipping process and at various points in the air cargo supply chain;
- Conducting outreach to inform air cargo industry stakeholders about the new industry requirements and the CCSP;
- Establishing the Air Cargo Screening Technology Pilot to allow freight forwarders and shippers to operationally test approved screening technology; and
- Expanding its explosives detection canine program to include 85 canine teams dedicated to screening air cargo at 20 major airports.

However, while TSA estimates that it achieved the February 2009 50 percent screening mandate as it applies to domestic cargo, the agency cannot yet verify that requisite screening levels are being met. In addition, although TSA believes its current screening approach enables it to meet the statutory screening mandate as it applies to domestic cargo, some of the ways in which TSA has defined the terms for screening cargo could result in variable percentages of screened cargo on passenger flights.

TSA faces several challenges in meeting the air cargo screening mandate. For example, it is unclear whether the facilities needed to meet TSA's screening estimates will join its new CCSP, in part because the costs could be prohibitive. Moreover, TSA faces a number of challenges related to technology—for instance, TSA has not yet completed assessments of the technologies it plans to allow air carriers and CCSP participants to use to meet the 100 percent cargo screening mandate. TSA also faces challenges overseeing compliance with the CCSP due to the size of its current transportation security inspector (TSI) workforce. In addition, with respect to in-bound cargo, TSA does not expect to achieve 100 percent screening of in-bound air cargo by the mandated deadline of August 2010. This is due, in part, to existing

⁵There are about 450 commercial airports in the United States. TSA classifies airports into one of five categories (X, I, II, III, and IV) based on various factors, such as the total number of takeoffs and landings annually, the extent to which passengers are screened at the airport, and other special security considerations. In general, category X airports have the largest number of passenger boardings, and category IV airports have the smallest.

⁶Narrow-body aircraft, such as B-737s and A-320s, are defined by fuselage diameter, and most narrow-body aircraft have only one aisle. Narrow-body aircraft that fly in the United States do not carry any consolidated pallets or unit loading devices (ULD) that allow packages to be consolidated in one container. Wide-body aircraft are also defined by fuselage diameter, and can carry consolidated pallets or ULDs.

⁷Details on TSA's screening exemptions are Sensitive Security Information and are not discussed in this statement.

in-bound screening exemptions, and to challenges TSA faces in harmonizing the agency's air cargo security standards with those of other nations.⁸

GAO has made recommendations to the Department of Homeland Security (DHS) and TSA in prior reports to increase the security of air cargo, including completing vulnerability assessments and re-examining existing screening exemptions. DHS generally agreed with these recommendations and plans to address them. We discussed the preliminary observations that are contained in this statement related to our on-going work with officials from TSA. TSA officials agreed with our findings. TSA also provided us with technical comments, which we have incorporated as appropriate.

BACKGROUND

Air cargo ranges in size from 1 pound to several tons, and in type from perishables to machinery, and can include items such as electronic equipment, automobile parts, clothing, medical supplies, fresh produce, and human remains. Cargo can be shipped in various forms, including large containers known as unit loading devices (ULD) that allow many packages to be consolidated into one container that can be loaded onto an aircraft, wooden crates, consolidated pallets, or individually wrapped/boxed pieces, known as loose or bulk cargo. Participants in the air cargo shipping process include shippers, such as individuals and manufacturers; freight forwarders; air cargo handling agents, who process and load cargo onto aircraft on behalf of air carriers; and air carriers that load and transport cargo.⁹ A shipper may take or send its packages to a freight forwarder who in turn consolidates cargo from many shippers onto a master air waybill—a manifest of the consolidated shipment—and delivers it to air carriers for transport. A shipper may also send freight by directly packaging and delivering it to an air carrier's ticket counter or sorting center, where the air carrier or a cargo handling agent will sort and load cargo onto the aircraft.

According to TSA, the mission of its air cargo security program is to secure the air cargo transportation system while not unduly impeding the flow of commerce. TSA's responsibilities for securing air cargo include, among other things, establishing security requirements governing domestic and foreign passenger air carriers that transport cargo and domestic freight forwarders. TSA is also responsible for overseeing the implementation of air cargo security requirements by air carriers and freight forwarders through compliance inspections, and, in coordination with DHS's Directorate for Science and Technology (S&T Directorate), for conducting research and development of air cargo security technologies. Of the nearly \$4.8 billion appropriated to TSA for aviation security in fiscal year 2009, approximately \$123 million is directed for air cargo security activities. TSA was further directed to use \$18 million of this amount to expand technology pilots and for auditing participants in the CCSP.

Air carriers and freight forwarders are responsible for implementing TSA security requirements. To do this, they utilize TSA-approved security programs that describe the security policies, procedures, and systems they will implement and maintain to comply with TSA security requirements. These requirements include measures related to the acceptance, handling, and screening of cargo; training of employees in security and cargo screening procedures; testing for employee proficiency in cargo screening; and access to cargo areas and aircraft. Air carriers and freight forwarders must also abide by security requirements imposed by TSA through security directives and amendments to security programs.

The 9/11 Commission Act defines screening for purposes of the air cargo screening mandate as a physical examination or nonintrusive methods of assessing whether cargo poses a threat to transportation security.¹⁰ The act specifies that screening methods include X-ray systems, explosives detection systems (EDS), explosives trace detection (ETD), explosives detection canine teams certified by TSA, physical search together with manifest verification, and any additional methods approved by the TSA Administrator.¹¹ For example, TSA also recognizes the use of decompression

⁸The term harmonization is used to describe countries' efforts to coordinate their security practices to enhance security and increase efficiency by avoiding duplication of effort. Harmonization efforts can include countries mutually recognizing and accepting each other's existing practices—which could represent somewhat different approaches to achieve the same outcome, as well as working to develop mutually acceptable uniform standards.

⁹For the purposes of this statement, the term freight forwarders only includes those freight forwarders that are regulated by TSA, also referred to as indirect air carriers.

¹⁰See 49 U.S.C. § 44901(g)(5).

¹¹EDS uses computer-aided tomography X-rays to examine objects inside baggage and identify the characteristic signatures of threat explosives. ETD requires human operators to collect samples of items to be screened with swabs, which are chemically analyzed to identify any traces

chambers as an approved screening method.¹² However, solely performing a review of information about the contents of cargo or verifying the identity of the cargo's shipper does not constitute screening for purposes of satisfying the mandate.

TSA HAS MADE PROGRESS IN MEETING THE SCREENING MANDATE AS IT APPLIES TO DOMESTIC CARGO; HOWEVER, TSA CANNOT YET VERIFY WHETHER THE MANDATED LEVEL IS BEING MET

TSA Has Made Progress in Meeting the 50 Percent and 100 Percent Mandated Screening Levels as They Apply to Domestic Cargo

TSA has taken several key steps to meet the 9/11 Commission Act air cargo screening mandate as it applies to domestic cargo. TSA's approach involves multiple air cargo industry stakeholders sharing screening responsibilities across the air cargo supply chain. TSA, air carriers, freight forwarders, shippers, and other entities each play an important role in the screening of cargo, although TSA has determined that the ultimate responsibility for ensuring that screening takes place at mandated levels lies with the air carriers. According to TSA officials, this decentralized approach is expected to minimize carrier delays, cargo backlogs, and potential increases in cargo transit time, which would likely result if screening were conducted primarily by air carriers at the airport. Moreover, because much cargo is currently delivered to air carriers in a consolidated form, the requirement to screen individual pieces of cargo will necessitate screening earlier in the air cargo supply chain—before cargo is consolidated. The specific steps that TSA has taken to address the air cargo screening mandate are discussed below.

TSA revised air carrier security programs. Effective October 1, 2008, several months prior to the first mandated deadline, TSA established a new requirement for 100 percent screening of nonexempt cargo transported on narrow-body passenger aircraft. Narrow-body flights transport about 26 percent of all cargo on domestic passenger flights.¹³ According to TSA officials, air carriers reported that they are currently meeting this requirement. Effective February 1, 2009, TSA also required air carriers to ensure the screening of 50 percent of all nonexempt air cargo transported on all passenger aircraft. Although screening may be conducted by various entities, each air carrier must ensure that the screening requirements are fulfilled. Furthermore, effective February 2009, TSA revised or eliminated most of its screening exemptions for domestic cargo. As a result, most domestic cargo is now subject to TSA screening requirements.

TSA created the Certified Cargo Screening Program (CCSP). TSA also created a program, known as the CCSP, to allow screening to take place earlier in the shipping process and at various points in the air cargo supply chain. In this program, air cargo industry stakeholders—such as freight forwarders and shippers—voluntarily apply to become Certified Cargo Screening Facilities (CCSF).¹⁴ This program allows cargo to be screened before it is consolidated and transported to the airport, which helps address concerns about the time-intensive process of breaking down consolidated cargo at airports for screening purposes. TSA plans to inspect the CCSFs in order to ensure they are screening cargo as required. TSA initiated the CCSP at 18 major airports that, according to TSA officials, account for 65 percent of domestic cargo on passenger aircraft. TSA expects to expand the CCSP Nationwide at a date yet to be determined. CCSFs in the program were required to begin screening cargo as of February 1, 2009.

While participation in the CCSP is voluntary, once an entity is certified by TSA to participate it must adhere to TSA screening and security requirements and be subject to annual inspections by TSIs. To become certified and to maintain certification, TSA requires each CCSF to demonstrate compliance with increased security standards to include facility, personnel, procedural, perimeter, and information technology security. As part of the program, and using TSA-approved screening methods, freight forwarders must screen 50 percent of cargo being delivered to wide-body passenger aircraft and 100 percent of cargo being delivered to narrow-body passenger aircraft, while shippers must screen 100 percent of all cargo being delivered

of explosives material. Certified explosives detection canine teams have been evaluated by TSA and shown to effectively detect explosive devices. Physical search together with manifest verification entails comparisons between air waybills and cargo contents to ensure that the contents of the cargo shipment matches the cargo identified in documents filed by the shipper.

¹²Decompression chambers simulate atmospheric pressures affecting aircraft by simulating flight conditions, which can cause explosives that are attached to barometric fuses to detonate.

¹³According to TSA officials, narrow-body aircraft make up most domestic passenger flights, and transport most passengers traveling on domestic passenger flights.

¹⁴Other facilities that can become CCSFs are manufacturing facilities, third-party logistics providers, warehouse/distribution centers, and independent cargo screening facilities.

to any passenger aircraft. Each CCSF must deliver the screened cargo to air carriers while maintaining a secure chain of custody to prevent tampering with the cargo after it is screened.

TSA conducted outreach efforts to air cargo industry stakeholders. In January 2008, TSA initiated its outreach phase of the CCSP in three cities and subsequently expanded its outreach to freight forwarders and other air cargo industry stakeholders in the 18 major airports. TSA established a team of nine TSA field staff to conduct outreach, educate potential CCSP applicants on the program requirements, and validate CCSFs. According to TSA officials, in February 2009, the agency also began using its cargo TSIs in the field to conduct outreach. In our preliminary discussions with several freight forwarders and shippers, industry stakeholders reported that TSA staff have been responsive and helpful in answering questions about the program and providing information on CCSP requirements.

TSA established the Air Cargo Screening Technology Pilot and is conducting additional technology pilots. To operationally test ETD and X-ray technology among CCSFs, TSA created the Air Cargo Screening Technology Pilot in January 2008, and selected some of the largest freight forwarders to use the technologies and report on their experiences. TSA's objectives for the pilot are to determine CCSFs' ability to screen high volumes of cargo, test chain of custody procedures, and measure the effectiveness of screening technology on various commodity classes. TSA will provide each CCSF participating in the pilot with up to \$375,000 for purchasing technology. As of February 26, 2009, 12 freight forwarders in 48 locations are participating in the pilot.¹⁵ The screening they perform as part of the operational testing also counts toward meeting the air cargo screening mandate.

TSA expanded its explosives detection canine program. To assist air carriers in screening consolidated pallets and unit loading devices, TSA is taking steps to expand the use of TSA-certified explosives detection canine teams. TSA has 37 canine teams dedicated to air cargo screening—operating in 20 major airports—and is in the process of adding 48 additional dedicated canine teams. TSA is working with the air carriers to identify their peak cargo delivery times, during which canines would be most helpful for screening.

In addition, we reported in October 2005 and April 2007 that TSA, working with DHS's S&T Directorate, was developing and pilot testing a number of technologies to screen and secure air cargo with minimal effect on the flow of commerce.¹⁶ These pilot programs seek to enhance the security of cargo by improving the effectiveness of screening for explosives through increased detection rates and reduced false alarm rates. A description of several of these pilot programs and their status is included in table 1.

¹⁵Initially, the Air Cargo Screening Technology Pilot was limited to freight forwarders. However, in November 2008, TSA issued a second announcement seeking additional freight forwarders and independent cargo screening facilities to apply for the pilot. Entities that are not part of the technology pilot must still report screening volumes to TSA, but not the screening technology data. Moreover, entities that do not participate in the pilot will not receive TSA funding to purchase screening technology.

¹⁶GAO-06-76; GAO-07-660.

TABLE 1.—TSA AND DHS DIRECTORATE FOR SCIENCE AND TECHNOLOGY PILOT PROGRAMS TO TEST TECHNOLOGIES TO SCREEN AND SECURE AIR CARGO

Pilot Program	Description	Status
Air cargo explosives detection pilot program.	Tests the use of explosives detection systems, explosives trace detectors, standard X-ray machines, canine teams, technologies that can locate a stowaway through detection of a heartbeat or increased carbon dioxide levels in cargo, and manual screening of air cargo.	Consistent with the conference report accompanying the Department of Homeland Security Appropriations Act, 2006, DHS's S&T Directorate is required to report on the initial results of the pilots every 6 months after initiation of the first pilot.* DHS last submitted a report dated July 2008. According to DHS officials, the final report is currently undergoing DHS executive review and DHS plans to provide this report to Congress in March 2009.
Explosives detection systems (EDS).	Tests the use of computer-aided tomography to compare the densities of objects to locate explosives in air cargo and to determine the long-term feasibility of using EDS equipment as a total screening process for bulk air cargo.	TSA planned to complete this pilot program in May 2008. In February 2009, TSA officials stated that the pilot was completed in December 2008, and the final report should be available in July 2009.
Air cargo security seals.	Explores the viability of potential security countermeasures, such as tamper-evident security seals, for use during transport of screened cargo.	In February 2009, TSA officials stated that the agency is waiting for vendors to produce technology that it can test and evaluate. TSA then plans to issue operational requirements to industry. In March 2009, TSA officials stated that the agency has not set time frames for this process.

Source: GAO analysis of information provided by TSA.

*H.R. Conf. Rep. No. 109–241, at 53 (2005) (accompanying Pub. L. No. 109–90, 119 Stat. 2064 (2005)).

TSA Cannot Yet Verify that Screening Is Being Conducted Domestically at the Mandated Level, and TSA's Current Approach Could Result in Variable Percentages of Screened Cargo

TSA estimates that it achieved the mandate for screening 50 percent of domestic cargo transported on passenger aircraft by February 2009, based on feedback from air cargo industry stakeholders responsible for conducting screening. However, TSA cannot yet verify that screening is being conducted at the mandated level. The agency is working to establish a system to collect data from screening entities to verify that requisite screening levels for domestic cargo are being met. Effective February 2009, TSA adjusted air carrier reporting requirements and added CCSF reporting requirements to include monthly screening reports on the number of shipments screened at 50 and 100 percent.¹⁷ According to TSA officials, air carriers will provide to TSA the first set of screening data by mid-March 2009. By April 2009, TSA officials expect to have processed and analyzed available screening data, which would allow the agency to determine whether the screening mandate has been met. Thus, while TSA asserts that it has met the mandated February 2009, 50 percent screening deadline, until the agency analyzes required screening data, TSA cannot verify that the mandated screening levels are being achieved.

¹⁷Details on TSA's reporting requirements are Sensitive Security Information and are not discussed in this statement.

In addition, although TSA believes its current screening approach enables it to meet the statutory screening mandate as it applies to domestic cargo, this approach could result in variable percentages of screened cargo on passenger flights.¹⁸ This variability is most likely for domestic air carriers that have a mixed-size fleet of aircraft because a portion of their 50 percent screening requirement may be accomplished through the more stringent screening requirements for narrow-body aircraft, thus allowing them more flexibility in the amount of cargo to screen on wide-body aircraft. According to TSA, although this variability is possible, it is not a significant concern because of the small amount of cargo transported on narrow-body flights by air carriers with mixed-size fleets. However, the approach could result in variable percentages of screened cargo on passenger flights regardless of the composition of the fleet. As explained earlier, TSA is in the process of developing a data reporting system that may help to assess whether some passenger flights are transporting variable percentages of screened cargo. This issue regarding TSA's current air cargo security approach will be further explored during our on-going review.

Lastly, TSA officials reported that cargo that has already been transported on one passenger flight may be subsequently transferred to another passenger flight without undergoing additional screening. According to TSA officials, the agency has determined that this is an approved screening method because an actual flight mimics one of TSA's approved screening methods.¹⁹ For example, cargo exempt from TSA screening requirements that is transported on an in-bound flight can be transferred to a domestic aircraft without additional screening, because it is considered to have been screened in accordance with TSA screening requirements. According to TSA, this scenario occurs infrequently, but the agency has not been able to provide us with data that allows us to assess how frequently this occurs. TSA reported that it is exploring ways to enhance the security of cargo transferred to another flight, including using canine teams to screen such cargo. This issue regarding TSA's current air cargo security approach will be further explored during our on-going review.

TSA FACES PARTICIPATION, TECHNOLOGY, OVERSIGHT, AND IN-BOUND CARGO
CHALLENGES IN MEETING THE SCREENING MANDATE

It Is Unclear Whether TSA Will Be Able to Attract the Voluntary Participants Needed to Meet the 100 Percent Screening Mandate

Although industry participation in the CCSP is vital to TSA's approach to spread screening responsibilities across the supply chain, it is unclear whether the number and types of facilities needed to meet TSA's screening estimates will join the CCSP. Although TSA is relying on the voluntary participation of freight forwarders and shippers to meet the screening goals of the CCSP, officials did not have precise estimates of the number of participants that would be required to join the program to achieve 100 percent screening by August 2010. As of February 26, 2009, TSA had certified 172 freight forwarder CCSFs, 14 shipper CCSFs, and 17 independent cargo screening facilities (ICSF).²⁰

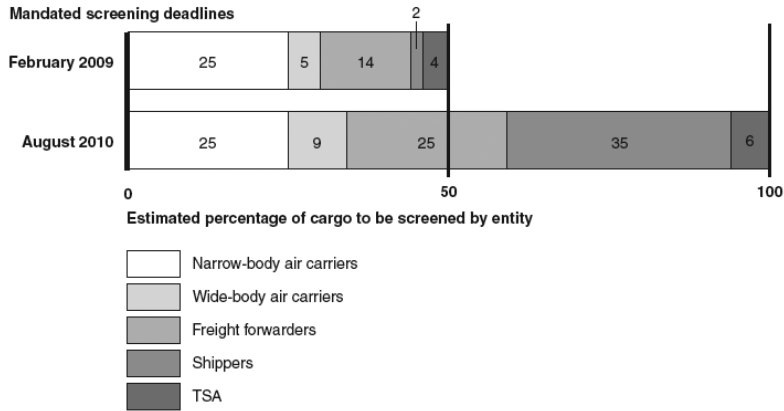
TSA estimates that freight forwarders and shippers will complete the majority of air cargo screening at the August 2010 deadline, with shippers experiencing the largest anticipated increase when this mandate goes into effect. According to estimates reported by TSA in November 2008, as shown in figure 1, the screening conducted by freight forwarders was expected to increase from 14 percent to 25 percent of air cargo transported on passenger aircraft from February 2009 to August 2010, while the screening conducted by shippers was expected to increase from 2 percent to 35 percent. For this reason, increasing shipper participation in the CCSP is necessary to meet the 100 percent screening mandate.

¹⁸Details on TSA's screening approach are Sensitive Security Information and are not discussed in this statement.

¹⁹Details on TSA's approved screening methods are Sensitive Security Information and are not discussed in this statement.

²⁰An independent cargo screening facility is a facility that will accept cargo from freight forwarders and shippers, and screen it for a fee, according to CCSP guidelines.

Figure 1: TSA's Estimates, as of November 2008, of Air Cargo Transported on Passenger Aircraft that Various Entities Will Screen as of February 2009 and August 2010



Source: GAO analysis of TSA information.

As highlighted in figure 1, TSA estimated that, as of February 2009, screening of cargo delivered for transport on narrow-body aircraft would account for half of the mandated 50 percent screening level and 25 percent of all cargo transported on passenger aircraft. TSA expected screening conducted on cargo delivered for transport on narrow-body passenger aircraft to remain stable at 25 percent when the mandate to screen 100 percent of cargo transported on passenger aircraft goes into effect.²¹ TSA anticipated that its own screening responsibilities would grow by the time the 100 percent mandate goes into effect. Specifically, TSA anticipated that its canine teams and transportation security officers would screen 6 percent of cargo in August 2010, up from 4 percent in February 2009. It is important to note that these estimates—which TSA officials said are subject to change—are dependent on the voluntary participation of freight forwarders, shippers, and other screening entities in the CCSP. If these entities do not volunteer to participate in the CCSP at the levels TSA anticipates, air carriers or TSA may be required to screen more cargo than was projected.

Participation in the CCSP may appeal to a number of freight forwarders and shippers, but industry participants we interviewed expressed concern about potential program costs. In preliminary discussions with freight forwarders, shippers, and industry associations, stakeholders told us that they would prefer to join the CCSP and screen their own cargo in order to limit the number of entities that handle and open their cargo. This is particularly true for certain types of delicate cargo, including fresh produce. Screening cargo in the CCSP also allows freight forwarders and shippers to continue to consolidate their shipments before delivering them to air carriers, which results in reduced shipping rates and less potential loss and damage. However, TSA and industry officials with whom we spoke agreed that the majority of small freight forwarders—which make up approximately 80 percent of the freight forwarder industry—would likely find prohibitive the costs of joining the CCSP, including acquiring expensive technology, hiring additional personnel, conducting additional training, and making facility improvements.²² TSA has not yet finalized cost estimates for industry participation in air cargo screening, but is in the process of developing these estimates and is planning to report them later this year. As of February 26, 2009, 12 freight forwarders in 48 locations have joined TSA's Air Cargo Screening Technology pilot and are thus eligible to receive reimbursement for

²¹ TSA expects air carriers operating wide-body aircraft to screen approximately 5 percent of cargo as of February 2009, and 9 percent when the 100 percent mandate goes into effect in August 2010.

²² A freight forwarder's size is determined by its annual sales. For example, a freight forwarder with \$5 million or less in annual sales is considered to be small.

the technology they have purchased. However pilot participants, to date, have been limited primarily to large freight forwarders. TSA indicated that it targeted high-volume facilities for the pilot in order to have the greatest effect in helping industry achieve screening requirements.

In response to stakeholder concerns about potential program costs, TSA is allowing independent cargo screening facilities to join the CCSP and screen cargo on behalf of freight forwarders or shippers. However, it is unclear how many of these facilities will join. Moreover, according to industry stakeholders, this arrangement could result in freight forwarders being required to deliver loose freight to screening facilities for screening. This could reduce the benefit to freight forwarders of consolidating freight before delivering it to air carriers, a central part of the freight forwarder business model.

TSA Has Taken Some Steps to Develop and Test Technologies for Screening Air Cargo, but Has Not Yet Completed Assessments to Ensure Their Effectiveness

TSA has taken some steps to develop and test technologies for screening and securing air cargo, but has not yet completed assessments of the technologies it plans to allow air carriers and program participants to use in meeting the August 2010 screening mandate.²³ To date, TSA has approved specific models of three screening technologies for use by air carriers and CCSFs until August 3, 2010—ETD, EDS, and X-ray.²⁴ TSA chose these technologies based on its subject matter expertise and the performance of these technologies in the checkpoint and checked baggage environments. According to TSA officials, the agency has conducted preliminary assessments, but has not completed laboratory or operational testing of these technologies in the air cargo environment.

After the technology pilot programs and other testing are complete, TSA will determine which technologies will be qualified for screening cargo and whether these technologies will be approved for use after August 3, 2010. However, TSA is proceeding with operational testing and evaluations to determine which of these technologies is effective at the same time that screening entities are using these technologies to meet air cargo screening requirements. For example, according to TSA, ETD technology, which most air carriers and CCSFs plan to use, has not yet begun the qualification process. However, it is currently being used to screen air cargo as part of the Air Cargo Screening Technology Pilot and by air carriers and other CCSFs. Although TSA's acquisition guidance recommends testing the operational effectiveness and suitability of technologies prior to deploying them, and TSA agrees that simultaneous testing and deployment of technology is not ideal, TSA officials reported that this was necessary to meet the screening deadlines mandated by the 9/11 Commission Act. While we recognize TSA's time constraints, the agency cannot be assured that the technologies it is currently using to screen cargo are effective in the cargo environment, because they are still being tested and evaluated. We will continue to assess TSA's technology issues as part of our on-going review of TSA's efforts to meet the mandate to screen 100 percent of cargo transported on passenger aircraft.

Although TSA is in the process of assessing screening technologies, according to TSA officials, there is no single technology capable of efficiently and effectively screening all types of air cargo for the full range of potential terrorist threats. Moreover, according to industry stakeholders, technology to screen cargo that has already been consolidated and loaded onto a pallet or ULD may be critical to meet the 100 percent screening mandate. Although TSA has not approved any technologies that are capable of screening consolidated pallets or ULDs containing various commodities, according to TSA, it is currently beginning to assess such technology. TSA officials reported that they do not expect to qualify such technology prior to the August 2010 deadline.

Air cargo industry stakeholders we interviewed also expressed some concerns regarding the cost of purchasing and maintaining screening equipment for CCSP participants. Cost is a particular concern for the CCSP participants that do not participate in the Air Cargo Screening Technology Pilot and will receive no funding for technology or other related costs; this includes the majority of CCSFs. Because the technology qualification process could result in modifications to TSA's approved technologies, industry stakeholders expressed concerns about purchasing technology that is not guaranteed to be acceptable for use after August 3, 2010. We will con-

²³Technologies that successfully pass lab assessments and independent testing and evaluation become eligible to undergo additional operational testing and evaluation in an operational environment. Technologies that successfully pass independent and operational evaluation will be added to a list of qualified products.

²⁴Decompression chambers are also approved for use by air carriers.

tinue to assess this issue as part of our on-going review of TSA's efforts to meet the mandate to screen 100 percent of cargo transported on passenger aircraft.

In addition to the importance of screening technology, TSA officials noted that an area of concern in the transportation of air cargo is the chain of custody between the various entities that handle and screen cargo shipments prior to its loading onto an aircraft. Officials stated that the agency has taken steps to analyze the chain of custody under the CCSP, and has issued cargo procedures to all entities involved in the CCSP to ensure that the chain of custody of the cargo is secure. This includes guidance on when and how to secure cargo with tamper-evident technology. TSA officials noted that they plan to test and evaluate such technology and issue recommendations to the industry, but have not set any time frames for doing so. Until TSA completes this testing, however, the agency lacks assurances that existing tamper-evident technology is of sufficient quality to deter tampering and that the air cargo supply chain is effectively secured. We will continue to assess this issue as part of our on-going review of TSA's efforts to meet the mandate to screen 100 percent of cargo transported on passenger aircraft.

Limited Staffing Resources May Hamper TSA's Ability to Effectively Oversee the Thousands of Additional Entities Involved in Meeting the Air Cargo Screening Mandate

Although the actual number of cargo TSIs increased each fiscal year from 2005 to 2009, TSA still faces challenges overseeing compliance with the CCSP due to the size of its current TSI workforce. To ensure that existing air cargo security requirements are being implemented as required, TSIs perform compliance inspections of regulated entities, such as air carriers and freight forwarders. Under the CCSP, TSIs will also perform compliance inspections of new regulated entities, such as shippers and manufacturers, who voluntarily become CCSFs. These compliance inspections range from an annual review of the implementation of all air cargo security requirements to a more frequent review of at least one security requirement. According to TSA, the number of cargo TSIs grew from 160 in fiscal year 2005 to about 500 in fiscal year 2009. However, cargo TSI numbers remained below levels authorized by TSA in each fiscal year from 2005 through 2009, which, in part, led to the agency not meeting cargo inspection goals in fiscal year 2007. As highlighted in our February 2009 report, TSA officials stated that the agency is still actively recruiting to fill vacant positions but could not provide documentation explaining why vacant positions remained unfilled.²⁵ Additionally, TSA officials have stated that there may not be enough TSIs to conduct compliance inspections of all the potential entities under the CCSP, which TSA officials told us could number in the thousands, once the program is fully implemented by August 2010. TSA officials also indicated plans to request additional cargo TSIs in the future, although the exact number has yet to be formulated. According to TSA officials, TSA does not have a human capital or other workforce plan for the TSI program, but the agency has plans to conduct a staffing study in fiscal year 2009 to identify the optimal workforce size to address its current and future program needs. Until TSA completes its staffing study, TSA may not be able to determine whether it has the necessary staffing resources to ensure that entities involved in the CCSP are meeting TSA requirements to screen and secure air cargo. We will continue to assess this issue as part of our on-going review of TSA's efforts to meet the mandate to screen 100 percent of cargo transported on passenger aircraft.

TSA Has Taken Some Steps to Meet the Screening Mandate as It Applies to In-bound Cargo but Does Not Expect to Achieve 100 Percent Screening of In-bound Cargo by the August 2010 Deadline

To meet the 9/11 Commission Act screening mandate as it applies to in-bound cargo, TSA revised its requirements for foreign and U.S.-based air carrier security programs and began harmonization of security standards with other nations. The security program revisions generally require carriers to screen 50 percent of non-exempt in-bound cargo. TSA officials estimate that this requirement has been met, though the agency is not collecting screening data from air carriers to verify that the mandated screening levels are being achieved. TSA has taken several steps toward harmonization with other nations. For example, TSA is working with foreign governments to improve the level of screening of air cargo, including working bilaterally with the European Commission (EC) and Canada, and quadrilaterally with the EC, Canada, and Australia. As part of these efforts, TSA plans to recommend to the United Nations' International Civil Aviation Organization (ICAO) that the

²⁵ GAO, *Aviation Security: Status of Transportation Security Inspector Workforce*, GAO-09-123R (Washington DC: February 6, 2009).

next revision of Annex 17 to the Convention of International Civil Aviation (due for release in 2009) include an approach that would allow screening to take place at various points in the air cargo supply chain.²⁶ TSA also plans to work with the International Air Transport Association (IATA), which is promoting an approach to screening cargo to its member airlines.²⁷ Finally, TSA continues to work with U.S. Customs and Border Protection (CBP) to leverage an existing CBP system to identify and target high-risk air cargo.

However, TSA does not expect to achieve 100 percent screening of in-bound air cargo by the August 2010 screening deadline. This is due, in part, to TSA's in-bound screening exemptions, and to challenges TSA faces in harmonizing its air cargo security standards with those of other nations. TSA requirements continue to allow screening exemptions for certain types of in-bound air cargo transported on passenger aircraft.²⁸ TSA could not provide an estimate of what percentage of in-bound cargo is exempt from screening. In April 2007, we reported that TSA's screening exemptions on in-bound cargo could pose a risk to the air cargo supply chain and recommended that TSA assess whether these exemptions pose an unacceptable vulnerability and, if necessary, address these vulnerabilities.²⁹ TSA agreed with our recommendation, but has not yet reviewed, revised, or eliminated any screening exemptions for cargo transported on in-bound passenger flights, and could not provide a time frame for doing so. Furthermore, similar to changes for domestic cargo requirements discussed earlier, TSA's revisions to in-bound requirements could result in variable percentages of screened cargo on passenger flights to the United States. We will continue to assess this issue as part of our on-going review of TSA's efforts to meet the mandate to screen 100 percent of cargo transported on passenger aircraft.

Achieving harmonization with foreign governments may be challenging, because these efforts are voluntary and some foreign countries do not share the United States' view regarding air cargo security threats and risks. Although TSA acknowledges it has broad authority to set standards for aviation security, including the authority to require that a given percentage of in-bound cargo be screened before it departs for the United States, TSA officials caution that if TSA were to impose a strict cargo screening standard on all in-bound cargo, many nations likely would be unable to meet such standards in the near term. This raises the prospect of substantially reducing the flow of cargo on passenger aircraft or possibly eliminating it altogether. According to TSA, the effect of imposing such screening standards in the near future would be, at minimum, increased costs for international passenger travel and for imported goods, and possible reduction in passenger traffic and foreign imports. According to TSA officials, this could also undermine TSA's on-going cooperative efforts to develop commensurate security systems with international partners.

TSA agreed that assessing the risk associated with the in-bound air cargo transportation system will facilitate its efforts to harmonize security standards with other nations. Accordingly, TSA has identified the primary threats associated with in-bound air cargo, but has not yet assessed which areas of in-bound air cargo are most vulnerable to attack and which in-bound air cargo assets are deemed most critical to protect. Although TSA agreed with our previous recommendation to assess in-bound air cargo vulnerabilities and critical assets, it has not yet established a methodology or time frame for how and when these assessments will be completed. We continue to believe that the completion of these assessments is important to the security of in-bound air cargo.

Finally, the amount of resources TSA devotes to in-bound compliance is disproportionate to the resources for domestic compliance. In April 2007, we reported that TSA inspects air carriers at foreign airports to assess whether they are complying with air cargo security requirements, but does not inspect all air carriers transporting cargo into the United States.³⁰ Furthermore, in fiscal year 2008, in-bound cargo inspections were performed by a cadre of 9 International TSIs with limited resources, compared to the 475 TSIs that performed domestic cargo inspections. By mid-fiscal year 2008, international compliance inspections accounted for a small percentage of all compliance inspections performed by TSA, although in-bound cargo made up more than 40 percent of all cargo on passenger aircraft in 2007. Regarding

²⁶ ICAO is a specialized agency of the United Nations with the primary objective to provide for the safe, orderly, and efficient development of international civil aviation.

²⁷ IATA is an industry association that represents about 230 air carriers constituting 93 percent of international scheduled air traffic.

²⁸ Details on TSA's screening exemptions are Sensitive Security Information and are not discussed in this statement.

²⁹ GAO-07-660.

³⁰ GAO-07-660.

in-bound cargo, we reported in May 2008 that TSA lacks an inspection plan with performance goals and measures for its international inspection efforts, and recommended that TSA develop such a plan.³¹ TSA officials stated in February 2009 that they are in the process of completing a plan to provide guidance for inspectors conducting compliance inspections at foreign airports, and intend to implement the plan during fiscal year 2009. Finally TSA officials stated that the number of international TSIs needs to be increased.

Madam Chairwoman, this concludes my statement. I look forward to answering any questions that you or other Members of the subcommittee may have at this time.

Ms. JACKSON LEE. I thank both gentlemen for their testimony. I remind each Member that he or she will have 5 minutes to question the panel.

I now recognize myself for 5 minutes.

When I make that statement, I think there is probably an appropriate sigh that might come after that before I even enter into the questions, because we are all here to try to make Government work, and I mentioned the word “verify,” Mr. Lord, quite frequently in my testimony. So I really think I am going to go directly to you.

The verifying question gives me pause, the formula for verifying gives me added pause, and I would like to have you restate your concerns about verification, whether or not it is the approach, the formula that is being used, the cooperation of our aviation industry. So I have given you three points there.

Then I want to go to a point that was raised in a letter that we received from TSA that talks about commensurate—were you able to determine what kind—what level of screening does it equate to? Passenger luggage? Or are we at a lesser level than that? Did your research or your investigation take you to that level? If it did not, then I think I am going to add another aspect to our inquiry when we seek to ask you for more review.

Mr. Lord.

Mr. LORD. I would be glad to respond to that.

In the first phase of our assignment, we focused on what data the agency had in place to verify compliance with the legislative mandate. We spent a lot of time trying to understand the system; and, to its credit, TSA is putting in place a system that they expect will help answer that question next month.

The broader issue of whether the entire process provides a level of security commensurate with checked baggage, that is something we are looking at. We are consulting closely with TSA, our counsel’s office, their counsel’s office. I understand that is the overall—

Ms. JACKSON LEE. So we don’t have an answer at this time. Is the data that you looked at, is that a degree of software that you find adequate for this review?

Mr. LORD. Excuse me?

Ms. JACKSON LEE. The data that you looked at, does that include software that you think is adequate for this review?

Mr. LORD. They have designed a system. They have initial reports streaming in and out. It is up to them to, No. 1, judge whether the data is reliable, scrub the data, and then analyze it.

Ms. JACKSON LEE. Where does the data come from? Is this submission by airline companies?

³¹ GAO-08-487T.

Mr. LORD. Yes.

Ms. JACKSON LEE. What about the question about verifying? Where are we in that? That was a question that you raised in your testimony or in your report.

Mr. LORD. That is our job. We help this committee conduct oversight, and we typically focus on the data. We are trained to study the data, trends in data. Our position is we haven't seen the data.

Ms. JACKSON LEE. You were also saying you question whether TSA can verify what is going on, that they are doing 50 percent.

Mr. LORD. That is true. We typically look at the system, the agencies that put into place, to judge performance. That is the basic point of our testimony. They are in the process of putting into place a system. So even though they are confident they have met the threshold, there is no analytical basis to determine that at this point.

Ms. JACKSON LEE. We thank you.

Mr. Kelly, why don't you tell me about your assessment as to whether TSA will be able to meet the 100 percent screening mandate—which, in essence, I am sort of putting the cart before the horse, but where are you now specifically with respect to the 50 percent deadline that was on—that just passed in February?

Mr. KELLY. Madam Chairwoman, in order to ascertain whether the airlines have achieved the requirement of 50 percent screening, what we have done is we have done polls of the airlines, we have talked to each of the airline security—the people at the security part of the airlines to discuss with them what their airlines are doing and are they achieving the goal. No. 2, we have our inspectors—our cargo inspectors out at the airline facility spot checking each of the individual airlines to make sure that they are complying with the—

Ms. JACKSON LEE. Is this manual? Airlines are giving you written pieces of paper or somebody is standing there standing in front of your inspector and giving them information?

Mr. KELLY. It is both. The airlines feed to us the data which we have asked them to furnish to us, which is the screening data, which we will take and we are putting it into a system to accumulate it by airport, by airline; and we are also sending our inspectors out to observe what is being done at each of the facilities that they are inspecting.

Ms. JACKSON LEE. Mr. Kelly, I know that you have just come on in the last 2 or 3 years. You have an Office of Science and Technology. There have been a lot of small businesses that have offered new technology that would have led up to being prepared for this challenge. Has anyone put on your desk new technologies that small businesses, such as one that we will have as a witness, but, in any event, that has come to your attention that could help utilize or help airlines utilize to help so this process can move forward?

Mr. KELLY. Yes, we have been coordinating with the Science and Technology Director to look at what I would consider non-standard screening technologies. It is not X-ray. It doesn't have to be X-ray or EDS. What we are looking at are things such as metal detectors to screen cargo, produce.

Ms. JACKSON LEE. Are any of those in place now?

Mr. KELLY. No, there are none in place. We have them at the science and technology facilities.

Ms. JACKSON LEE. I would appreciate that if you could gather that and provide this committee with a list of what you are looking at and the progress of their being able to be utilized.

Mr. KELLY. Absolutely, yes.

Ms. JACKSON LEE. Let me finish in my question here. I am still trying to hear, of the 50 percent deadline verification that was due this past February, where exactly is TSA in that ability to verify?

Mr. KELLY. We are in the process today or this week of receiving the data from the airlines, and we are putting it into a system, and we will analyze the output of that system and then report it to you by mid-April of this year.

Ms. JACKSON LEE. Is your airline selective, or are all of the airlines flying in the Nation's skies today?

Mr. KELLY. It is every airline in every airport by month.

Ms. JACKSON LEE. We will probably have another inquiry to get that list in some format, and I am going to try to formulate the question.

Let me now recognize the distinguish Ranking Member, Mr. Dent of Pennsylvania, for his 5 minutes of questioning.

Mr. DENT. Mr. Kelly, in your written statement you indicate that the industry is, "currently screening at least 50 percent of air cargo transport on passenger aircraft on flights originating in the United States." When compared to the actual language of the 9/11 Act, your statement includes some qualification that I wish to explore further here today.

Why does your statement include qualifications such as "originating in the United States"? Does the TSA not include in its calculations air cargo transported by international flights?

Mr. KELLY. We do, and we state that we have met the 50 percent requirement for both in-bound international freight and in freight originating in flights out-bound from the U.S. airports.

Mr. DENT. Based on TSA's statistics, 50,000 tons of air cargo are transported daily. Of these, 7,500 tons are carried on passenger aircraft. How much is carried on in-bound foreign air carriers?

Mr. KELLY. Those numbers you are referencing are out-bound U.S. originated cargo. The total cargo moving on passenger airplanes is about 7 billion bounds a year. Four billion of that is out-bound from the United States; 3 billion is in-bound to the United States.

Mr. DENT. So 3 billion in-bound?

Mr. KELLY. Yes.

Mr. DENT. When TSA provides the Congress its statistics for the amount of cargo screened, do you include this exempted cargo, or do you take that off the top and not include it in your calculations?

Mr. KELLY. We include all cargo, including cargo that is subject to alternate means.

Mr. DENT. So the TSA is required to provide an inspection regime commensurate with that covering passenger baggage. How does TSA propose to ensure that foreign air carriers bound for the United States provide this commensurate level of security for in-bound cargo?

Mr. KELLY. TSA is working with our foreign partners to harmonize our programs so that their level of screening is equal to ours. Until they get to that, what they have to follow is our model security program, which we verified through our international inspection force.

Mr. DENT. I would like to get to the issue of harmonization here in a second. I will turn to Mr. Lord on that subject.

I am concerned that no matter what the Herculean efforts that TSA may apply, the statutory requirements for TSA's mandate to truly screen 100 percent of air cargo will not and cannot be achieved for many years because of the need for significant international discussions or harmonization. Would you agree that TSA will not meet its statutory requirement for the screening of 100 percent of all air cargo?

Mr. KELLY. I would have to agree.

Mr. DENT. I would have to ask Mr. Lord.

Mr. LORD. Yes. TSA has already informed us as part of our ongoing engagement they don't plan to meet the 100 percent deadline.

Mr. DENT. Do you agree that TSA's most significant hurdle to meeting the congressional mandate for 100 percent of all air cargo will be the necessary cooperation with foreign governments?

Mr. KELLY. We identified two issues, addressing the exemption issues and harmonization standards with other nations. They are both very important issues that need to be addressed before we will be able to achieve the 100 percent.

Mr. DENT. So the TSA has been throwing around percentages, but these have included a series of qualifiers. They use words like "domestic" or "out-bound." Do these qualifiers mask the actual percentages being reached by the industry?

Mr. KELLY. Could you repeat the question again, sir?

Mr. DENT. I was talking about these qualifiers, that the TSA has been throwing around percentages, and they have these various series of qualifiers that use words like "domestic" or "out-bound". Do these qualifiers mask the actual percentage being reached by the industry?

Mr. KELLY. I don't think those two qualifiers do. Out-bound, they basically segregate the data: domestic, which includes flights originating in the United States flying out of the country, then in-bound. But they have—it is a separate set of issues for both. But those are commonly understood terms, as I understand it.

I think the issue is, though, to what extent the in-bound cargo traffic is exempt from screening. You have to understand the significance of these exemptions to really understand whether they are going to be able to achieve the 100 percent on the in-bound.

Mr. DENT. How much cargo is being exempted, and how much is being screened by means other than what is listed in the 9/11 Act?

Mr. LORD. That is a great question. We asked TSA what—for example, regarding the in-bound, what percent of the cargo was currently exempted from screening; and they reported to us they weren't—they didn't have the data at their disposal to answer that. Even if they did, I would caution that is considered sensitive security information, the exact percentages. We wouldn't be able to dis-

cuss that in an open forum anyway, the significance of the exemptions.

Mr. DENT. Mr. Kelly, did you want to address that last question on how much is being exempted and how much is being screened?

Mr. KELLY. Like Mr. Lord said, that is sensitive information. We would be happy to talk about it off-line.

Mr. DENT. I would love to have that opportunity, Madam Chairwoman. I realize my time has expired.

Ms. JACKSON LEE. We will engage with TSA in a briefing along with other security organizations with this issue.

It is now my privilege to recognize the full committee Chairman, Mr. Thompson, for 5 minutes of questioning.

Mr. THOMPSON. Thank you very much, Madam Chairwoman.

Mr. Kelly, you mentioned that with the Narrow Body Amendment TSA is screening cargo on flights carrying 85 percent of the public. Can you tell me what lessons learned, if any, the Department has obtained from that?

Mr. KELLY. Well, I think what it has done is, No. 1, we have learned a lesson that we could make a small step in the process and make a huge step in securing the traveling public. I think that is one of the key lessons that we have learned.

The other lesson is that, while this may be low-hanging fruit, it is probably not—it doesn't foretell the level of complexity and difficulty that is going to be encountered by the air cargo industry in getting from the 50 percent to the 100 percent.

Mr. THOMPSON. Since you raised the 50 percent, please tell the committee why did TSA miss the February deadline?

Mr. KELLY. Well, Mr. Thompson, I would argue that we didn't miss the deadline. We have missed the ability to report on it. But we consider, and all indications are, is that the airline did, in fact—the airlines have, in fact, accomplished the 50 percent screening.

Mr. THOMPSON. Mr. Lord, do you agree with what Mr. Kelly just said?

Mr. LORD. I have a lot of respect for Mr. Kelly and what he said was—it may turn out to be accurate. But, at this time, since I am from GAO and we are trained to look at the data, my simple retort is, "show me the data."

Mr. THOMPSON. Did you see anything?

Mr. LORD. We know they are in the process of gathering it and analyzing it, but as of yet have they met the threshold or not? We simply don't know.

Mr. THOMPSON. So I take it, Mr. Kelly, that you disagree with Mr. Lord?

Mr. KELLY. I would never disagree with Mr. Lord.

No. Really, as I said, we feel that the industry has accomplished the milestone; and we will be able to verify that to the committee by mid-April.

Mr. THOMPSON. So in the absence of submitting the information in a timely manner, you will stipulate that you missed the congressional-mandated February deadline?

Mr. KELLY. So stipulated.

Mr. THOMPSON. Thank you.

From the standpoint of technology, what has been your experience within TSA for how long it takes new ideas to get through the system and implement it?

Mr. KELLY. I don't know if I have been around long enough to really answer that question accurately, but I find that most of the research that has been done for screening has been centered around the efforts of screening baggage and passengers at the checkpoints. There has been very little time and money devoted to screening of cargo.

Now, in the last 6 months, we have had a lot of discussions with the science and technology group and our own technology force internally to TSA, and they recognize where the shortfalls are, and they are making a concerted effort to try to find technologies that will fill the gaps that we have in the cargo screening theater.

Mr. THOMPSON. Are you involved in that process at all?

Mr. KELLY. Absolutely.

Mr. THOMPSON. Even though you haven't been around a long time and you know that this mandate for screening is upon you, can you give the committee a guesstimate of how long it takes for new technology to get through TSA's system of review?

Mr. KELLY. Honestly, I can't. I don't have that information.

Mr. THOMPSON. Okay. Can you then tell me, is it an issue that you don't have the money to do it or you don't have the staff or both of—why you can't provide that?

Mr. KELLY. I think, as I said, TSA was more focused on baggage screening than they were on cargo screening; and that has now shifted with the introduction of the 9/11 Act. That emphasis has shifted, and they are now looking at the issues related to screening of air cargo. I think what we have tried to encourage with the Science and Technology Directorate is to look outside the box and look for innovative ways of screening cargo. I think they are right now doing that; and, hopefully, we will find technologies that are good.

Mr. THOMPSON. Well, I beg the indulgence of the committee, Madam Chairwoman.

Can you provide the committee with whatever those new ideas or new technologies are that you presently have under review?

Mr. KELLY. Absolutely, yes.

Mr. THOMPSON. Thank you.

Ms. JACKSON LEE. I thank the Chairman. I think we have asked the same questions, so I hope that we will be able to put that in writing so that you can understand it appropriately.

I think we have enough time to yield again. So let me indicate the Chair will now recognize other Members for questions they may wish to ask the witnesses. In accordance with our committee rules and practice, I will recognize Members who were present at the start of the hearing based on the starting of the subcommittee, alternating between the majority and minority. Those coming in later will be recognized as they arrive.

We will now recognize Mr. Luján for 5 minutes.

Mr. LUJÁN. Thank you, Madam Chairwoman.

My questions fall exactly in line with where Chairman Thompson left off and talking specifically about the technology and some of

the advantages that we could be using to assist you in meeting these goals.

In your testimony, Mr. Lord, it clearly states, as you point out, that TSA faces a number of challenges related to technology. You highlighted the effectiveness while TSA contractors are utilizing technologies before standards have been met, in utilizing technology and creating these standards with technological advances with other nations as we move forward.

My question specifically, I guess, Mr. Kelly, is what can be done to be able to utilize the technology that we are using here in the United States to be able to create these standards and formalize these standards with other nations?

Mr. KELLY. Well, one thing we are doing in working with the science and technology group is we have set up I guess what I would call live labs at airline facilities—one in New York and one in Miami—where we are actually placing the technologies that we hope will work with screening cargo in these facilities so that we can test it on a live environment, rather than do it in a lab.

We find that if you are working in a lab, people wearing white coats and white gloves, there is no dirt around, and whereas if you can put it in a cargo facility, it is going to be what is actually going to happen with the equipment, and we get a better result on the effectiveness of that equipment.

Mr. LUJÁN. Okay. Mr. Lord, again, your testimony points out that the 9/11 Act defines screening for the purposes of the air cargo screening mandate as a physical examination or nonintrusive methods for assessing whether cargo poses a threat to transportation security with examples of various technologies.

I would go back, Mr. Kelly, to maybe embrace some of the work that is being done with some of the labs and in the lab environment.

Los Alamos National Labs, which is a national laboratory in my district, is developing a variety of technologies that could make air cargo screening more effective and more affordable. The national labs are developing technologies that will improve the safety and affordability of air cargo screening and air travel in general.

For example, the Magvid scanner is capable of identifying liquids and gels within sealed cargo or baggage using technology similar to the magnetic resonance imaging systems.

They are also developing the advanced active interrogation systems and advanced spectroscopic portal monitors, which are capable of detecting nuclear and radiological materials and can be adapted for cargo screening.

My specific question is, how are—and this would be to both of you—how, specifically, is TSA or other organizations incorporating the new innovative technologies being developed by national laboratories across the country in its protection of air passengers?

Mr. KELLY. Well, I can't speak for the S&T Directorate, but I know that they are very heavily involved with the various laboratories throughout the United States in what they are developing at those laboratories.

Mr. LUJÁN. Madam Chairwoman, what I would like to do, if at all possible, is submit to the committee, and maybe we can submit it to TSA as a recommendation, various technologies that are being

explored by national laboratories around the country that maybe can assist us in meeting these goals.

I know we are short on time, Madam Chairwoman, so, with that, I yield back.

Ms. JACKSON LEE. We would be happy to receive that from the gentleman. I am not sure if he has a list now that he would like to submit into the record?

Mr. LUJÁN. Later.

Ms. JACKSON LEE. So the gentleman will submit it later.

Let me yield to the distinguished gentleman from Missouri, Mr. Cleaver.

Mr. Cleaver, we are trying to get you in and allow these gentlemen to depart. You are yielded at this time. Thank you, Mr. Cleaver.

Mr. CLEAVER. Thank you, Madam Chairwoman.

Mr. Kelly, my concern is that we, I mean, we have so many challenges, it seems, still before us. We are told that there are not enough inspectors. Is that accurate?

Mr. KELLY. Well, I think presently we have enough inspectors to do at the level of screening that we are at today. But, as the system grows, as the Certified Cargo Screening system grows, we will probably have to re-evaluate the needs of our inspectors, and staff accordingly.

Mr. CLEAVER. Now, if we don't have the sophisticated screening equipment that would allow us to actually screen crates with cargo over 10 feet long, then it means—this is a question—it means that we would have to do it manually, that we would have to actually open up crates and screen the material; is that accurate?

Mr. KELLY. Yes, it is. But also, if the facility that crated the goods was a Certified Cargo Screening facility, then they would screen it before they closed up the crate, and it would be considered screened at that point.

Mr. CLEAVER. Okay. But how do we—I mean, it seems like we are going to have a traffic jam, you know, as we move toward fulfilling the congressional mandate that—I mean, you are saying you have enough people at this moment to do the work, but we are talking just another year. You know, I am frustrated now in my questioning because I know we have to go vote, and I am not able to get into the depths of this whole issue.

Mr. KELLY. Well, if you want, we could meet with you and talk to you.

Mr. CLEAVER. Yeah, I am very much interested in the problems, or apparent problems, of lack of inspectors, and particularly in light of the fact that you have a short timeline.

Mr. KELLY. Well, the TSA inspectors don't screen cargo. What they do is they are inspectors to make sure that the airlines or the screening facilities comply with the regulation. So they are not physically screening the cargo.

Mr. CLEAVER. Then who is?

Mr. KELLY. The airlines will do it, the freight forwarders will do it, the shippers will do it, manufacturers.

Mr. CLEAVER. We are just estimating that we are at 50 percent?

Mr. KELLY. No.

Mr. CLEAVER. We know?

Mr. KELLY. Well, we will verify that and advise you mid-April as to the status of where we are.

Mr. CLEAVER. But it won't be an estimate?

Mr. KELLY. It won't be an estimate, no.

Mr. CLEAVER. Okay.

Madam Chairwoman, thank you. I yield back the balance of my time.

Ms. JACKSON LEE. I thank the gentleman.

Mr. DEFAZIO. Can I ask one really quick question? You can leave and I will take over as temporary Chair if you are worried about the time.

Ms. JACKSON LEE. I will be happy to yield to the gentleman. Two of us have clarifying questions, and we are trying to dismiss them.

Mr. DEFAZIO. Right. I just want to express a concern. I would love to follow up with Mr. Kelly. That is all.

Ms. JACKSON LEE. The gentleman from Oregon is recognized.

Mr. DEFAZIO. I would love to follow up with you. It is a particular parochial concern; all politics are local. It has to do with cherries and the, sort of, improbabilities and possibilities of how we are going to screen the 2 months' worth of intense cherry exports we have by air freight every year, a very valuable commodity. I just need to follow up with you and see if there is some way we can deal with this, because right now we don't think it is going to work.

Mr. KELLY. All right. Fine.

Mr. DEFAZIO. I will have my staff follow up.

Mr. KELLY. Okay. We have had a lot of discussions—

Mr. DEFAZIO. Yeah, and we will point to what we think are still some problems. Your one person—your one person—out there in the whole Northwest is doing a great job, but he probably needs to be cloned, duplicated, replicated.

Mr. KELLY. Well, thank you. I appreciate that.

Ms. JACKSON LEE. Mr. DeFazio, let's get his name, he or she, that is doing a great job. We want to make sure we do clone him.

I have a clarifying question, and then we will dash—thank you very much, Mr. DeFazio—we will dash and be able to dismiss this particular panel. So I yield myself just a brief moment.

Mr. Kelly, let me understand, have you conceded or admitted that you missed the deadline of February 9, No. 1? No. 2, you are not verifying 50 percent? Have you conceded to both of those points?

Mr. KELLY. No—

Ms. JACKSON LEE. You missed the deadline of February 9 to meet 50 percent, and you also say you are not able to verify 50 percent cargo inspection. Is that what you are saying to us today?

Mr. KELLY. We are in the process of verifying the 50 percent cargo—

Ms. JACKSON LEE. But right now, today, you cannot verify that.

Mr. KELLY. Right now we cannot verify it, no.

Ms. JACKSON LEE. Mr. Lord, what did you say? You are agreeing that they can't verify it. Do you expect they will ever be able to verify it?

Mr. LORD. I indicated they are in the process of verifying; they can't do it today.

Ms. JACKSON LEE. Pardon me?

Mr. LORD. I indicated they are in the process of verifying, but, as of today, they can't tell you whether they have met it or not.

Ms. JACKSON LEE. All right.

Last point, Mr. Kelly, on airlines, are you saying airlines are cooperating, giving you information, or you are getting information from them?

Mr. KELLY. They are cooperating, and they are feeding the information to us.

Ms. JACKSON LEE. Okay. I would like to get, again—I think I asked the question—a list of the airlines, and we will pursue that at a later time.

I yield to the gentleman, Mr. Dent of Pennsylvania.

Mr. DENT. Thank you, Madam Chairwoman.

Very quickly, Mr. Kelly, do you consider exempted cargo when conducting your statistical analysis?

Mr. KELLY. We include all cargo in the base of what we are— to how we get to the 50 percent, we include all cargo.

Mr. DENT. Including exempted cargo?

Mr. KELLY. Yes.

Mr. DENT. Okay. Then, without going into detail, do you right now know the amount of cargo you exempted in 2008 from screening, yes or no?

Mr. KELLY. No.

Mr. DENT. So I guess the question then is, how is that possible?

Mr. KELLY. Well, I mean, I don't know, and I don't know if I can find out. But I could look to see.

Mr. DENT. Okay. I would appreciate your following up. We have to go run to vote, so thank you.

Ms. JACKSON LEE. Thank you, Mr. Dent.

There being no further questions for our first panel, I thank the witnesses for appearing before the subcommittee today. Again, they are great public servants. We appreciate that.

The Members of the subcommittee may have additional questions for you, and we ask that you respond to them expeditiously in writing.

We now will ask that you graciously accept the fact that this committee is in recess. When we return, we will start with our second panel.

The committee now stands in recess.

[Recess.]

Ms. JACKSON LEE. This hearing will now be reconvened, and let me thank all of you for your patience.

I thought I would acknowledge the Ranking Member for both his diligence and his support for the product in his district. He has wanted to emphasize the bipartisanship of this particular subcommittee, and you will see it as we go forward. These are Peeps marshmallow chicks that he has graced the Chairwoman with. It will suggest to you that if we do not see you before the holidays are approaching, we wish you wonderfully blessed holidays. If someone starts failing physically, we will be willing to share one of the marshmallow chicks with you.

Thank you, Mr. Dent.

Mr. DENT. Madam Chairwoman, you are most welcome. I would be happy to make sure that we provide it to the Chairman of the full committee some Easter Peeps, as well, for when he needs a little sugar.

Ms. JACKSON LEE. He is on the Agriculture Committee, and I think he might take great interest in this.

Mr. DENT. The name of the company is Just Born, Bethlehem, Pennsylvania. There you go.

Ms. JACKSON LEE. Oh, my goodness. Thank you for your kindness, Mr. Dent.

I welcome our second panel of witnesses.

Our first witness is Mr. André Johnson, who is responsible for strategic direction as well as financial and overall management of FreightScan. FreightScan, a California-based company, is a leader in the development and deployment of customer-driven technology. As well, it is a company that has evidenced its interest in the area that we are discussing. These solutions for the freight and logistics industry are the basis of the customer-driven technology solutions that this company is engaged in. Mr. Johnson has practical knowledge and experience in all sizes of business, from entrepreneurial to Fortune 100 companies.

Welcome, Mr. Johnson.

Our second witness is Mr. Jack Boisen, who recently retired as the head of Continental Airlines Cargo. After an auspicious 14-year career leading global operations, sales, marketing, customer service, and postal affairs, he continues his role as the chairman of the International Air Cargo Association. Mr. Boisen has spent more than 40 years in the airline industry, handling positions of increasing stature and responsibility. He served Houston-based Continental as vice president of the cargo division since 1994. I will not be biased toward Mr. Boisen because of his former affiliation with my hometown airline.

But thank you and welcome, Mr. Boisen.

Our third witness is Mr. Brandon Fried. Mr. Fried was appointed to serve as the executive director of the Airforwarders Association in November 2005. Mr. Fried has more than 25 years of experience in the air freight industry. He started his career as a sales representative in Los Angeles and then moved to Washington, DC, where he founded, owned, and operated the Washington office of Adcom Worldwide, a global freight forwarder specializing in time-definite air cargo transportation.

We welcome you, as well, Mr. Fried, to the panel.

Our fourth witness is Mr. James May, president and CEO of the Air Transport Association of America, the Nation's oldest and largest air trade association. He joined ATA in February 2003 and has lead the association through an especially challenging time in its history. Prior to joining ATA, Mr. May served as an executive vice president of the National Association of Broadcasters, vice president for public affairs for the Coca-Cola Bottling Company of New York, and directed Government relations for PepsiCo, and served as vice president for public affairs for the Grocery Manufacturers of America.

We welcome you, Mr. May.

Without objection, the witnesses' full statements will be inserted in the record. I now ask each witness to summarize his statement for 5 minutes, beginning with Mr. Johnson.

Welcome, Mr. Johnson.

STATEMENT OF ANDRÉ L. JOHNSON, CEO, FREIGHTSCAN

Mr. JOHNSON. Thank you, Madam Chairwoman. My name is André Johnson, the CEO of FreightScan. We are a company that provides innovative technology solutions for transportation companies. FreightScan is a trustee member of the International Air Cargo Association, member of the Air Forwarders Association also.

Chairwoman Jackson Lee, Ranking Member Dent, and Members of the distinguished subcommittee, let me extend my sincere appreciation and gratitude for your inviting me to provide this testimony this afternoon.

Chairman Thompson, thank you for coming also.

I am here to speak on behalf of the small entrepreneurial companies that are at the forefront of developing new technology to solve problems for both the private and public sector. Can we secure American skies? I believe we can. The story of FreightScan illustrates how small companies can play a significant role, meeting the air cargo screening requirements mandated by Congress in the 9/11 Act.

FreightScan was formed several years ago with a mission to offer business solutions for the freight industry, with an initial focus on air cargo. The first problem we set out to solve was how to automatically capture dimensions and images of cargo without disrupting workflow. Solving this problem will enable air carriers to accurately charge for large, light-weight shipments, generating hundreds of millions of dollars in profits. FreightScan developed and deployed a solution, and in late 2007 we introduced the FS100.

As our team traveled around the world promoting the FS100, we kept hearing the same question: If this technology can capture dimensions and images, can we use it to screen cargo? FreightScan has always taken great pride in being customer-focused, and we committed to developing a screening solution that would not slow the flow of commerce. The result is CargoVizion, a system which will detect potential threat objects in cargo during the standard acceptance process of shipments.

Our next step was to get CargoVizion validated and tested for inclusion on the Qualified Product List, or QPL. Our initial entree to the QPL process was frustrating. The roadmap to presenting our technology was not clear, and we couldn't get specifications for what threats we had to detect or various other critical pieces of information we needed to complete our development.

We fully support and understand the need to protect sensitive information; however, a defined QPL process, without classified data, would have accelerated our ability to get details about our technology to TSA for evaluation. We could not afford any more delays, so we eventually validated the technology internally and presented the information to the TSA in the hopes it was a format that they could accept.

That said, let me be clear: This is in no way a criticism or indictment of the TSA and its related agencies. Our initial point of con-

tact at TSA made it clear the agency was besieged by companies large and small claiming to have solutions. We always believed that the TSA wanted to find a screening solution as much as we wanted to deliver one.

The proof of the TSA's commitment to finding and validating potential solutions for 100 percent screening could be proven where we are today. Just a few short weeks after we convinced the TSA that we have a potentially viable solution, the pace has picked up significantly. Since then, we have had number of positive, constructive calls and e-mails with the TSA and the TSL lab in Atlantic City, and we are finalizing a cooperative research and development agreement to test and validate our technology.

There are many positive outcomes for FreightScan's journey. We were able to obtain private funding and develop our screening solution in record time without burdening the U.S. Government for resources or funding. We have demonstrated the solution in industry events, and there are several companies waiting to implement CargoVizion immediately after being added to the QPL. We have hired 20 additional employees in the last 12 months, in spite of the current economic downturn, all of whom enjoy a safe working environment, full health insurance for them and their families, and many other benefits.

Securing American skies is a difficult task, and, therefore, the ability to validate related technology is also very difficult. My hope is that FreightScan's story will inspire other small companies and also encourage the hard-working men and women at TSA to make the QPL process transparent for both large and small companies. This will encourage others to attempt the demanding but important duty of securing America. I understand that TSA is working on this, and we applaud them for their efforts.

In conclusion, let me thank industry leaders like Jack Boisen and Brandon Fried and also the TSA leadership for their encouragement and communication. FreightScan is one example of a company that had the determination to navigate the very challenging process. The reward is a working partnership with the TSA that will certainly contribute to everyone's goal of securing American skies.

Thank you, again, for the opportunity to appear before you today. It would be my honor to return before this distinguished subcommittee before the August recess, and it is my hope I will be able to report that our solution is in use, as I believe CargoVizion can make a significant contribution to meeting the August 2010 deadline for screening 100 percent of cargo.

Thank you.

[The statement of Mr. Johnson follows:]

PREPARED STATEMENT OF ANDRÉ L. JOHNSON

MARCH 18, 2009

Good afternoon. My name is André Johnson. I am the Chief Executive Officer of FreightScan, a company that provides innovative technology solutions for transportation companies. FreightScan is a trustee member of The International Air Cargo Association, as well as a member of the Air Forwarders Association.

To Chairwoman Jackson Lee, Ranking Member Dent, and the Members of this distinguished subcommittee, let me extend my sincere appreciation and gratitude to you for inviting me to provide testimony this afternoon.

I am here today to speak on behalf of the small, entrepreneurial companies that are at the forefront of developing new technology to solve problems for both the private and public sector. Can we secure American Skies? I believe we can, and the story of FreightScan illustrates how small companies can play a significant role meeting the air cargo screening requirements mandated by Congress in the 9/11 Act.

FreightScan was formed several years ago with a mission to offer business solutions for the freight industry with an initial focus on air cargo. The first problem we set out to solve was how to automatically capture dimensions and images of cargo without disrupting workflow. Solving this problem would enable air carriers to accurately charge for large lightweight shipments, generating hundreds of millions of dollars in profits. FreightScan developed a solution, and in late 2007 we introduced the FS100, an automated dimensioning system that captures dimensions of cargo in four seconds.

As our team traveled the United States and around the world promoting the FS100, we kept hearing the same question: If this technology can capture dimensions and images, can we use it to screen cargo?

FreightScan has always taken great pride in being a small, agile company that is customer-focused and we committed to developing a solution that would screen cargo without slowing the flow of commerce. The result is CargoVizion, a system which will automatically detect potential threat objects in cargo during the standard acceptance process of shipments. Our next step was to get CargoVizion validated and tested for inclusion on the Qualified Product List, or QPL, and we set out to introduce our company and technology to the authorizing Federal agencies.

Our initial entree to the QPL process was frustrating. The roadmap to presenting our technology to the TSA was not clear, and we couldn't get specifications for what threats we had to detect, or various other critical pieces of information we needed to complete our development.

We fully support and understand the need to protect sensitive information. However, a defined QPL process, without classified data, would have accelerated our ability to get details about our technology to TSA for evaluation and our efforts to bring CargoVizion to the cargo industry. We eventually decided that we could not afford any more delays, and so we validated the technology internally and presented that information to the TSA in the hopes it was in a format they could accept.

That said, let me be clear, this is in no way a criticism nor indictment of TSA and its related agencies. Our initial point of contact at TSA made it clear the agency was besieged by companies large and small claiming to have solutions, and they were doing what they could to respond. We recognized the enormity of the task and at no time did we take the obstacles to progress personally. To the contrary, we always believed that the TSA wanted to find a screening solution as much as we wanted to deliver one. The proof of TSA's commitment to finding solutions for 100% air cargo screening can be seen in where we are today.

Just a few short weeks ago, after we convinced the TSA that we have a potentially viable solution, the pace picked up significantly. Since then, we have had a number of very constructive calls with the TSA and the TSL, and we are finalizing a Cooperative Research and Development Agreement to test and validate the equipment. TSA and TSL representatives have been responsive and helpful, and I believe we are very close now to being in a position to offer the freight industry a new method for screening cargo transported on passenger planes in an efficient and practical manner.

There are many positive outcomes from FreightScan's journey. In our pursuit to gain the attention of TSA, we were able to obtain private funding and develop an innovative screening solution in record time without burdening the U.S. Government for resources or funding. We have demonstrated the solution at industry events, resulting in a list of airlines and freight forwarders who waiting to implement CargoVizion immediately after being added to the QPL. We have hired 20 additional employees in the last 12 months in spite of the current economic downturn, all of whom enjoy a safe working environment, health insurance for their families, and many other benefits such as sharing in the pride of knowing that they are participating in making our great country stronger and safer for all.

Securing American skies is a difficult task; and therefore the ability to validate related technology is also difficult. My hope is that FreightScan's story will inspire other small companies to work through the process, and also encourage the hard-working men and women at TSA to make the QPL process transparent for both large and small innovative companies. This will encourage others to attempt the demanding but important duty of securing America. I understand that the TSA is working on this, and we applaud them for their efforts.

In conclusion, let me thank industry leaders like Jack Boisen and Brandon Fried, and also the TSA leadership for their encouragement and communication. FreightScan is one example of a company that had the determination to navigate a very challenging process. The reward is a working partnership with the TSA that will most certainly contribute to everyone's goal of securing American skies.

Thank you again for the opportunity to appear before you today. It would be my honor to return before this distinguished subcommittee before the August recess. It is my hope that I will be able to report that our solution is in use, as I believe CargoVizion can make a significant contribution to meeting the August 2010 deadline for screening 100% of cargo.

Ms. JACKSON LEE. Thank you, Mr. Johnson, for your testimony. I now recognize Mr. Boisen to summarize his statement for 5 minutes.

**STATEMENT OF JACK BOISEN, CHAIRMAN, THE
INTERNATIONAL AIR CARGO ASSOCIATION**

Mr. BOISEN. Chairwoman Jackson Lee, Ranking Member Dent, Chairman Thompson, and distinguished Members of the subcommittee, it is my pleasure to testify today on behalf of the The International Air Cargo Association, or TIACA, for which I serve as chairman. Thank you for the opportunity to present our views in one of the most important issues facing the air cargo sector: the screening mandates established by so-called 9/11 Act.

First, allow me to introduce TIACA. We represent all major segments of the air cargo supply chain, including airlines, forwarders, airports, ground handlers, all cargo carriers, road carriers, customs brokers, third-party logistics companies, integrators, shippers, and aircraft manufacturers. Because of the diversity of our membership, TIACA members are affected by all of TSA's security protocols. Our members are committed to ensuring the safety and security of air cargo while maintaining the viability of the air cargo supply system.

In assessing current and future air cargo screening and the question of whether we can secure America's skies, it is important to understand that it is not possible to design a one-size-fits-all approach to air cargo security. Operating realities are different for each segment of the industry, and security policies need to take these distinctions into account. TIACA commends TSA for its sensitivity to this fact.

TSA has determined that, because of the realities of the air cargo supply chain, the best way to implement the 9/11 air cargo screening mandates is to spread the screening responsibilities throughout the supply chain via the Certified Cargo Screening Program, or CCSP. TIACA agrees with this approach. We do not believe that screening can be the sole responsibility of the airlines, nor do we support the efforts of some entities to Federalize all air cargo screening.

We believe Federalization of airline-only screening would unduly crowd this function onto airport grounds, potentially creating significant bottlenecks to impose a one-size-fits-all approach to air cargo screening. While this might work in certain locales, it would likely produce commercial gridlock at many U.S. airports. The flexibility allowed under CCSP is a better fit with the diverse needs of the air cargo supply chain.

While TIACA supports the general concept of CCSP, we have several concerns about implementation of the air cargo screening

mandates. I would like to highlight a few of them in my testimony today.

First, TIACA is concerned about the cost likely to be incurred by its members due to the new screening obligations. Those companies that become certified screeners will need to acquire costly equipment. There will be other costs incurred, as well, including facility security improvements, training, et cetera. We hope the U.S. Congress can consider providing some relief to these companies, perhaps through tax incentives.

Second, we are quite concerned that much of the equipment currently certified for use is most appropriate for the passenger screening environment and not to the air cargo environment, where palletized or other consolidated shipments are the norm. We believe TSA should expedite this review of technologies geared toward the air cargo environment.

Third, we are unclear on how TSA will be verifying compliance with the February 2009 and August 2010 screening standards and how potential stoppages due to noncompliance will be handled.

Fourth, there is confusion within the air cargo sector about how the air cargo screening standards will be applied to flights originating from foreign airports. At this point, we do not know the extent to which foreign security protocols may have to change to meet the August 2010 100 percent screening standard or what the impact might be on airlines, forwarders, shippers, and others.

Fifth, TIACA is also concerned that there is occasionally a breakdown between TSA headquarters' interpretation of policy and the actions that are taken by inspectors in the field.

Sixth, TIACA believe the Aviation Security Advisory Committee, known as ASAC, and its vital Air Cargo Working Group should be resuscitated as quickly as possible. We believe both would serve as vital conduits for industry-Government discussion of the implementation issues as we move toward the 100 percent air cargo screening.

Seventh, TIACA believes it is essential that the Department of Homeland Security better leverage the security programs of TSA and U.S. Customs and Border Protection, CBP, with a view toward increasing efficiency and eliminating redundancies.

In summary, many challenges remain as we move toward August 2010 and the 100 percent air cargo screening mandate. TIACA commends the subcommittee for its strong leadership on this issue and hopes to continue working with you and with the TSA to address these challenges and ensure viable implementation of the new air cargo screening standards and the security of America's skies.

I thank you again for the opportunity to testify before you today.
[The statement of Mr. Boisen follows:]

PREPARED STATEMENT OF JACK BOISEN

MARCH 18, 2009

Chairwoman Jackson Lee, Ranking Member Dent, and distinguished Members of the subcommittee, it is my pleasure to testify today on behalf of The International Air Cargo Association, or TIACA, which I serve as chairman. I am also a veteran of more than 40 years in the air cargo industry, having served most recently as Vice President of Continental Airlines' Cargo Division for 14 years.

Thank you for the opportunity to present our views on one of the most important issues facing the air cargo sector, the screening mandates established by the *Implementing Recommendations of the 9/11 Commission Act of 2007*. The law requires that 50% of all air cargo on passenger aircraft be screened as of February 2009 and that all such cargo be screened as of August 2010. Obviously, we are currently operating in an environment where the 50% standard is applicable and are less than 17 months away from the comprehensive requirement.

First, allow me to introduce TIACA. We represent all major segments of the air cargo supply chain, including airlines, forwarders, airports, ground handlers, all-cargo carriers, road carriers, customs brokers, third-party logistics companies, integrators, shippers, aircraft manufacturers, and educational institutions. Because of the diversity of our membership, TIACA members are affected by all of TSA's security protocols. As a result, we actively engage with TSA on a wide range of air cargo security issues, and implementation of the 9/11 Act's air cargo screening mandates is one of our top priorities. Our members are committed to ensuring the safety and security of air cargo while maintaining the viability of the air cargo supply chain.

In assessing current and future air cargo screening, and the question of whether we can secure America's skies, it is important to understand that, because of the many different entities in the air cargo supply chain, it is impossible to design a one-size-fits-all approach to air cargo security. Operating realities are different for passenger airlines, all-cargo airlines, express operators, air freight forwarders (or indirect air carriers), ground transportation providers, and shippers. Different airports have distinct footprints, and tend to handle different types of cargo. Security policies need to take these distinctions into account if they are to offer workable approaches. TIACA commends TSA for its sensitivity to the diverse range of operators in the air cargo supply chain, and for its recognition of the need to maintain flexible policies because of that diversity.

TSA has determined that, because of the realities of the air cargo supply chain, the best way to implement the 9/11 Act's 50% and 100% air cargo screening mandates is to spread screening responsibilities throughout the supply chain via the Certified Cargo Screening Program, or CCSP. Fundamentally, TIACA agrees with this approach. We do not believe that screening can be the sole responsibility of the airlines, nor do we support the efforts of some entities to federalize all air cargo screening, making it a TSA function and locating it solely on airport grounds. We believe federalization or airline-only screening would unduly crowd this function onto airport grounds, potentially creating significant bottlenecks, and would impose a one-size-fits-all approach to air cargo screening. While this approach might work in certain locales, it would likely produce commercial gridlock at many U.S. airports. The flexibility allowed under CCSP is a better fit with the diverse needs of the air cargo supply chain.

While TIACA supports the general concept of CCSP, we have several concerns about implementation of the air cargo screening mandates. I'd like to highlight a few of the issues that are particularly important for TIACA members in my testimony today.

First, TIACA is concerned about the costs likely to be incurred by its members due to the new screening obligations. Those companies that become certified screeners will need to acquire costly equipment for each of their certified facilities. Passenger airlines may face additional equipment acquisition costs as well. This is significant, particularly given the current economic downturn which has reduced air cargo volumes by roughly 25%, threatening the viability of many companies. We hope the U.S. Congress can consider providing some relief to companies that incur the substantial cost of screening equipment acquisition. For example, establishing tax incentives or credits for such companies could provide significant financial relief.

Second, we are quite concerned that much of the equipment currently certified for use is most appropriate for the passenger screening environment and is ill-suited to the air cargo environment where palletized or other consolidated shipments are the norm. We believe TSA should expedite its review of technologies geared towards the air cargo environment. Given the looming August 2010 deadline, it is essential that new technological options be made available very soon. Without new equipment capable of screening consolidated shipments, we may face considerable disruption to air cargo commercial flows in a 100% screening environment. In this regard, TIACA strongly supports increased funding for and use of canine screening teams for air cargo and believes expanded use of canines could help ensure smoother implementation of the comprehensive screening mandate.

Third, we are unclear about how TSA will be verifying compliance with the February 2009 and August 2010 screening standards. TIACA members have advised that they are in compliance with the reporting requirements TSA has placed on them with respect to the February 2009 screening standard, and report they are

meeting the 50% standard. However, we are unclear about how TSA is processing and validating that information, individually and across the entire supply chain. We are also unsure whether there might be future disruptions to trade based on TSA determinations of cases where the 50% standard may not be met, and how that information will be communicated to others in the supply chain. Furthermore, once the 100% standard is in place, the potential for unforeseen stoppages in trade may increase. We do not know what sort of notification there will be in such instances, nor how difficult it may be for shippers, forwarders, or airlines to adjust their schedules to ensure service.

Fourth, there is confusion within the air cargo sector about how the air cargo screening standards will be applied to flights originating from foreign airports. Up until recently, TSA had maintained that the 9/11 Act's screening mandates applied only to flights originating from U.S. airports. Under this interpretation, non-U.S. airlines would be required to meet the 9/11 Act's screening standards for flights they operated out of U.S. airports, just as would U.S. airlines. However, neither U.S. nor foreign airlines would be required to meet the screening thresholds for flights originating from foreign airports. Instead, those flights would be subject to the security protocols in the country of departure.

Roughly 6 months ago, TSA modified its interpretation and concluded the 9/11 Act mandates also apply to foreign-origin flights. At this point, we do not know the extent to which foreign security protocols may have to change to meet the August 2010 100% screening standard, how TSA will factor in-bound cargo into its calculations of whether the threshold is met, or what the impact might be on screening methods, technologies, certified cargo programs, etc.—let alone what all this will mean for airlines, forwarders, shippers, and others.

In this uncertain environment, it is critical that TSA and its counterpart agencies in other countries work closely with industry groups to ensure timely communication to those in the air cargo supply chain so that widespread commercial disruption is avoided. We simply cannot afford commercial bottlenecks due to confusion over security regimes, on top of the damage already caused by the global economic crisis. TIACA stands ready to do its part by addressing member concerns and questions to TSA, liaising with security authorities, and conveying key information to its members. We urge all parties to cooperate in an effort to ensure that security standards are met and commercial chaos is avoided.

Fifth, TIACA is also concerned that there is occasionally a breakdown between TSA headquarters' interpretation of policy and the actions that are taken by inspectors in the field. We will continue to raise issues of inconsistency with TSA and urge the agency to ensure coordination between headquarters and the field through better education and communication.

Sixth, TIACA believes the Aviation Security Advisory Committee (ASAC) should be reinvigorated as quickly as possible. In the past, this body served as a vital conduit for industry-government collaboration on issues critical to air cargo, but it has been shut down for well over a year due to issues related to its re-chartering. The former ASAC created an Air Cargo Working Group, which fostered a highly productive dialogue between TSA and all elements of the air cargo industry. Without the ASAC umbrella, there is no formal mechanism for reactivating that dialogue and resuming the valuable work of that group. Unfortunately, that means that now, during the critical months leading up to the August 2010 deadline, this vital means of communication is silenced.

We understand that new ASAC members have been selected, but the re-chartered ASAC has yet to meet. We believe it is particularly important to reactivate the dialogue of the Air Cargo Working Group so it can address implementation issues related to the 100% screening mandate, and we encourage this subcommittee to do what it can to ensure that the ASAC and this critical working group are resuscitated.

Seventh, TIACA believes it is essential that the Department of Homeland Security better leverage the security programs of TSA and U.S. Customs and Border Protection, or CBP. Both agencies operate extensive national security programs, and both are part of the same department—yet industry partners are generally unable to leverage participation in one agency's programs with those of the other agency. DHS should more aggressively explore synergies between TSA and CBP cargo screening programs, including use of automation, risk-based assessment, personnel, and Government-industry partnerships such as the Customs-Trade Partnership Against Terrorism (or C-TPAT) and the CCSP, with a view towards increasing efficiency and eliminating redundancies.

Finally, on a related matter, TIACA is closely monitoring CBP's implementation of the so-called 10+2, or Importer Security Filing, regulation. While this initiative currently applies solely to maritime shipments, CBP has indicated at various times

that it might consider rolling it out to other modes. TIACA believes that, if such a rollout were to occur, CBP must take into account the unique aspects of each mode of transportation and differentiate the requirements based on the realities of each mode. In particular, if CBP were to consider an importer security filing for air, it would need to articulate why such an approach is warranted in light of the fact that 100% screening, by TSA, would already be applicable as of August 2010. This is in stark contrast to the maritime environment, where CBP has specifically advocated 10+2 as a preferable alternative to 100% scanning of maritime shipments.

In summary, many challenges remain as we move towards August 2010 and the 100% air cargo screening mandate. TIACA commends this subcommittee for its strong leadership on this issue, and hopes to continue working with you and with TSA to address these challenges and ensure viable implementation of the new air cargo screening standards and the security of America's skies.

I thank you again for the opportunity to testify before you today.

Ms. JACKSON LEE. Thank you very much for your testimony, Mr. Boisen.

I now recognize Mr. Fried to summarize his statement for 5 minutes.

**STATEMENT OF BRANDON FRIED, EXECUTIVE DIRECTOR,
AIRFORWARDERS ASSOCIATION**

Mr. FRIED. Chairwoman Jackson Lee, Ranking Member Dent, Chairman Thompson, and Members of the committee, thank you for the opportunity to appear before the House Committee on Homeland Security to discuss the challenges in meeting the first screening deadline, as well as the challenges we anticipate the next 50 percent.

As you are aware, the air freight industry has been working hard to meet the 100 percent passenger air cargo screening mandate. The Airforwarders Association is committed to facilitating compliance and remains confident that the 100 percent benchmark will be met. We urge Congress and the TSA to maintain the CCSP against calls for Federalization, provide funding mechanisms for participants to reduce the barrier to participation, and resist any further moves away from a risk-based approach to cargo security.

More than a quarter of the facilities currently certified to screen cargo are Airforwarders Association members. It seems that, for the vast majority of the industry, reaching the 50 percent benchmark has not been particularly problematic. While the economic environment has had the effect of lowering cargo volume, remarkable progress made by TSA, forwarders, air carriers, and shippers deserves most of the credit. The ease of attaining the first portion of the screening mandate should be both a sign of encouragement and caution. Let me outline the remaining challenges with the remainder of my time.

Last year, I had the privilege of addressing this subcommittee and outlined the concerns forwarders have about meeting the 100 percent mandate. Unfortunately, some of the more serious issues have yet to be resolved. The following three elements need to be resolved in order for CCSP to be a viable security program: No. 1, the appropriation and availability of additional Federal funding or incentives for eligible participants; No. 2, the encouragement of all entities involved in the supply chain as full participants in the act of screening; and, No. 3, the availability of efficient and cost-effective solutions to screening for all TSA-certified Indirect Air Carriers and other qualified participants.

In the absence of certified technology, the focus will be on examining pallets and containers. Each pallet or unit load device contains nearly 200 pieces of varying size, shape, and commodities. The space and time involved in breaking up cargo poses an increased level of risk of theft or tampering, as idle cargo is a security concern.

The Air Forwarders Association has been working with carriers, shippers, and forwarders to ensure that there are many options available to forwarders of all sizes. As such, we believe that market competition and innovation, rather than the TSA screening operation at each airport facility, is the best way to provide efficient and effective options for all in the supply chain.

Encouraging TSA's screening to the maximum extent possible removes the supply chain's experience and problem-solving skills for a system with delays, higher costs, and less accountability. We urge TSA to continue to work with their Science and Technology Office, as well as vendors, to identify, test, and approve equipment that can effectively and efficiently screen palletized cargo. In the absence of that, we urge Congress to allocate additional funds for the canine program.

Even as advancements are made with technology, the significant amount of capital required to purchase technology is a barrier for participation. Forwarders participating in CCSP must purchase technology for which the cost may range from \$50,000 to \$500,000 per facility, a price tag that cannot be met by many forwarders, particularly smaller forwarding businesses. As a result, they may face market disadvantages and longer lines at the air carrier if alternate options are not available. This lost revenue in the current economic environment could force forwarders out of business.

For those in the pilot program, this need was addressed by a TSA-funded grant. We ask Congress and TSA to provide funding to ensure that thousands of jobs in the air freight industry are not lost and the American economy does not face more harm due to delay and market shrinkage.

Finally, as we face the future, it is critical to look back on the mission of the Department of Homeland Security and TSA, which is not only to secure the Nation's borders but also to maintain an efficient flow of commerce. I agree that aviation security is critically important, but we must not abandon all consideration of international trade, economic security, and our supply chain, particularly in these troubled times.

For that reason, the Airforwarders Association has been working with the Safe Commerce Coalition to assess the most effective way to secure cargo for the future. Noted experts, including the Government Accounting Office, have stated that abandoning a risk-based security program may actually make the Nation less safe. Forwarders know it is an unwise use of finite resources to treat each piece of cargo as if it has the same threat level. The industry has already demonstrated its willingness to comply with the law and will continue. However, without a vigilant eye on the actual impact of our actions, I fear we may have achieved a mandate without achieving its goals.

I appreciate the opportunity to be here today and address this important topic, and I look forward to your questions.

[The statement of Mr. Fried follows:]

PREPARED STATEMENT OF BRANDON FRIED

MARCH 18, 2009

INTRODUCTION

Chairwoman Jackson Lee, Ranking Member Dent and Members of the committee, thank you for the opportunity to appear before the House Committee on Homeland Security, Subcommittee on Transportation Security and Infrastructure Protection to discuss the challenges the forwarding industry has addressed in meeting the first screening deadline, as well as the challenges we anticipate with the next 50 percent. I ask that my full statement be entered into the record.

As you are aware, the air freight industry has been working hard with the administration to meet the 100 percent passenger air cargo screening mandate. It is our firm belief that the full implementation of the Certified Cargo Screening Program (CCSP) is the most efficient and only realistic method of attaining the mandate. The Airforwarders Association is committed to facilitating compliance across the forwarding industry, and remains optimistic that the 100 percent mandate as defined by TSA will be met. We urge Congress and the TSA to maintain the CCSP, provide funding mechanisms for participants to reduce the barrier to participation and resist any further moves away from a risk-based approach to cargo security.

BACKGROUND

My name is Brandon Fried and I am the executive director of the Airforwarders Association. It is a pleasure to address this distinguished panel today on the important issue of air cargo security.

I was appointed to serve as the Executive Director of the Airforwarders Association in November 2005 and have over 25 years of experience as a forwarder myself. In my position as Executive Director, I represent the Association on all security matters and currently serve on the Aviation Security Advisory Committee (ASAC) working group in counsel to the Transportation Security Administration.

The Airforwarders Association is an alliance of Indirect Air Carriers, Cargo Airlines, and affiliated businesses located throughout the United States that play a vital role in ensuring the continuous movement of global commerce. There are over 4,000 registered indirect air carriers who are responsible for the planning, oversight, and transporting of companies' goods and products—anything from flowers and seafood to pallets of humanitarian supplies. The parameters of this service include steps such as pick-up of goods, customs clearance, transportation, warehousing, regulatory compliance and delivery; we work from one end of the supply chain to the other.

DISCUSSION

Products such as automobile assembly line parts, high-tech electronics, pharmaceuticals, and vital consumer goods are transported in the cargo holds of passenger planes on virtually every flight. During the cold winter, our families enjoy fresh vegetables flown from the warm west coast and South America on passenger flights. As we speak, thousands of pounds of seafood are in flight to be served tonight in restaurants in places like Albuquerque, Minneapolis, Omaha, and St. Louis. In some cases our members help save lives by assisting medical companies and hospitals ship urgently needed heart valves, blood samples, and human organs across the country to waiting doctors and patients.

It is the urgent need or "just in time" nature of cargo, coupled with the variance in the products shipped and the sensitivity to excessive handling or delay, that makes the task of screening so challenging. It is also the reason that the supply chain, from shippers of pharmaceuticals that cannot have their packages opened by a screener due to product integrity issues, to the forwarder whose business depends on meeting a deadline and even the air carriers all support CCSP and screening throughout the supply chain.

However, we believe that the following three elements need to be put in place in order for CCSP to be a viable security program: The appropriation and availability of additional Federal funding or incentives (e.g. tax relief on privately purchased screening equipment) for eligible participants; the encouragement of all entities involved in the supply chain as full participants in the act of screening; and the availability of efficient and cost-effective solutions to screening for all TSA-certified Indirect Air Carriers (IACs) and other qualified participants.

Support for CCSP

Complex supply-chain dynamics and the broad range of facility and cargo screening capabilities at our airports prevent a “one-size-fits-all” solution to the complex cargo screening dilemma. This complexity has motivated us to work cooperatively to ensure that many solutions are available to the commercial concerns that participate in the supply chain to meet air cargo screening mandates. Screening a high percentage of air cargo upstream is a critical part of the solution, especially where U.S. manufacturing and supply chain logistics involve secure bulk packaging that must be maintained for the integrity of the product.

Another part of the solution is some airport screening by airlines and the Transportation Security Administration (TSA). The Airforwarders Association supports a system of cargo screening that offers forwarders multiple options as to where and how to screen cargo, but those options must work. We remain concerned that a system other than CCSP that would screen the bulk of air cargo at a single facility at the airport does not work and will most assuredly lead to significant delays, bottlenecks, and increased costs and ultimately will jeopardize the economic stability of the air transportation sector without providing greater assurance of cargo safety.

Although it is a voluntary program, CCSP is a key part of the risk-based multi-layered approach to air cargo security that strengthens security throughout the global supply chain and balances the need for increased security while also meeting the needs of the shipping public. We believe the strength of CCSP is that it provides for multiple options throughout the supply chain, including the use of centralized third-party screening centers, third-party logistics providers, shipper or exporters, and freight-forwarder screening facilities, which will lead to robust competition and, ultimately, the reduction of screening costs. Additionally, all members of the supply chain have a vested business interest in a strong chain of custody to maintain the integrity of cargo. As a result, relying on the shippers, forwarders and airlines that have a strong record of safety and security to handle the delicate screening operations for the wide spectrum of cargo will increase cargo security in an effective manner.

Lessons Learned From the First 50 Percent

More than a quarter of the facilities currently certified to screen cargo are Airforwarders Association members. Based on an informal poll, it seems that for the vast majority of the industry, reaching the 50 percent benchmark has not been particularly problematic. Of the problems experienced, most were relatively minor misunderstandings about paperwork and tendering screened shipments to air carriers. These did not have a substantial impact on cut-off times to deliver cargo, or result in delays in shipment. While the economic environment has had the effect of lowering cargo volume and therefore probably helped ease the burden, remarkable progress made by TSA, forwarders, air carriers, and shippers deserves most of the credit.

TSA began certifying participants in December and has been working diligently to expand the number of certified participant facilities. Dialogue has improved, as has information sharing, and TSA, despite the transition to a new administration, has remained steady in its guidance to industry. I believe participants in the pilot have learned that they do have a trusted partner in TSA, and the learning curve will continue to improve as we move closer to the 100 percent deadline.

Additionally, forwarders have found that their other partners in the supply chain—shippers and air carriers—are actively responding to the screening mandate as well. As more shippers come into the program, the burden on forwarders to be the primary screener will decrease. Additionally, air carriers have rapidly deployed technology and trained employees to screen freight and are doing so in an efficient and effective manner.

The ease of attaining the first portion of the screening mandate should be both a sign of encouragement and caution. It proves that our industry and its airline partners can collectively rise to any challenge and implement effective solutions. It also means that the road ahead may be rough and lessons learned today will be well used as tomorrow unfolds.

Concerns About the Next 50 Percent

Last year, I had the privilege of addressing this subcommittee and outlined the concerns forwarders have about meeting the 100 percent mandate. Unfortunately, some of the more serious issues have yet to be resolved. Specifically, those are the lack of approved pallet screening technology, on-going financial barriers to participation, and the future of air cargo security policy in general.

In the absence of certified technology, the focus will be on examining pallets and containers, each needing to be unpacked to meet the piece-level screening require-

ment. This poses serious logistical and security concerns. Each pallet or unit load device (ULD) contains nearly 200 pieces of varying size, shape, and commodity. Breaking up the shipment of that size will require facility space large enough to accommodate multiple unpacked pallets, a resource not all airports have. Additionally, breaking up cargo poses an increased level of risk of theft or tampering, as idle cargo is a security concern.

We urge TSA to continue to work with their Science and Technology office, as well as vendors, to identify, test, and approve equipment that can effectively and efficiently screen palletized cargo. In the absence of that, we urge Congress to allocate additional funds for the canine program, as it is an effective stop-gap solution.

Even as advancements are made with technology, the significant amount of capital required to purchase technology and adapt business practices is a barrier to participation. Forwarders participating in CCSP must purchase technology for which the cost may range from \$50,000 to \$500,000 per facility—a price tag that cannot be met by many forwarders, particularly smaller forwarding businesses. As a result, they will face delays at the airport for cargo screening, causing them to miss flights and lose revenue. This lost revenue, in the current economic environment with high fuel surcharges and razor-thin profit margins, could force forwarders out of business. This consolidation of the market, with the resulting impact on competition, is bad for forwarders, manufacturers, and the American consumer.

For those who were selected, based on size or commodity, to participate in the pilot program, this need was recognized and addressed by a TSA-funded grant for the purchase of technology. The Airforwarders Association calls on Congress and TSA to provide funding to ensure the hundreds of thousands of jobs in the air freight industry are not lost and the American economy does not face serious harm due to delays in goods and products being delivered. The Airforwarders Association supports grants to fund CCSP as well as additional funding or reallocation of TSA's budget to provide funding for equipment and personnel devoted to cargo screening. We also support expanded funding for canine detection units for use for large consolidations and possibly also in other facets.

Finally, as we face the future of air cargo screening, it is critical to look back on the mission of the Department of Homeland Security and TSA, which is not only to secure the Nation's borders but also to maintain an efficient flow of commerce. As a frequent flier, I understand and agree that aviation security is critically important but we must not abandon all consideration of international trade, economic security and our supply chain, particularly in these troubled economic times. For that reason, the Airforwarders Association has been working with the Safe Commerce Coalition to assess the most effective way to secure cargo for the future.

Noted experts, including the GAO, have stated that abandoning a risk-based security program in favor of screening may actually make the Nation less safe. Forwarders know that TSA has limited resources, both financially and in terms of personnel, and it is an unwise use of those finite dollars and employees to treat each piece of cargo as if it has the same threat level. The industry has already demonstrated its willingness to comply with the law, and will continue to do so. However, without a vigilant eye on the actual impact of our actions, I fear we may have achieved a mandate without achieving its goals.

I appreciate the opportunity to be here today to address this important topic and look forward to your questions.

Ms. JACKSON LEE. Thank you, Mr. Fried, for your testimony.

Now I recognize Mr. May to summarize his statement for 5 minutes.

STATEMENT OF JAMES C. MAY, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AIR TRANSPORT ASSOCIATION OF AMERICA, INC.

Mr. MAY. Madam Chairwoman, it is a pleasure to be here. I will truly summarize my statement for you.

No. 1, we are pleased to announce that we have met the initial target of 50 percent across our membership.

No. 2, by definition, some of our carriers are narrow-body carriers exclusively, so they are already at 100 percent of the cargo they are carrying. We recognize that getting to that 100 percent

target for all cargo, for all passenger aircraft is going to be a real challenge.

The challenge is that we are going to wide bodies. As has been stated here already, going to wide bodies means that we are going to have palletized loads. Why is that a problem? No. 1, we don't have current technology; can't handle big portal. We may have some—Mr. Johnson's technology may prove out to be the exception to the rule.

No. 2, we have a lot of shippers, in particular those who have high-value products, that are not interested in having us tear those palletized loads down. There could be as many as 200 individual pieces. It takes an average of 75 minutes to tear down and repack, and that doesn't include the screening time. So what do we do? We rely on dogs. I would suggest to Mr. DeFazio, as I will tomorrow, that his cherry problem will probably be solved by dogs, because they are the least intrusive, least expensive, most efficient explosives-detecting technology available to us today.

We will work very hard to make the full 100 percent target. We have every reason to think it can be done. But we know that there are three or four things that need to happen. No. 1, we have to have the continuing cooperation between our friends in the freight forwarder community, the TSA, and ourselves.

No. 2, we have to rely on upstream checking, which is part of this CCSP program that you have heard a lot about today already. It is critical for all of us that that work effectively. No. 3, because it is a very expensive proposition, the committee and the Congress needs to look at ways to help offset those expensive costs for our friends that are doing that screening upstream for us.

Finally, you really need to think hard about providing the funding to further expand canine technology. As I said a minute ago—I have told Chairman Thompson this a number of times—it is simply the single best solution to be used from a cost perspective, a coverage perspective, speed, and all the other principal elements.

I am delighted to be here to answer your questions. Thank you for your time.

[The statement of Mr. May follows:]

PREPARED STATEMENT OF JAMES C. MAY

MARCH 18, 2009

We appreciate the opportunity to inform you of the airline industry's progress in achieving 100 percent screening of cargo transported on passenger-carrying aircraft by August 2010. The Air Transport Association members are committed to do their part in meeting that key requirement of the *9/11 Commission Recommendations Act*.

I am pleased to report that the airline industry has fulfilled the interim requirement that 50 percent of such cargo be screened by February 2009. This impressive achievement reflects hard work; this was not an easy task. That experience has taught us an important lesson: Achieving the 100 percent level will be difficult and will require the continued close collaboration of the airlines, the Transportation Security Administration, freight forwarders and shippers.

The biggest challenge in meeting the August 2010 deadline is the lack of TSA-certified screening technology to inspect large air cargo pallets. Most pieces of cargo transported on wide-body aircraft are consolidated into large shipments and 75 percent of cargo is transported on wide-body aircraft. That fact gives you an idea of the magnitude of the challenge that we face.

Shippers and freight forwarders typically create these pallet-size shipments before they are tendered to an airline. The dilemma is that screening is required at the

piece level but existing technology cannot screen large consolidated shipments. The nature of our business and available screening equipment are, at least for the time being, badly mismatched.

Breaking down consolidated shipments at an airport cargo facility is not practical. Shipment size, time constraints, and facility limitations are the main difficulties. A pallet can have as many as 200 pieces on it. Dismantling it and screening each piece is labor-intensive and time-consuming. To place this in some perspective, it can take 75 minutes for two employees to break down and reassemble a pallet. In addition, airport cargo facilities were never designed to be high-volume disassembly and reassembly locations. They are not big enough to perform that role, especially at peak times.

We therefore need to be very careful that airport cargo facilities do not become choke points. Screening each piece from a consolidated shipment at those facilities would undercut what air cargo service is supposed to be all about: speedy movement of freight. Complicating this situation is the fact that shippers of high-value items, such as electronics and pharmaceuticals, for their own security reasons do not want their consolidated shipments to be broken down.

Canine screening is the only easily-applied screening method that does not require pallets to be disassembled. Because of that, for the foreseeable future they will be the most effective and least costly screening method for all types and configurations of cargo. Unfortunately, there are not enough canines deployed at airports to screen such shipments on every wide-body passenger flight. This means that alternative screening measures that are both effective and efficient need to be implemented.

The Certified Cargo Screening Program (CCSP) is such a measure. This program enables a high percentage of air cargo screening to be performed “upstream” in the supply chain. Upstream security measures—avoiding the airport cargo facility—are essential in the current environment. Under CCSP, screening occurs at the shippers’ or freight forwarders’ premises, where the cargo can be screened at the piece level as TSA requires. These are known as Certified Cargo Screening Facilities. This procedure is a very practical but expensive solution. Freight forwarders and other supply-chain participants must purchase equipment and train employees to carry out the program. This has imposed an additional financial burden on the forwarder industry. Nevertheless, if applied widely, it is a workable solution.

The Department of Homeland Security is to be complimented for its high-tempo implementation of the CCSP. Its performance has been admirable. Going forward, it cannot falter in maintaining that tempo. The CCSP is an indispensable tool in meeting the August 2010 deadline. If enough shippers and forwarders are not certified, attaining that deadline will be at risk.

While we very much appreciate the Department’s efforts, it needs to act immediately in three areas to assure timely achievement of the 100 percent screening mandate:

1. Enlarge rapidly the number of Certified Cargo Screening Facilities at large shippers, manufacturers, freight forwarders and other TSA-certified Indirect Air Carriers.
2. Expand as swiftly as possible the use of TSA-certified explosive-detection canines to screen large air cargo consolidations, and direct additional funding to the TSA proprietary canine cargo screening program.
3. Provide for additional Federal funding or incentives (e.g., tax relief for privately purchased screening equipment) for all TSA-certified indirect air carriers and other qualified CCSP participants. This will enable small and medium-size companies to participate in the CCSP and enable large companies to continue to invest in screening equipment.

We are committed to achieving the 100 percent screening mandate. The three initiatives described above will enable that statutory mandate to be realized on time and in a way that will minimize adverse effects on the shipping public. We ask that you support us in this endeavor.

Ms. JACKSON LEE. Let me thank you very much for your testimony.

I will, at this time, yield myself 5 minutes. As I do so, I would like to remind each Member that he or she will have 5 minutes to question the panel. I will begin.

Mr. Johnson, why don’t you tell us how long ago or how long a period of time did you begin this process of trying to reach DHS

and thinking that you had a contribution to make with respect to air cargo security?

Mr. JOHNSON. We originally contacted TSA about May 2006.

Ms. JACKSON LEE. So, technically, we can say 3 years.

Mr. JOHNSON. Yeah.

Ms. JACKSON LEE. Would you give us an abbreviated recitation of what that encounter was like and how you have been processed or engaging since that time?

Mr. JOHNSON. Well, in the beginning, it was a matter of just trying to explain what are we trying to solve. As engineers and as small companies, we have to decide what is the problem to solve and the best way to solve it first. We had heard from what the industry had and what they wanted to know, and we were curious as to what the TSA side of it was.

We just couldn't get the answers in the beginning, all the way until 2007, when we officially met with the TSA here in Washington about what can be done. We wrote a proposal, an unsolicited proposal at the time, asking for—release the technology, what do we have to find? That took about 5 months. We heard a resounding “not interested” at that time.

Ms. JACKSON LEE. Let me stop you. So you, sort of, followed regular order, you got your materials in or your research or your proposal in, and you were doing this in the backdrop of understanding that we had these deadlines? Were you aware, as a business person, that we had a 2009 and 2010 deadline?

Mr. JOHNSON. Absolutely.

Ms. JACKSON LEE. So you saw the sense of urgency.

Mr. JOHNSON. We saw it as a sense of urgency. With a mandate like that, we just want a chance to complete. We never said we were the best solution or the only solution, but we felt that there might—

Ms. JACKSON LEE. You are a small business, but you might also be counted as a minority business?

Mr. JOHNSON. Yes.

Ms. JACKSON LEE. Do you think, without a self-serving comment, that if the technology that you offered, or maybe there were some competitors of yours, but if they had been processed, would we have been further along with the issues that we are addressing today about 50 percent and then 100 percent by 2010?

Mr. JOHNSON. I think we would be further along. Secondly, I think if process is defined, it makes it easy to fund, from the capital markets perspective. It is much easier to go to the private investors in the private sector looking for funding when you know the solution you are trying to solve. Because if you can prove it to investors, you can usually raise the capital that is needed to prove it to the Government.

Ms. JACKSON LEE. I think the key, however, is that this technology could have been—and that is up to the selection process of TSA—but it could have been part of the solution, not part of the problem.

Mr. JOHNSON. Yes, absolutely. I am biased about that.

Ms. JACKSON LEE. I understand.

Mr. Boisen, you mentioned that you had difficulty in understanding what kind of technology would be required of your con-

stituents, the companies that you represent. What was your encounter with TSA? Do you have a private-sector response as to why TSA has not been able to verify 50 percent?

Mr. BOISEN. Well, I believe part of it is in the timing issue, having been on the other side of it as a carrier. The carriers all report on a day-to-day basis within their own system during the month of February and collect data. Some carriers have that data automated, and some receive a written document, whether it is an e-mail or such, from every single location. Then it takes a few days to accumulate those numbers. Those are sent, I believe, to TSA. They are in the process of trying to, I guess, organize those numbers.

Ms. JACKSON LEE. But your membership, have they developed the kind of equipment that they would like to use? Have they submitted it in? Do they know what TSA expect of them? What is your issue? What is keeping your constituents from complying or helping to comply?

Mr. BOISEN. Well, many of ours are in compliance with the 50 percent, I believe. We are all in compliance.

Ms. JACKSON LEE. Okay. If you are, would you provide us with that list, those who are in compliance of up to 50 percent?

Mr. BOISEN. I believe I can acquire that from our membership.

Ms. JACKSON LEE. So do you have equipment? Has it been certified? Are people using their own equipment that they have been using in the past?

Mr. BOISEN. I think it is a variety. A number of our members, our airlines, are also members of ATA. Having been on that side of it, we have acquired equipment some time ago, generally trace-detection equipment. I know one carrier that I am very close to had met the 50 percent months and months and months ago. If it is there, it is very, very feasible if you focus and commit yourself to do it.

Ms. JACKSON LEE. So what would help you get better than where you are today?

Mr. BOISEN. As it has been mentioned before, it is that cargo that is very difficult to measure and to monitor in today's environment, the containers.

Now, TSA, in the past, has tried to find some technology and, frankly, spent a lot of money on fast-pulse neutron devices, that type of thing, that sits in Houston today gathering dust, without ever going through that step of developing something for the industry without any input back from the industry. You know, they spent, I understand, some \$6 million on a device that has never worked, and this output would have been six containers an hour, which is totally almost useless.

Ms. JACKSON LEE. Is this designed by the industry, or this was given to you by TSA?

Mr. BOISEN. No. This was TSA.

Ms. JACKSON LEE. So it has never worked.

Mr. BOISEN. It has never worked.

Ms. JACKSON LEE. So these are some of the obstacles: Getting the right technology?

Mr. BOISEN. Getting the right technology.

Ms. JACKSON LEE. Getting it certified by TSA?

Mr. BOISEN. Yes. And working with the industry to say, "What do you want?" and working together.

Ms. JACKSON LEE. So you will know what to purchase or move in what direction.

Mr. BOISEN. In partnership, we believe. We have volunteered for a number of pilot projects, whether it is on technology or whether it is on software, over the years. We are the first to say, "Try us. We will try. We will work with anybody."

But, frankly, I think, as Mr. Johnson has indicated, the focus was not on cargo, from the technology standpoint. It just wasn't there. Fortunately, we had the dogs, which, as Mr. May indicated—I have been a dog advocate for years. They are wonderful.

Ms. JACKSON LEE. But you don't have enough.

Mr. BOISEN. But we don't have enough, and they have a tough union. You know, you can only work them 30 minutes, you have to scratch them behind the ears and feed them, you know. There aren't enough of them.

Ms. JACKSON LEE. I have seen that happen. Thank you, Mr. Boisen.

Let me just quickly, Mr. May, this is just a quick question. I thank you for testifying. I noticed that your, again, your membership is not here, but you are here representing them.

What is the greatest difficulty for airlines to be part of the compliance of 100 percent, 50 percent now in February 2009, and then 2010? Compliance with cargo inspections.

Mr. MAY. We are in compliance for the 50 percent. We were by the deadline in February. I think the whole issue there is making sure that TSA has the forms from us that they can aggregate and then report back to you and others to prove that point. But I have no doubt in my mind that we are at 50 percent right now.

Some of our carriers—

Ms. JACKSON LEE. So you would be willing to give us a list of the airlines that represent that they are at 50 percent.

Mr. MAY. Sure, sure. We are happy—it is the ATA membership. I am happy to give it to you. By definition, some of our carriers are at 100 percent because they are exclusive wide-body carriers. Southwest Airlines is a good example, from your home State.

So the real challenge going forward, as I said in my oral, No. 1, we now have to tackle wide bodies. Wide bodies take palletized loads. Palletized loads are difficult to trace because of their size, so you have to break them down, unless that screening is done upstream. That is where our friends from the freight forwarder community come in. They have to be certified, they have to have the technology.

So the real challenge, it is a 25/75 formula right now, just to put it in perspective, 25 percent of cargo goes on narrow bodies, 75 percent goes on wide bodies. So the hurdle, you know, has just jumped up a few feet, and that becomes the real challenge.

We don't have enough dogs. We don't have any wide-portal technology. We need to get more people certified upstream. That is expensive, and there needs to be some accommodation for those folks buying that technology upstream. So those are the challenges.

Ms. JACKSON LEE. Well, you have laid out the top of the mountain for us. We thank you for your testimony.

Mr. Dent is recognized for his questioning.

Mr. DENT. Thank you, Madam Chairwoman.

Following up, I guess, with Mr. May, as you know, we have this 100 percent goal here. Do you think we can meet that 100 percent goal given the issues you just outlined with the wide-bodied planes and other issues, you know, too, in terms of how we are going to get foreign governments to collaborate with us as it relates to the in-bound and out-going foreign cargo?

I mean, I understand how we can get this up to 85 percent, but how do you get to 100 percent? Do you think we can actually get to 100 percent realistically?

Mr. MAY. I don't think you can get to 100 percent as many would define it, which is 100 percent of every piece of cargo carried on every commercial passenger aircraft, because some of that cargo is coming in from overseas, and it may not be screened to the same levels of technology that you demand here.

I can tell you that we are going to make every effort for all domestic and out-bound to comply with the law when it is time for it to be 100 percent. We are going to work our tails off to make sure that happens.

Assuming that we have a good partnership with TSA, assuming that they get the funding for additional canine teams, assuming that Mr. Johnson and his competitors continue to work on wide-portal screening technology that can be efficient, effective, quick—it can't be six pallets an hour, as Jack points out; we have to have something that really moves—and if we have a good upstream program, I think making 100 percent for domestic and out-bound is very doable.

If you want to be pure and have an absolute 100 percent of everything, then I think it is going to be a challenge because of the problems working out internationally.

Mr. DENT. Thank you.

I would like to follow up with Mr. Fried, if I could. I would be happy to hear you address that same issue. But, also, I wanted to make a comment, too, that your comments regarding the future of air cargo screening were of real interest to me. TSA, as you know, must balance its security missions with the need to ensure the efficient flow of commerce.

How do you think TSA could better manage its resources to ensure it addresses the highest risks to air cargo while not impeding the safe flow of low-risk cargo?

Mr. FRIED. Well, I think it is important not to abandon this targeted risk-based approach. I mean, I know we are screening every single piece of cargo, but I think that the agency needs to be mindful of making sure that risks, specific risks, are addressed in the screening of cargo itself. I think that, if we continue to use that approach going forward, the agency will be effective.

I also think this is, as Mr. May has said, this is a question of resources, and TSA needs as many resources as possible to continue to expand the CCSP program. So it is a question of finances.

Mr. DENT. I guess my next question to you, Mr. Fried, is this: How are freight-forwarding employees vetted and investigated to ensure that they are trustworthy employees?

Mr. FRIED. Currently, the TSA has a security threat assessment program that is instituted on anyone in the air cargo and, I believe, airline industry, as well.

Mr. DENT. Are your facilities currently regulated with respect to facility security minimum standards? Would those in the CCSP be regulated by TSA?

Mr. FRIED. Yes and yes. The TSA is a constant visitor to all of our facilities. Of course, all Certified Cargo Screening Program participants are, in fact, vetted, validated, and then subsequently audited by TSA.

Mr. DENT. Thank you.

Then to Mr. Johnson, your frustrations with TSA's Qualified Product List are heard loud and clear. Navigating any bureaucracy, as you know, is difficult, but there are few more difficult, perhaps, than at the Department of Homeland Security. So it must have been particularly challenging for you as a smaller business.

When you first sought to enter the Qualified Product List program with TSA, how did you know where to look?

Mr. JOHNSON. Actually, I had met Mr. Kelly at an industry conference and asked him the best way to start, and he referred me to someone on his staff. That is how we started.

Mr. DENT. That is interesting. Is there any Web site or any form or any handout explaining the process in an easy-to-understand formats? Or is this just all word of mouth, like through Mr. Kelly?

Mr. JOHNSON. There probably is a Web site or a place, but I saw the guy at the top 10 feet away from me, so I went there.

Mr. DENT. That works. What was it that finally enabled you to break through the ceiling? I guess it was just that, going through Mr. Kelly.

Mr. JOHNSON. I think what really changed things is we had been talking to the science group at the TSA, and the way we explained our technology didn't make sense to them. The challenge we had as a small business is the information they were asking us and the things they wanted us to deploy to them were the core of our technology. If I told them that, now it is a matter of public record and it could interfere with my patent ability. So we had this Catch-22 of, if we tell you how it works, you will get excited about it, but what is to say it is not now a matter of public record or somebody else doesn't get the same technology?

So we took a chance very recently and just said, "This is how it works. This is why it works." We got everybody to start nodding their heads, saying, "Okay, this actually looks like it could work."

What we didn't know is that someone had told a very similar story. I think that has been the challenge, is TSA has heard it a hundred times from a hundred people saying, "We can do it," and it never really comes out. You know, build the passive neutron system or do something else.

Going back to the point, we tried to come up with a business solution first: What is the process, as it sits today? How do we add the screening process to it without interfering with the workflow? Since all we focus on is cargo, we spend all of our time in warehouses, we heard it from the ground up, so it made us a lot easier for us. We just needed the TSA to validate the technology.

Mr. DENT. By the way, congratulations on your additional hires. I know that has to be pretty tough in these times. But just a real quick question: How many employees does your company currently have?

Mr. JOHNSON. Thirty-three.

Mr. DENT. Thirty-three. Okay, thank you.

I will yield back my time.

Ms. JACKSON LEE. I thank the gentleman for his questions.

Right now I am pleased to yield 5 minutes for questioning to the full committee Chairman, Mr. Thompson of Mississippi.

Thank you, Mr. Dent.

Mr. THOMPSON. Thank you very much, Madam Chairwoman.

I appreciate the honesty of the witnesses.

I want to briefly paint a picture before I offer my question to the panel. One of the challenges we have is to try to protect the good people of America. Congress has tried to say, given the vulnerability that exists in this space we are talking about today, that we have to do something about it. Now, whether or not the 100 percent target we have set is valid, we have to have some idea of what is coming to our shores, we have to have some idea of what is traveling on passenger planes.

We believe and hope that nothing bad will happen. But the problem is, if we don't do our duties and something bad happens, shame on us. So, to that end, we are trying to get us to a point where we can, with a reasonable assurance, give the traveling public and others confidence that our systems work.

Now, the systems might be dogs, it might be men, it might be technology, but aggregate that and we have a system that is 100 percent.

So, if the challenge for industry is, "Well, if you give 100 percent, we can't get cargo to our markets fast enough, and that delay costs money," sure. But if we create a process that provides all the assurances and gets goods to market in that period of time, then I think we all succeed.

So, to that end, Congress tried to set these time tables. Granted, if we have to push them back, so be it. But our goal still has to be the 100 percent. To the extent that we can accomplish that within a period of time, we have to do it.

So I guess my issue for you, Mr. Johnson, is, your solution that you have offered is a different approach to what we are talking about getting us there. What makes yours different from X-ray?

Mr. JOHNSON. From a pure technology perspective, we don't use any radiation, so it is a safe working environment. We actually use a microwave, so we don't require any shielding, and it doesn't require—it is not heavy, it can be deployed very easily.

Secondarily, I think the biggest difference is we try to do it in the standard flow of commerce in the process. So our technology is deployed at the scale or on the floor where the cargo is already naturally being stopped to be weighed or measured, and that is where we try to do the screening.

So, from a technology perspective, we are safer, in my opinion. Then secondarily, we are automatically inserted in the process, so it is not an extra step, it is not another place you have to go, or another part.

We make it so that you don't have to check an image and say, "Is this image something suspicious?" It is a simple red light/green light approach. You put the cargo on the scale, it takes the weight, our system takes the measurements, it takes the digital picture, and it screens the cargo in seconds, all in one step.

Mr. THOMPSON. Mr. Boisen, you heard the panel of witnesses before, especially our TSA representative. Given that testimony and what your experience is being with TSA, do you have an idea of whether they are moving on the front of a proven technology at a pace where it does not impede commerce? Or the 100 percent mandate, coupled with the ebb and flow of technology, might be a problem, based on your observation?

Mr. BOISEN. Well, my current observations are limited to Mr. Johnson, and I have known his technology for some time. But, without a doubt, there seems to be—the pace is picking up. There seems to be greater attention to it.

I am concerned that—you know, some 5 years ago, I was involved with another conference, involved with a lot of smart people, Sandia Labs and Livermore Labs, et cetera, talking about technology and that it was just 5 years away. That was 5 years ago. A lot of it—we have not heard anything promising coming out of those sources again.

So I think it is one thing to say, we need technology. It is another to actually find it. How do you get it out of the lab? How do you make it functional into a pretty harsh environment?

Mr. THOMPSON. Mr. Fried, do you want to comment on that?

Mr. FRIED. Yeah. You know, TSA tells us that the technology for screening pallets and containers with multiple commodities is a few years away. While we hear some tales of promising machines over in Europe, they say that the false alarm rates, the false positive rates, as they are referred to, are too high to be accepted by TSA.

So, you know, we do our best to encourage the agency to look at as many different technologies out there as possible, including, of course, Mr. Johnson's. You know, our opinion is that they just can't roll it out fast enough. But, you know, of course, it has to meet TSA's standards.

Mr. THOMPSON. Yeah.

I guess, Madam Chairwoman, I could not get a time frame from TSA on any of what we are talking about. I think, from a business perspective, if I wanted to do business in this space, I would like to have some idea of how long we are talking about to either say yea or nay, but I don't really want to just be drawn out over a period of time, because time is money, and if I am doing research and development, that is a challenge.

Mr. May, I agree with you. Dogs, canines, clearly, at this point, is the immediate issue for us to have, to do this. But if we know that the notion of having dogs in enough quantity to get things done is almost impossible, then I think we have to look to technology. If we can assure, you know, your membership that should this technology come forth it would not impede commerce, do you see your membership being supportive of that effort?

Mr. MAY. Mr. Chairman, if I understand your question correctly, I will give you an answer.

We are all in favor of new technology. We just want it to be—we want it to work. That is to say, it has to meet the TSA's standards. It has to have low false positives and so forth. It has to do what it is purported to do. It, No. 2, has to be quick and efficient. No. 3, there has to be a discussion about cost-benefit, who is paying for this equipment, who is going to run it, where is it going to be, and that sort of thing.

But nobody is opposed to new technology. The problem is—you and I have had the conversation about how long it takes to train dog teams. Unfortunately, it seems to me like technology has taken a whole lot longer than that.

Mr. THOMPSON. Well, you are absolutely correct. I don't think we got the answer from the Department today that we are looking for, because we are trying to encourage them to move along and get it done. It just appears that, until recently, the effort and energy to make that happen was not taking place.

So, again, we are going to have to get that. As a Member of Congress, somebody who chairs this committee, I would not want something to happen that can be put at the door of an imperfect screening system as to the reason it occurred. If that happens—and we all agree that if you think the AIG furor over bonuses is something, you can imagine what the public furor over something happening with this would be.

So we are all prepared to work together to try to come up with a solution. I just wanted to let you know that the time table is an issue, and we will have to continue to pursue it.

Mr. MAY. We fully concur with you, Mr. Chairman. I would just reiterate that the CCSP program is going to become a major component of our success in reaching 100 percent, especially with wide-bodied palletized loads. So we need to make sure that they have the resources to get going to it.

Mr. THOMPSON. Well, I asked that resource question of the first panel. I wanted to make sure that if the Department needs additional money, we can give it to them. Whatever it is to get us to where we need to be, we are prepared to make it happen.

Thank you very much.

Thank you, Mr. Chairman.

Mr. CLEAVER [presiding]. Thank you.

The Chair will return shortly. I will yield myself 5 minutes.

This morning we were called to votes, and so I was not able to get in depth with those who were on the first panel.

But, Mr. Johnson, one of the issues I raised this morning was the GAO report, which said that screening cannot be done to crates 10 feet and larger. I am interested in and concerned about what we do to that. What do you foresee in terms of technology, emerging technologies, that would allow that to happen?

Mr. JOHNSON. Well, I think for us, in particular, we see a lot more cargo on a pallet, a 48-by-40-inch wooden pallet, than we do necessarily in the, what we would call a cookie sheet, the 10-foot-by-10-foot. That cargo goes on a lot of all-cargo carriers who are technically part of this regulation. I think if we could screen at the palletized level, along with the CCSP, we could definitely solve the 100 percent screening.

Mr. CLEAVER. Why can't we?

Mr. JOHNSON. Right now? The technology that it would take to—the power you need to get through that dense of cargo is not safe for humans. It is just very difficult to stand by it. The technology we are trying to deploy—and there are other people out there trying to deploy solutions that require low power that have great penetration to tell you if that pallet is safe or not at a piece level.

You have 20 pieces on the pallet; each one of those pieces are safe and, therefore, can be put on the plane. That is the solution we are out trying to solve, without stopping the flow of commerce and during the natural process of accepting the cargo.

Mr. CLEAVER. Okay. You know, if I have a business in my district, Gates Bar-B-Q, they want to ship slabs of short ends or, you know, some beef sandwiches, frozen beef sandwiches, they are a small business, is the cost prohibitive for small businesses?

Mr. FRIED. To participate in the Certified Cargo Screening Program?

Mr. CLEAVER. Yes. Yes.

Mr. FRIED. No. In that case, absolutely not. Most of the businesses would not have to buy technology, because they are doing their own packing of their boxes. Their people would have to be certified. They would be security-threat-assessed by the TSA. They would have to provide a sterile area for preparation for packing. But I would tell you, generally speaking, no.

Mr. CLEAVER. So they could do that in their own little plant?

Mr. FRIED. Absolutely.

Mr. CLEAVER. The cost would be minimal.

Mr. FRIED. Minimal cost. They have to just make sure that their perimeter—they have controlled access to their environment. But, generally speaking, I would say no.

Mr. CLEAVER. So if we said that right now, in the middle of this reinvestment and recovery—I am the only one saying it; we fail to get everybody to say that. Everybody wants to say “stimulus,” but it is the Recovery and Reinvestment Act. One of the big concerns we have, of course, in this bill that we approved is, how do we help small businesses?

So, one of the issues that small businesses are concerned about is, you know, in order for them to expand, they are going to have to expand their markets, and that means, you know, transatlantic business deals. My concern was—and I think you have answered the question—that they are not going to be put through any expense that they could not bear.

Mr. FRIED. Right. The actual shippers, the people giving us the boxes, that is correct.

Mr. CLEAVER. One final question. Maybe this is not the—I mean, the panel, I let them escape, because the bell saved them this morning, because I wanted to know how we are doing business with small and minority businesses.

I am pleased, Mr. Johnson, to see you here, but, I mean, that was a question I wanted to raise with them. But, I mean, your presence, I guess, would suggest that there is at least some level of openness and sensitivity. You didn't have any unusual challenges, other than the challenges that people normally have as a business person?

Mr. JOHNSON. I would agree that it is more defined by the bureaucracy of the process. I didn't think that I was treated any different or slighted because we were a small business. The challenge was just getting in front of them and telling our story. Since then, it has gone really fast.

I would say the TSA has helped us find a solution. They want to solve the problem just as bad as we want to give one to the industry. I don't think they care if it is small, large, or medium, as long as it makes sense for the industry and it can hit the 100 percent screening mark.

Mr. CLEAVER. Sounds like the coach from Alabama, Bear Bryant, said he didn't want black players until Southern Cal had a running back named Bam Morris, ran about 3 million yards on him. Then he said, you know, I don't have any problems with having those—I don't want to use the word he used—but having those on my team. So I guess, you know, if you have something to offer people, they want to get it.

One of the other questions that I wanted to ask—incidentally, the Chairwoman will be back shortly—do you think that, Nationwide, region to region, TSA is focusing in the right places and the right points in the supply chain to meet the 100 percent screening mandate, congressional mandate?

Mr. FRIED. I would say yes. I mean, the Certified Cargo Screening Program is a smart solution. Spread the security task into the supply chain is—it is a smart way to make sure that we reach this mandate in the absence of certified technology.

Get the shippers involved. Make sure that TSA is well-funded so that it has adequate personnel on hand to actually carry out the vetting and the audit function over the shippers, and I think that we will achieve this mandate without hesitation.

Mr. CLEAVER. Do all of you think that we are going to meet the congressional mandate? If you would just go down from Mr. Johnson all the way down to Mr. May.

Mr. JOHNSON. I would qualify it the same way Mr. May did. I would say domestic and out-going, absolutely. But I have spent enough time internationally, and the harmonization challenge you have is that most in many countries believe that their security standard is superior to the TSA's. So when the TSA is trying to enforce upon them a standard that they believe they are superior to, it is very difficult to call it harmonization.

Mr. CLEAVER. But have we looked at any international—any other international systems? I mean, for example, El Al is at least spoken of as the superior system on the planet. Have we had any contact with or involvement with El Al?

Mr. FRIED. Yes, I spent a week over in Tel Aviv back in May. I can tell you that, from what my experience was with the Israelis, is that cargo is a conundrum to them, as well. One of the solutions they have is to hold cargo for 2 days prior to shipment.

Mr. Boisen's airline had service in and out of Tel Aviv, so he could probably tell his personal experiences, but—

Mr. CLEAVER. I have had personal experiences. You can't take a beef sandwich on El Al.

Mr. KELLY. Right. As a passenger, if you plan on committing a malicious act, obviously that is not the place to do it. But, you know, cargo has its challenges.

Mr. CLEAVER. Yes.

Madam Chairwoman.

Ms. JACKSON LEE [presiding]. We call this a cooperative spirit. I thank Mr. Cleaver from Missouri. He has come to be a valued Member of this committee, and I look forward to us working to solve these problems.

Let me thank the members of this panel. I think you have enlightened us as to the private sector's involvement but also the concerns that you have expressed.

I do want to add to the record, to reinforce its addition to the record, an October 30, 2008, letter from the Transportation Security Administration to Chairman Thompson and the committee that defines transportation, as to what the transportation system means, what "commensurate" means, which I think is going to be important to future legislation.

I ask unanimous consent to submit it into the record. Hearing no objection, so ordered.

[The information follows:]

Office of the Assistant Secretary

U.S. Department of Homeland Security
601 South 12th Street
Arlington, VA 22202-4220

OCT 30 2008



Transportation
Security
Administration

The Honorable Bennie G. Thompson
Chairman
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your July 31, 2008, letter, cosigned by your colleagues, and for the opportunity to clarify the Transportation Security Administration's position on the applicability to inbound cargo of the enhanced air cargo screening requirement enacted under Section 1602 of the Implementing Recommendations of the 9/11 Commission Act of 2007, P.L. 110-53 (the 9/11 Act).

A technical reading of Section 1602 leads one to conclude that the definition of cargo includes cargo inbound to the United States from foreign countries. As you point out in your letter, the operative terms include within their scope "air transportation," which is defined in 49 U.S.C. 40102(a)(5) and (23) to include "foreign air transportation" and, in turn, "the transportation of passengers or property by aircraft . . . between a place in the United States and a place outside the United States . . ."

However, while Section 1602(g)(1) requires the government to develop a system to screen all cargo transported on passenger aircraft, Section 1602(g)(2) requires that the system provide a level of security commensurate with the level of security for the screening of passenger checked baggage. "Commensurate" is not a statutorily defined term and so it must be understood to have its ordinary meaning; in ordinary parlance, "commensurate" means "corresponding," "similar" or "analogous." Thus, the level of security to be provided for screening cargo must correspond or be similar to the level of security for screened checked baggage.

The security regimen for checked baggage originating in the United States differs markedly from the security regimen for flights originating in foreign countries. The distinction between domestic and inbound screening is longstanding, was explicitly recognized in the Aviation and Transportation Security Act (P.L. 107-71), and is one which Congress was undoubtedly aware of when it adopted Section 1602(g). Nothing in the statute suggests that Congress intended its cargo screening legislation to erode this distinction. As a result, the security regimen for inbound cargo on passenger aircraft from a foreign country may vary from the security regimen for cargo on passenger aircraft within or from the United States. We are working with our

international partners to adopt a common security program for air cargo carried on passenger aircraft, which would, of course, be the preferred outcome.

Congress has provided TSA with discretion in determining how the requisite level of security for cargo can and should be achieved. Congress permits the government to determine the optimal means of achieving 100 percent screening, calling for the establishment of a "system" for screening air cargo comprised of equipment, technology, procedures, personnel, or other methods approved by TSA. Furthermore, Congress defines "screening" broadly as "a physical examination or non-intrusive means of assessing whether cargo poses a threat to transportation security," and permits the Administrator to "approve additional methods to ensure that the cargo does not pose a threat to transportation security and to assist in meeting the requirements of this subsection."

In conclusion, Section 1602 applies to the screening of cargo that enters the United States from points outside the United States. Although inbound air cargo falls within this definition, the longstanding distinction between screening domestic and inbound items permits the government to make operational distinctions between domestic and inbound cargo for screening purposes which could result in different security regimens for inbound and outbound cargo. It remains our intention to meet the February 2009 requirement, including international inbound, of screening 50 percent of air cargo carried on passenger aircraft.

I look forward to working collaboratively with Congress and security partners to implement a security regimen for screening air cargo transported on passenger aircraft in the United States, including air cargo inbound to the United States from foreign countries.

I hope this information is helpful. An identical letter has been sent to your colleagues as well. If I can be of further assistance, please feel free to contact me or Jason M. Conley, Assistant Administrator for Legislative Affairs, at (571) 227-2717.

Sincerely yours,



Kip Hawley
Assistant Secretary

Ms. JACKSON LEE. I yield myself just a minute just to ask Mr. Johnson, what is your latest encounter—and I ask this generically for small businesses—but what is your encounter with TSA?

Mr. JOHNSON. Actually, we spoke this morning with the TSL about setting a date to start the screening process.

Ms. JACKSON LEE. Let me just say this broadly. I have asked, I think, Mr. Kelly to provide us with a list, maybe extensive, of small businesses similarly situated and the status of the technology that they may be offering.

Let me say on behalf of the committee, we hope that that meeting that you are having, as well as others who are in line to answer the question of Mr. Boisen and Mr. Fried and Mr. May on technology, moves quickly. I am also going to write a letter to TSA to

ask for them to give us their process of moving technology and assessing that technology.

I do think there is a gaping hole of consciousness between the urgency that Congress puts into legislation like the 9/11 legislation, giving specific dates of 2009 and 2010, and there is a disconnect between the kind of technology that needs to be in place for the job to get done.

Mr. Boisen, on behalf of your constituents, we are going to ask for some understanding of the process of certification and providing information to your constituents to be able to now have you assess which technology you can use and the determination of whether or not the equipment that some of your clients, customers, constituents are using is adequate.

Also, I had to rush away because I gave testimony to the Budget Committee. I will be revising my statement to include issues regarding transit and air cargo and asking for funding that will answer some of the concerns about staffing and some of the concerns about funding as it relates to the full screening of cargo by 2010 and certainly to maintain the 50 percent that we have at this point.

I think I asked Mr. Boisen to give me a list of his constituents, in terms of their compliance or representing that they are at 50 or 100 percent, and I would like you to designate who is at 100.

Mr. May, likewise, I would like you to do so, as well.

I would like to ask my staff, staff director, Mr. Beland, that we have a briefing with airlines. We understand their hesitancy to be at a hearing, but we hope that we will have full attendance at a briefing so that we can be informed and be working effectively on this issue. We may call upon those of you who are here again.

With that, I believe I have come to a conclusion. I think I will just simply say, no, we have not met the test, and the test is to secure America. Frankly, I hope that this hearing will set a wake-up call for us to do so.

I thank the witnesses for their valuable testimony and the Members for their questions.

The Members of the subcommittee may have additional questions for the witnesses, and we ask that you respond to them expeditiously in writing.

In addition, I think this hearing has generated what I believe is necessity for further legislation on this matter to clarify, but also instructions to the industry and to TSA. We look forward to introducing that legislation.

Hearing no further business, the subcommittee stands adjourned. [Whereupon, at 6 p.m., the subcommittee was adjourned.]

