

# Congress puts C-TPAT, CSI under microscope

*U.S. Customs and Border Protection postpones benefits for C-TPAT qualifiers*

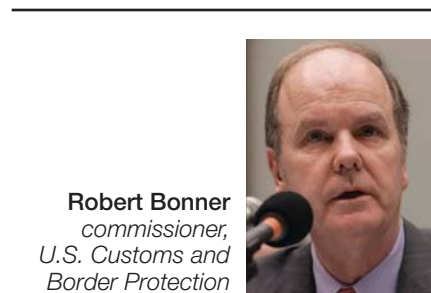
BY ERIC KULISCH

Members of Congress say they agree with the basic strategy behind two core cargo security programs managed by U.S. Customs and Border Protection, but are calling on the agency to quickly fix critical problems implementing the Customs-Trade Partnership Against Terrorism and the Container Security Initiative that threaten to turn the programs into paper tigers.

U.S. Congress and the General Accountability Office (GAO) have cast a critical eye on C-TPAT as they re-evaluate the direction of homeland security programs rushed into place following the 2001 terrorist attacks and seek long-term fixes. Cargo security programs are focused on preventing terrorists from gaining access to one of the millions of containers in circulation today, and slipping in a weapon of mass destruction or radiological explosive device that could be detonated at a strategic location once it enters the country.

With last year's presidential election that focused public attention on the issue of terrorists with weapons of mass destruction as a backdrop, the two programs came under renewed fire in May after congressional investigators determined that the system CBP uses to identify and sort containers for inspection is too lax. At a recent hearing Senators were very blunt in describing the failings of programs touted by DHS as success stories in the battle against terrorism.

CBP and the Department of Homeland Security are feeling the heat and trying to make changes to their signature trade security programs before Congress changes its mind and mandates more draconian measures that eliminate any flexibility in dealing with logistics realities. Several Democrats have previously questioned the effectiveness of C-TPAT and CSI, but now some Republicans are joining in the chorus of complaints. New legislative proposals continue to pour forth that push DHS to set



**Robert Bonner**  
commissioner,  
U.S. Customs and  
Border Protection

***“I believe there will be some degree of increased inspections over what it had been before for just being certified, and it may well be that there are increased benefits once a company is validated.”***

standards for cargo security programs and technology (see related story).

Meanwhile, international traders are worried that C-TPAT is losing its appeal as a flexible, incentive-based system for the private sector to secure its portion of the supply chain.

In March, CBP issued tougher minimum security criteria for companies participating in the voluntary C-TPAT program and officials have recently been eager to show a much stronger enforcement side by lifting fast-track customs clearance benefits from companies who experience breakdowns in their supply chain controls that open the door to smuggling (see related stories).

And in the latest change from past practice, importers who participate in the trusted shipper program could soon notice an increase in shipments held for inspection.

CBP Commissioner Robert C. Bonner, under pressure from Congress to tighten loopholes in the supply chain security program, acknowledged May 26 that the agency has changed the formula for conferring full program benefits so that companies that have committed to tighten up internal controls must wait until they have gone through the validation process before their inspection levels drop to the maximum allowable extent. In the past companies certified as having a solid security plan that meets program standards were labeled low risk, resulting in six times less probability of their cargo being pulled over for a secondary inspection (one in 306 vs. one in 47).

“I believe there will be some degree of increased inspections over what it had been before for just being certified and it may well be that there are increased benefits once a company is validated,” Bonner testified before the Senate Homeland Security and Governmental Affairs subcommittee on investigations. The change took effect in late April, but it is too early to quantify the average level of inspections for C-TPAT participants, he said.

The GAO, the congressional watchdog agency, recently recommended that CBP end its practice of granting benefits to members before they undergo the validation process. Bonner said he reviewed the program after receiving the GAO report and consulting with the subcommittee, and agreed that full benefits should not kick in just for being certified.

CBP uses a risk-management system to sort out which containers to inspect each day. Once a company's security profile is certified it gets a credit against its risk targeting score. CBP has reduced the scoring credit for being certified from about 125 to 75 points after evaluating the 300 risk factors in the targeting rules that can trigger an exam, Bonner said. A shipment is considered high risk if it scores 190 or above.

Bonner has talked in recent months about establishing tiers of benefits for C-TPAT companies depending on their shipping and compliance history and the level of security they have in place to insure their shipments cannot be compromised by terrorists. Companies that go beyond minimum criteria and adopt other best practices would see virtually no inspections under a “green lane” customs clearance concept for very low-risk shippers.

Bonner's testimony is the first time the agency has publicly indicated that the tiered system actually rolls back the system of benefits in place during the last couple of years.

After companies apply for C-TPAT membership, CBP reviews their security

**LOGISTICS**

profile and action plan and certifies those that meet C-TPAT guidelines. Companies are also vetted through a database search to make sure there isn't a history of Customs compliance violations or intelligence suggesting criminal or terrorist links. The last step is for CBP to validate companies through on-site visits to make sure their foreign manufacturing or distribution facilities are following through with the importer's security plan. CBP officials stress that they are looking beyond a physical site visit to assess an importer's relationship with its suppliers and carriers.

Several senators expressed concern that C-TPAT is increasing the vulnerability that a weapon of mass destruction could be smuggled into the United States in a container by conducting fewer inspections on some cargo before a thorough review that a shipper had implemented promised supply chain security measures. CBP has audited about 12 percent (591) of the 5,013 companies that have been certified as of May 17, which equates to about 6 percent of the 9,200 companies that have signed up to participate in the voluntary cargo security program. About one-third of the companies validated so far are importers. Eleven companies have been suspended and 10 removed from the program all together for failing their security audit, CBP spokesman Pat Jones said.

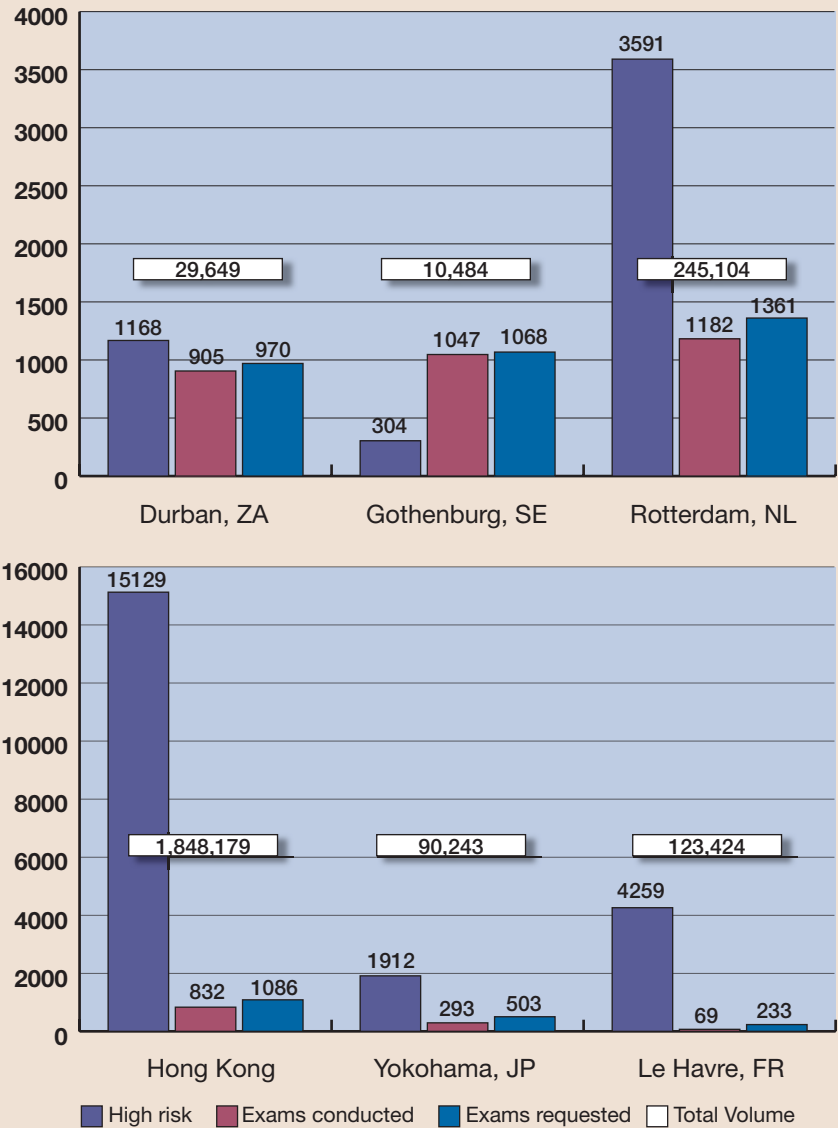
The backlog of companies waiting for validations is largely because CBP lacks the manpower to conduct the verifications. Customs has \$46 million in its budget for C-TPAT and the Bush administration has requested \$54.3 million for the program in fiscal 2006.

It can take more than two years from the time a company joins C-TPAT until it is validated. In fact, CBP's stated goal at the inception of the program was to validate companies within three years of acceptance into the program. Today, it is common for companies to wait 15 to 18 months for a validation after they are certified and then another six months for CBP to complete its final validation report.

"Such a large validation gap invites abuse," said Sen. Carl Levin, D-Mich., in prepared remarks.

"If we fail, folks are going to come back and say, 'How did you let this operation get through? You simply applied, it was done on paper, you never looked at their operation, never did any physical review, never did any audit, never did any validation. And they are going to be pointing right at you and I think it will be tough to respond if, God forbid, the unthinkable happens,'" Subcommittee Chairman Norm Coleman, R-Minn., told Bonner.

## High-risk shipments and exams conducted at selected CSI ports 2004



Source: U.S. Senate Permanent Subcommittee on Investigations

Security specialist Stephen Flynn chimed in that the validation itself is flawed because it is essentially a spot check and there are no requirements that companies update their security plans at established intervals or resubmit their plans if they switch transportation providers or make other changes to their supply chains, although CBP encourages members to do so.

In addition to criticizing CBP for not ensuring that companies have implemented effective supply chain controls, the GAO, in a report released May 25, said that CBP should:

- Conduct its validations more like an independent audit rather than in conjunction with importers.
- Develop written guidelines so that

supply chain specialists conduct consistent validations.

- Determine how many, or what percentage of companies should be validated after abandoning its goal of validating all companies.
- Develop an effective records management system to document decisions and program changes.

"It is alarming to me that after 9/11 that the administration would fashion a voluntary homeland security program to try and improve supply chains," Sen. Frank Lautenberg, D-N.J., said. "If a voluntary program were all that was needed then the industry could have done that on its own. If 9/11 taught us anything it should be that government has a duty to protect its citizens

from terrorism, not simply rely on companies to upgrade security at isolated parts of a worldwide logistics system.”

Congress’ reaction to the slow pace of certifying and verifying the security plans of C-TPAT members “is going to put more pressure on Customs to get the validations done,” Jonathan Gold, vice president for global supply chain policy at the Retail Leaders Industry Association, told *American Shipper*: “If members are concerned, they need to give Customs the resources to help get through the validations.”

And now that the greatest reduction in inspections is deferred until a company receives a complete assessment of its supply chain security, importers can also be expected to step up demands that CBP speed up its reviews so they are eligible for full C-TPAT privileges as soon as possible.

CBP says it is building up its capacity to speed up the validation process and make sure it is more consistent.

Bonner said there are 2,079 validations “underway or in the process of being completed,” a big jump from the 922 in-progress validations CBP announced May 5.

In mid-May 2,000 more importers were notified that their number had come up for a validation, C-TPAT Director Todd Owen said during a presentation at the American Association of Exporters and Importers conference in New York three days before the hearing. That means that 41 percent of C-TPAT’s membership will be validated within the next 12 months, he said.

CBP increased its force of supply chain specialists to 70 from 40 in fiscal year 2004, but officials have given conflicting statements as to how many personnel will be in place by the end of September. Owen said the agency hopes to have 150 to 160 supply chain inspectors by then, giving it the ability to get caught up and then complete validations within 12 months of certification. But in his testimony Bonner said CBP anticipates having 100 supply chain specialists working on the program by the end of fiscal year 2005.

Congress authorized CBP up to 157 supply chain specialists in fiscal 2004.

The C-TPAT staff is located in Washington, Miami, Los Angeles and New York. CBP is scheduled to open another C-TPAT office in Newark, N.J., in June, Owen said.

The agency has also modified its strategy for initiating validations by prioritizing companies to visit based on analysis of which certified members have high-risk supply chains. CBP is now emphasizing importer, and to a lesser extent, carrier validations over broker validations after realizing brokers have limited leverage over foreign entities involved in loading and sealing the

container at the point of origin. Importers also receive the greatest benefits in terms of reduced inspections. But the GAO said Customs still has not determined the number and types of validations that are needed to manage security risks or the CBP staff levels required to complete them.

To bring more consistency and rigor to the process, CBP has automated many validation tasks and standardized the questionnaire used to gather information during on-site meetings. Importers complain that different CBP auditors are applying different criteria to companies, making the process too subjective. As specialists move from one company to another they add best practices they noticed at one company to their list and use them as a metric by which to measure the next company, Michelle Forte, senior international trade counsel to Ciba Specialty Chemicals Corp., said at AAEL.

---

***“One validation report we reviewed for a major retailer — one that imports the vast majority of its goods from Asia — indicated that the validation team reviewed facilities in South America.”***

**Richard Stana**  
director of homeland  
security and justice  
issues,  
Government  
Accountability Office

---

In effect the rules of the game are fluid and companies can’t be sure whether they’ve met CBP’s expectations. And because validation personnel do not have written guidelines to indicate what to look for in each case some companies may get less rigorous treatment than others, the GAO noted. Until recently, CBP discouraged supply chain specialists from developing a checklist to follow during the validation because it did not want to give the appearance of conducting an audit.

CBP has now created an electronic questionnaire with more than 300 questions for each high-risk segment of the supply chain — point of stuffing, the port and transport in between the two — that can be loaded onto a tablet PC and guide each specialist to assess each company in a uniform manner.

The electronic questionnaire automatically scores and weighs the findings of the supply chain specialists to produce an overall

assessment of the supply chain security measures in place, according to Bonner.

“You will see the later validations have a more consistent approach than the earlier ones,” Owen said.

In his opening remarks, Coleman objected to CBP’s view of a validation as an opportunity to share best practices rather than an independent audit of a company’s security plan. C-TPAT is designed to be a partnership between CBP and the private sector, but congressional investigators and other critics say the relationship is too cozy when it comes to validations because CBP and the importer meet in advance to negotiate the methodology and what elements of the supply chain will be covered by the review.

One example of the type of collaboration that takes place between the agency and importers on C-TPAT compliance involve Ciba Specialty Chemicals Corp. CBP specialists initially arranged to visit a small supplier in South America that accounted for about 1 percent of Ciba’s import volume and wasn’t even mentioned on its security profile at first, Forte said. CBP officials reasoned that the particular country represented a threat and wanted to visit companies in that environment. Ciba was ultimately able to convince CBP to instead visit a Tier 1 supplier in Mexico. On hand for the visit to answer any questions were the site and group security officers, the human resources officer, a Mexican lawyer, the company’s freight forwarder and transportation providers, site management and the international operations manager, she said.

“This strikes me as a reasonable risk assessment to prioritize inspection activities on those about whose security practices we know very little, but to withhold full facilitation benefits pending validation,” said Stewart Verdery, assistant secretary for border and transportation security policy and planning at the Department of Homeland Security until March.

Verdery, now a principal at government relations firm Mehlman Vogel Castagnetti, suggested Congress should consider whether C-TPAT should be transformed into a mandatory, regulated program for all companies involved in international trade.

“As the guidelines become more and more a de facto industry standard and place more and more demands on the trade, converting C-TPAT into a series of regulations that apply to all relevant players in the supply chain might provide more



**Verdery**

transparency into our public policymaking and build more public confidence in those policies,” he said in prepared testimony.

The GAO issued a stinging indictment of CBP’s recordkeeping practices. “Key decisions are not always documented and program information is not updated regu-

larly or accurately,” as required by federal law to facilitate congressional or executive branch oversight.

“During our review of six company files for which validations had been completed, it was not always clear what facet of the security profile was being validated and

why a particular site was selected at which to conduct the validation because there was not always documentation of the decision-making process,” Richard Stana, GAO’s director of homeland security and justice issues, said in his prepared testimony. “The aspects of the security profiles covered

## C-TPAT 101

More than 9,200 companies, a majority of them importers, have signed up to participate in the Customs-Trade Partnership Against Terrorism since its inception three years ago.

Companies sign an agreement committing to meet minimum security criteria and implement other best practices to secure their supply chains all the way back to the factory floor of their suppliers. Companies self-assess their supply chains and submit a security profile to U.S. Customs and Border Protection covering procedural, physical, personnel, manifest and conveyance security, access controls, education and training.

CBP eventually plans to conduct on-site visits, as resources allow, to confirm that a company’s security plan has been implemented. In return, CBP offers benefits in the form of reduced number of inspections, faster clearance, front-of-the-line privileges for shipments that are held for inspection and eligibility to avoid full customs compliance audits.

But what does it take to build a verifiable, well-documented C-TPAT program?

Michael Laden, the former president of Target’s in-house customs brokerage division, and Michele Forte, senior international trade counsel to Ciba Specialty Chemicals Corp., recently shared some lessons for success at the American Association of Importers and Exporters conference in New York May 23-24. Ken Konigsmark, the C-TPAT program manager for Boeing, spoke about Boeing’s approach to participating in the program in October at an eye for transport cargo security forum in Washington.

All three companies are major importers in the U.S. market. Target, one of the original C-TPAT pioneers, is the second-largest retailer in America and deals with 15,000 different factories and suppliers. Ciba, one of the top 200 importers in the country, operates in 120 countries and has production sites in 23 countries. Boeing ranks among the top 20 importers, with about 40,000 shipments per year from 1,500 suppliers.

Here’s a list of best practices taken from

all three companies:

1) Get senior management buy-in. Laden said that wasn’t too difficult at Target: “I reminded them that we are sitting in a building with a bull’s-eye painted on it.” Target officials quickly saw the need to reduce their exposure and protect their brand.

Konigsmark said he originally encountered some management resistance from those who wondered if the investment was necessary for a voluntary security program. “Boeing is used to conforming to government requirements,” he said. He convinced officials looking for black and white mandates that supply chain security would continue to grow in importance and that “we’ve just got to get on with it so we are not in a crunch if and when a government requirement comes down or an incident occurs where we’re scrambling to get our supply chain opened.”

2) Realize that one-size doesn’t fit all. Every company has a different supply chain, and security plans must be tailored accordingly. “Target’s program even in another retail environment wouldn’t necessarily fit,” Laden said.

3) Decide how to manage the program and leverage assets from the entire company. Assemble a cross-functional team because information for completing the security profile resides in many areas of a company.

Boeing set up a C-TPAT program office in its Shared Services unit that provides logistics and other support services to all areas of the company. An executive steering committee makes unified policy for the C-TPAT program.

Konigsmark said he goes through the procurement agents, or buyers, instead of contacting suppliers directly about security issues because the company wants suppliers to continue dealing with a consistent point of contact.

4) Identify your chief suppliers.

5) Examine your supply chain from end to end, looking for vulnerabilities.

6) Determine what kind of assessment tools you are going to create to gather data you need from various suppliers to

complete your security profile.

7) Develop a good questionnaire to distribute to suppliers that will give a good sense of the security landscape within the company and the country they operate in.

8) Have key contact people in countries to coordinate responses of suppliers and identify the right people with information within internal or vendor facilities.

9) Analyze the different components of the C-TPAT program and set up risk-based security measures.

10) Educate suppliers about the need for strong security controls and cooperation. Communication is vital in order to express requirements to suppliers. Target informs suppliers through newsletters, alerts, a dedicated Web site and correspondence from senior management to suppliers explaining the need to meet security requirements.

11) Make security a requirement for doing business with your company. Enter language into purchase order terms and conditions that make security a condition of the contract. Boeing contracts stipulate that it will only use C-TPAT certified transportation providers.

12) Keep track of vendors entering and exiting the program as buyers change suppliers.

13) Train suppliers. Use the Internet, CDs, DVDs, Webinars and face-to-face classes to show vendors how to self-analyze their systems, and design and implement security protocols.

14) Inspect. Deploy people to the field to check if facilities are meeting the standards. Target sends its own people and uses third party inspection services to check if vendors have followed through on promises. Boeing is using its quality assurance staff, buyers and contract teams to conduct supplier assessments to expand capabilities beyond the small C-TPAT program office.

15) Have a remediation program. Make sure the facility takes corrective action to bring it up to par. Set a time limit for vendors to take corrective action and then go back and re-inspect. “If the supplier adamantly refuses to cooperate and make changes in the security program we could contact the (Target) merchant and recommend they be excluded from the next round of purchases,” Laden said.

and sites visited did not always appear to be the most relevant. For example, one validation report we reviewed for a major retailer — one that imports the vast majority of its goods from Asia — indicated that the validation team reviewed facilities in Central America.”

The GAO said a subsequent review of several recent reports indicated CBP staff was now including the rationale for decisions in the final report. “However, the related company files did not consistently contain other documentation of members’ application, certification, vetting, receipt of benefits, or validation. While files contained some of these elements, they were generally not complete. In fact, most files did not usually contain anything other than copies of the member’s C-TPAT agreement, security profiles and validation report.”

Meanwhile, a database for keeping track of a company’s status through the program is not kept up to date. There are no policies on who should enter information into the database or how frequently the database should be updated. More than one third of the entries for validation date were incomplete. Data CBP provided to the GAO on the status of companies undergoing the validation process was provided in hard copy only and included no dates for enrollment or other milestones. The GAO said CBP is searching for a new, unified and automated data management system.

**CSI.** In a separate report on the Container Security Initiative, GAO found that as of Sept. 11, 2004, as many as 35 percent of shipments via CSI ports were not targeted for inspection and 28 percent (4,013) of high-risk shipments referred by U.S. personnel to their foreign counterparts were not inspected at the overseas port due to inadequate staffing levels and lack of cooperation in some cases by host governments. Foreign customs authorities refused to honor an inspection request in 1 percent of cases mostly because they believed the referrals were based on factors not related to security threats, such as narcotics smuggling.

CSI is a program that establishes bilateral agreements allowing partner nations to conduct outbound exams of cargo headed to the United States. CBP officers are stationed at 36 foreign ports where they identify containers they want the host customs authorities to examine.

Under CSI operating procedures, CBP personnel at the foreign port are supposed to analyze the files of high-risk containers flagged by the central Automated Targeting System in conjunction with additional commercial data or intelligence they col-

## Browning pushes better C-TPAT benefits

### NEW YORK

U.S. Customs and Border Protection needs to be much more precise in defining the benefits for companies that volunteer for the Customs-Trade Partnership Against Terrorism if it wants to maximize participation, said Douglas Browning, senior vice president for global border modernization for Sandler & Travis Trade Advisory Services.

Speaking at the American Association of Exporters and Importers conference in New York May 23, Browning suggested CBP give credits against future liquidated damages or penalties to companies who have made exceptional expenditures in the security arena.

CBP Commissioner Robert Bonner has proposed a tiered system of benefits with companies that go the extra mile eligible for a no-inspection green lane.

“CBP should make a very aggressive effort to ensure that security measures implemented by other agencies like (the Food and Drug Administration and the Department of Transportation) don’t run afoul of CBP initiatives and pose ad-

ditional requirements on the trade,” said Browning, who was CBP deputy commissioner when C-TPAT was launched.

Browning’s recommendations dovetail proposals floated by CBP Director of Trade Relations Michael Mullen on several occasions this year. Mullen has said additional benefits under discussion include allowing shipments from C-TPAT companies to move to the head of the line if subjected to secondary inspection at central examination stations, priority clearance to move out of a port before cargo from less trusted shippers in the event of a terrorist attack, paperless entries, expedited rulings in penalty disputes, penalty mitigation and getting FDA and other agencies to provide faster clearance.

The best way to promote the benefits of C-TPAT is to show that there are consequences for companies that elect not to participate, Browning said. Security analyst Stephen Flynn has taken a similar position in the past.

“The green lane might be a lot greener if the red lane were truly red rather than pink,” Browning said.

lect from in-country sources to determine which containers to refer to local customs for inspection. The GAO found that in 35 percent of the cases, containers are put on a ship without getting this second layer of review that might have raised their risk level and led to an exam.

Subcommittee staff also conducted seven oversight trips to CSI ports and found that CBP only identifies 1.95 percent of containers transiting CSI ports as high risk, of which only 17.5 percent are inspected overseas. The result is that the agency inspects about one-third of 1 percent of total inbound ocean containers at overseas ports.

The key difference between the GAO and the subcommittee reports is that GAO and CBP base their inspection figures on high-risk containers referred for inspection compared to the total population of high-risk containers. Put another way, the GAO said 72 percent of containers identified by CBP as high risk are inspected overseas, but the subcommittee said only 17.5 percent are checked in CSI ports. The committee considers suspected shipments of drugs as a high-risk indicator that warrants a CSI inspection, but CBP only refers containers for inspection that may be terrorism related.

Lautenberg said that in some cases CSI

personnel are stationed an hour away from where the loading of containers on vessels takes place.

CBP’s strategy is to extend U.S. borders by conducting inspections overseas before a weapon in a container can pose a danger to a domestic port. CBP says it inspects about 6 percent of sea containers, but the reports show that the vast majority of high-risk inspections are still taking place on U.S. shores.

“The commissioner of Customs has assured us repeatedly that they have in place a ‘layer-in-depth’ system to protect the nation from terrorists using shipping containers to smuggle WMDs into the U.S.” said Rep. John Dingell, in a statement. “Yet each time we peel back a layer we find there is less than promised.”

Bonner reassured the subcommittee that high-risk containers (those with a score above 190) are scanned or physically inspected at the U.S. port if an exam is not conducted at the port of embarkation.

“I can say with some confidence that every high-risk container, defined that way does get some inspection,” the commissioner said. Nearly 40,000 high-risk containers have been inspected prior to lading since the CSI program began in March 2002, Bonner said during a presentation to AAIE. More than nine million ocean containers arrive

in the United States each year.

However, the GAO reported that between July and September 2004 about 93 percent of shipments referred for domestic inspection were inspected at a U.S. port. CBP officials said in the report that the other 7 percent were passed through because additional information from the customs entry or other sources lowered the risk score or shipments remained on board the vessel en route to another destination.

Under questioning, Bonner said it was “troubling” that French authorities only inspected 29 percent of container exams referred to them by CSI targeters. Le Havre stands out from most CSI ports in terms of the low percentage of exam requests it honors, he acknowledged.

He expressed disappointment that Hong Kong authorities only honored 76 percent of exam requests (832 exams out of 1,086 requests), saying he wanted to see the world’s largest port get closer to the 100-percent level.

Coleman suggested that CBP get tough with CSI partners by adding language to the declaration of principles each country signs making it mandatory that they inspect all containers referred by U.S. officers.

Bonner said the declaration of principles was purposely left broad because U.S. law requires formal agreements with foreign nations go through the State Department and the negotiating process would have taken much longer to get a security system in place. The commissioner allowed that “maybe we need to circle back and definitize those agreements.”

Congress is raising legitimate questions about why more of the high-risk inspections aren’t being done overseas, but doesn’t fully appreciate the political challenges that take time to overcome, Brian Goebel, an attorney with Gibson, Dunn & Crutcher attorney and a former senior policy advisor to Bonner, said in an interview.

“We can’t force them (foreign customs agencies) to do an inspection. It’s a partnership, you have to build trust, relationships, confidence and work your way up to a higher inspection rate. And that can’t be done in a year,” Goebel said.

In separate testimony May 17 before the Senate Commerce, Science and Transportation Committee, World Shipping Council President Christopher Koch recommended that the program for conducting targeted container inspections in foreign ports be improved by stationing U.S. inspectors on long-term assignments rather than rotating them through every few months.

Long-term billets would allow inspectors to develop relationships and mutual trust that would enhance joint screening, he said.

## GAO: management hinders security

WASHINGTON

Three years after legislation and other measures to secure ports, maritime security is still hindered by the failure of Customs and Border Protection and the U.S. Coast Guard to develop long-term planning to sustain programs, difficulty in coordinating the security activities of federal agencies and port stakeholders, and inconsistent financial support to help the private sector implement enhancements, the Government Accountability Office told Congress in May.

CBP rushed to implement the Customs-Trade Partnership Against Terrorism and Container Security Initiative, for example, without instituting adequate management strategies such as a human capital plan and performance measures necessary to make sure the programs are effective. At the GAO’s urging, CBP recently completed its C-TPAT human capital plan that describes how the agency will recruit, train, assign and retain staff and set workloads as the program expands, but is

still working to define goals and develop performance measures necessary to make sure the programs are effective in improving cargo security. Strategic planning is important to establish accountability for expenditures, GAO said.

The Coast Guard is also still developing a performance indicator for its seaport security activities.

The GAO highlighted several consequences that have resulted from poor information sharing and coordination between federal agencies and port operators. The lack of communication and coordination between DHS policymakers and the Transportation Security Administration has resulted in several missed deadlines for a transportation worker identification card. Only a handful of local industry, port and law enforcement officials who belong to area maritime security committees have received security clearances because of confusion over responsibilities between Coast Guard officials at the local level and headquarters.

The World Customs Organization is also adopting the principle that countries should conduct outbound inspections of high-risk containers at the request of the importing country, a step that should also help improve the level of CSI inspections, he said.

If CBP feels it is not getting cooperation from a foreign customs authority it should issue an order denying the container from being loaded on a vessel, he added. Bonner said CBP uses its no-load authority “very sparingly because we don’t want to sour our relationship with the host nation.”

Flynn, a senior fellow at the Council on Foreign Relations and a vocal advocate for giving homeland security issues greater priority, testified that CSI suffers from the same problem as C-TPAT of granting premature benefits. CBP designates CSI ports “without requiring that the host country demonstrate (its) ability to conduct inspections based on an established set of criteria.

“For instance, there are no performance-based criteria such as the existence of a training and evaluation program for inspectors, adequate maintenance of non-intrusive inspection equipment, and periodic exercises to test the capacity of the host country to detect and respond when the system alarms on suspicious material,” he said in his prepared remarks.

Another problem with C-TPAT and CSI is that they conflict with the Inter-

national Ship and Port Facility Security code that went into effect in July 2004, Flynn testified. The ISPS code covers security plans and procedures for vessels and terminals.

“C-TPAT places requirements which are redundant or exceed the ISPS mandates on ocean carriers and marine terminals but participation is voluntary,” Flynn said, echoing a similar argument by Koch (see story, page 40). “CSI places some poorly defined requirements on the ports who are participating, but it is not a universal program. Consequently, should there be intelligence of a pending attack or an actual attack that results in maritime authorities elevating the ISPS three-tiered alert level, CBP’s promised benefit of greater facilitation will be compromised. This is because a ship will almost always be carrying containers that are a mixture of C-TPAT and non-CTPAT participants and which originate from both CSI and non-CSI ports. Therefore, as a practical matter, under the rules governing the ISPS code, the ship and the receiving terminal will be subjected to the same heightened security requirements and the associated delays regardless of whether or not the cargo is from a C-TPAT company and a CSI port.”

The GAO and senators also questioned the need to station three to five officers at CSI ports when only two members of the team deal directly with host customs

**LOGISTICS**

officials for targeting purposes. At a cost of \$430,000 per person for an overseas billet, CBP should consider having intelligence analysts who primarily conduct computer analysis of commercial data do their work from the National Targeting Center and other offices in the United States, they said.

CBP also has not established minimum technical requirements for the detection capability of non-intrusive inspection and radiation detection equipment used by other governments as part of CSI, GAO and the subcommittee said. The lack of technical requirements means CBP has limited assurance that inspections conducted under CSI are effective.

Bonner testified that, except for one country, large-scale container X-ray and radiation equipment used by CSI partner customs authorities is equal to or better than equipment used by CBP in the United States.

Sen. Carl Levin, D-Mich., said cross-border trash shipments from Canada illustrate that even CBP's own equipment is inadequate because the detection technology cannot distinguish weapons or contraband hidden in the solid waste. Hundreds of trucks hauling trash enter Michigan every day. Each month Port Huron alone handles some 7,000 to 8,000 containers of waste



**Brian Goebel**  
attorney,  
Gibson, Dunn  
& Crutcher

***“We can’t force them (foreign customs agencies) to do an inspection. It’s a partnership, you have to build trust, relationships, confidence and work your way up to a higher inspection rate. And that can’t be done in a year.”***

from Canada. X-ray images of the containers are usually unreadable because the trash is so dense and variable.

A common theme of both GAO reports is that CBP implemented C-TPAT and CSI without enough staff, inadequate antiterrorism training and without automated systems robust enough to detect the presence of a nuke smuggled in a container. CBP has still not been able to develop adequate performance measures for both C-TPAT and CSI, the GAO said. The lack of data, for example, prevents CBP from tracking the results of inspection efforts and comparing the success of one CSI port to another, the subcommittee noted.

CBP's budget for CSI is \$126 million and the agency is seeking \$139 million in fiscal 2006.

Several senators cited the arrest at the Port of Los Angeles earlier this year of 32 Chinese stowaways who were caught because of an alert crane operator and not any intelligence analysis or cargo inspections conducted by CBP (June *American Shipper*, page 61).

The Senate subcommittee will visit six more CSI ports this summer and hold another hearing in the fall before completing its investigation of CBP security programs, Staff Director Ray Shepherd said. The next hearing will include industry witnesses and focus on the impact the programs are having on the trade, he said. ■



**Shippers' NewsWire**  
Daily updates [www.americanshipper.com](http://www.americanshipper.com)

**To subscribe call 1 (800) 874-6422 or on the Web at [www.americanshipper.com](http://www.americanshipper.com)**