

Testimony of Congressman Doug Ose on H.R. 2193
Transportation & Infrastructure Coast Guard & Maritime Transportation Subcommittee Hearing
“Implementation of the Maritime Transportation Security Act”
June 9, 2004

Chairman LoBiondo, thank you for the opportunity to testify before your Subcommittee on my bi-partisan legislation entitled the “Port Security Improvements Act” (H.R. 2193). I believe that this Congress should enact legislation to ensure a dedicated multi-year funding stream for essential port infrastructure improvements, especially to ensure port security, and I commend you for holding a hearing on my bill.

The tragic events of September 11, 2001 shook the confidence of the U.S. government and its citizens in the nation’s security. On November 19, 2001, the President signed the Aviation and Transportation Security Act. Congress then turned its attention to port security. On November 25, 2002, the President signed the Maritime Transportation Security Act. To provide Congressional and public input into the regulatory decisionmaking process, on April 24, 2003, my Government Reform Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs held a hearing entitled “What Regulations are Needed to Ensure Port Security?”

In response to this hearing, in May 2003, with my Subcommittee Ranking Member John Tierney, I introduced H.R. 2193. Our bill speaks directly to who should pay for port infrastructure improvements. To date, Congress has provided extensive Federal funding to fully ensure air security. However, Congress has not provided sufficient Federal funding to fully ensure port security, which is equally important to protect America from terrorist threats.

The U.S. maritime system includes more than 300 ports with more than 3,700 cargo and passenger terminals. The top 25 ports account for 98 percent of the more than 6 million container shipments entering U.S. ports yearly. The vast maritime system is particularly susceptible to terrorist attempts to smuggle personnel, weapons of mass destruction, or other dangerous materials into the U.S. Also, terrorists could attack ships in U.S. ports. A large-scale terrorist attack at a U.S. port would cause widespread damage and seriously affect our economy.

The witnesses at my Subcommittee hearing made several thoughtful recommendations, including: (a) the urgency for the Department of Homeland Security to issue a regulation governing a standardized “smart” common Transportation Worker Identification Credential; (b) the need for some standardization of security requirements for each U.S. port, each facility in a U.S. port, and each vessel entering a U.S. port; and, (c) the need for an additional significant Federal investment in port security.

The General Accounting Office (GAO) estimated that the U.S. Customs Bureau annually collects \$15.2 billion in duties on commodities entering the U.S. through marine transportation. H.R. 2193 directs a portion of these duties toward port security enhancements. In addition, H.R. 2193 sets deadlines for issuance of regulations governing transportation security cards, and requires regulations that include a national minimum set of standard security requirements for ports, facilities, and vessels. The Coast Guard’s October 22, 2003 final rules fulfill part of this legislative requirement since they establish some standardization of security requirements for

ports, facilities and vessels.

To understand the logic of dedicating a portion of Customs duties, let's look at the Port of Los Angeles. It is the busiest port in the U.S. and the seventh busiest in the world. In 2002, Custom duties collected in this port accounted for 32 percent of all Customs duties collected in all U.S. seaports. However, since the passage of the Maritime Transportation Security Act, this port has only received a small fraction of what it needs for port security enhancements¹ and a substantially inadequate share of the funding distributed to date relative to its importance in the commerce of this country.

Currently, 70 percent of Custom duties are deposited in the Treasury general fund; under law, the other 30 percent are devoted to agricultural purposes. Section 3 of H.R. 2193 provides a portion of Custom duties collected at ports to be dedicated for 5 years to port security enhancements, including infrastructure improvements. The bill includes a funding formula, which is based on the business concept of income (duties collected at a port) minus expenses (Federal agency expenditures at the port). H.R. 2193's 5-year funding level of \$3.3 billion was based on the Coast Guard's December 2002 10-year estimate of \$6.0 billion. On October 22, 2003, the Coast Guard issued a revised 10-year estimate of \$7.3 billion. Therefore, the bill's funding level should be adjusted upwards.

Under the bill, "entitlement" funding to duty-collecting ports and their facilities and vessels will flow through the Department of Homeland Security, which by law must review and approve each Area Maritime Transportation Security Plan, Facility Security Plan, and Vessel Security Plan. The distribution within a port would be based on the approved Area Maritime Transportation Security Plan.

Since America's ports are crucial to our economic well being, it is essential that we find the right balance between increasing port security while not impeding the flow of commerce and trade. I am sensitive to the costs of excessive government regulation. However, in a post-September 11th world, I realize that we must take additional precautions to protect our fellow citizens and our economy. We need to make sure that our ports are safe. I am not convinced that they are safe today.

H.R. 2193, which has 34 co-sponsors, will ensure that America's ports receive the security upgrades they need. This legislation links customs duties collected in our ports to investments in greater security at these ports. In contrast, the Senate Committee on Commerce, Science, and Transportation's "Maritime Transportation Security Act" (S. 2279) originally included a proposed new security fee but, on April 8, 2004, it was rejected and then the bill was reported out without a designated funding source.

¹ In the three rounds of grant funding, to date, the Port of Los Angeles has received only \$4.8 million (some of which was for joint projects with the Port of Long Beach), out of the \$97.8 million requested, i.e., less than 5 percent.