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(presented by Stephen E. Flynn, Ph.D.)

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PORT SECURITY IN AN ERA OF OPEN ECONOMIES AND OPEN SOCIETIES

by Stephen E. Flynn, Ph.D.*

The post-Cold War momentum towards open economies, open technologies, and open societies have accentuated an important new reality—that despite the prerogatives of sovereignty, the capacity nations possess to control the movement of people and goods is eroding. Stated succinctly, the traditional tools for policing transborder flows are (1) no match for modern transportation and logistics systems and (2) the market imperatives for facilitating trade and travel. No where is the fiction of control becoming more apparent than in the world's modern seaports. On the waterfront, efforts to filter the legal from illegal has become like looking for needles in a mountainous—and ever growing—haystack.

Eroding border control in ports and elsewhere has some sobering implications for a wide range of security and economic development interests. For centuries governments have sought to control their maritime and terrestrial borders for reasons of security, law enforcement, immigration control, public safety, and revenues. For many governments, patrolling borders is seen as vital to deter aggression, particularly since friction with neighboring states or ethnic groups often involves disputes over boundaries. Also, border control has always been an important part of managing the flows of contraband that the host society perceives as threatening, such as weapons and drugs. States traditionally have had a keen interest in regulating who comes and goes across their borders. Passports and visas are closely scrutinized at points of entry. Additionally, public health strategies that aim to manage the spread of disease by people, livestock, and agricultural products generally include border control measures. More recently, safety and environmental threats such as hazardous waste spills and the spread of invasive species caused by ships, planes, and trucks have made the border the locus for regulating the transportation sector. Finally, states seek to control borders so they can generate revenues. Collecting duties, tolls, and other fees at the border is often an important means for governments to acquire the resources to bankroll their activities.

There are four important developments associated with globalization that have created daunting challenges for border control at sea, land, and air commercial entry points. First, there has been an explosive growth in the volume of goods and people moving internationally. The pressures of global competitiveness has led companies to focus on their core businesses and cast off functions they feel would be more profitable to contract out. Modern corporations shop the globe for sub-contractors who offer the best product at the best price. This practice of outsourcing has fueled overseas trade and business travel. Similarly, fewer governmental restrictions on travel combined with a growing number of people with greater disposable incomes have made tourism one of the world's leading industries. Modern transportation has contributed to these developments by making it easier and cheaper to move across vast distances.

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Second, the globalization of trade and travel have placed a premium on speed and efficiency. Cargo and passengers increasingly move through hubs that are designed to link the air, rail, surface, and in many instances, sea modes of transportation. Timing is critical to keeping these huge, complex logistical centers running smoothly. Also, companies on the receiving end are demanding that shippers deliver their goods on time, as the business practice of maintaining smaller inventories and relying upon "just-in-time" deliveries becomes more commonplace.

Third--and largely as a result of the first two developments--globalization has highlighted the economic benefits states derive from facilitating trade and travel. As countries jockey to attract cargo movements or tourists through their ports or air terminals, they are under enormous pressure to reduce inspections that could cause delays. In many modern ports, gantry cranes can unload thousands of containers from a single ship in just a few short hours and load those containers on outbound tractor-trailers or on railcars without any physical inspection by customs authorities. Once on the road, the chance that these cargoes will be inspected along land borders has become more remote as well. The European Community has led the way on this by eliminating border inspections altogether for transporters who belong to their member states. NAFTA contains provisions, not yet fully enacted, that would allow Mexican, Canadian, and U.S. trucks to move their cargoes anywhere on the continent.

Fourth and finally, there is a growing number of borders to police. The collapse of the Soviet Union and the end of the Cold War has brought with it a growing array of separatist groups who seek autonomy. Kosovo and East Timor are but the most prominent recent examples of this phenomenon. In many instances, these newly emerging states lack the training or the resources to enforce laws at the border.

The daunting scope of the contemporary border control challenge particularly for the world's largest economy is illustrated by the following statistics. There are over 300 ports, with more than 3700 terminals that handle passenger and cargo movements in the United States. The waterways and ports link to 152,000 miles of rail, 460,000 miles of pipelines, and 45,000 miles of interstate highways. The nation's land and sea borders total 9600 miles with more than 1 billion metric tons of overseas trade moving across them.¹ Five million commercial trucks and 4 million ocean containers arrived across those borders in 1996. That same year, more than 400 million people entered the United States, up from 225 million in 1980.²

Here are some indicators that current practices to police U.S. borders are under strain:

¹ *An Assessment of The U.S. Maritime Transportation System: A Report to Congress*. (Washington: U.S. Department of Transportation, Sep 1999): 1-2.

² *International Crime Control Strategy*, The White House, May 1998 (Washington: Government Printing Office, 1998), 33.

- The Immigration and Naturalization Service estimates there are 5 million undocumented aliens illegally in the United States, representing nearly 2 percent of the U.S. population.³
- Despite the nearly one-quarter trillion dollar investment in drug control programs by federal, state and local governments since 1983, cocaine and heroin are more available and more affordable than they were a decade ago.⁴
- The National Insurance Crime Bureau estimates 200,000 stolen automobiles are illegally transported out of the United States every year.⁵
- The National Cargo Security Council estimates that U.S. corporations lost \$10 billion of cargo due to theft during transport in 1998—the vast majority of this cargo was either imported or exported cargo.⁶
- 10,000-20,000 metric tons of chloroflourocarbons (CFCs) are smuggled into the United States each year to supply the large black market in these ozone depleting products.⁷

Of course, it is not just illegal migrants and smugglers of contraband that are finding it easier to reach their final destinations. This same system can be readily exploited by those with hostile intent. Why should a rogue state or terrorist organization invest in ballistic missile technologies when a weapon of mass destruction could be loaded into a container with a small global position system (GPS) device and sent anywhere in the world? As with the drug trade, a terrorist could use a front company and load a biological or chemical agent into a container and merge it among the millions of containers that move in oceanborne trade each month. It could be detonated upon arrival in a port or loaded directly onto a rail or truck and activated at its final destination point or anywhere enroute.

Transforming port security practices to redress these kinds of issues will require attention at three levels. First, any strategy to reduce risks in seaports must be supportive of the need to move goods and people. There will be substantial resistance to any border control initiative that is perceived as compromising the competitive position of private sector actors. Accordingly, it will be essential to identify appropriate incentives for industry players to be supportive of new requirements.

³ *International Crime Control Strategy*, 16.

⁴ In 1995, the average purity for retail heroin was 39.7 percent nationwide, up from an average of 7 percent in 1983. Cocaine at the retail level had average purity levels of 61 percent and average wholesale purity levels of 83 percent in 1995. Office of National Drug Control Policy, *National Drug Control Strategy-1997* (Washington: Government Printing Office, 1997), 21.

⁵ *International Crime Control Strategy*, 16.

⁶ Interview w/ Edward Bodolain, Chairman, National Cargo Security Council, Washington, DC, May 10, 1999.

⁷ *International Crime Control Strategy*, 22.

Second, efforts to improve security in ports require that parallel security efforts be undertaken in the rest of the transportation and logistics network. If they are not, inspectors will continue to be overwhelmed by the enormity of the task of identifying and intercepting illicit goods after those goods arrive in the port. In short, a “forward defense” approach is essential. Also, if security improvements are limited to the ports, the result will be generate the “balloon effect,” i.e., pushing illicit activities elsewhere into the transportation system (most likely the trucking sector.)

Third, port security must be pursued in a regional context. Unilateral efforts to tighten security in one port without commensurate efforts to improve security in neighboring ports may lead carriers to “port-shop,” i.e., to move their business to other ports where their goods are cleared more quickly. The likely result would be only to shift the locus of the security risk at the price of diminishing the competitive position of the more security-conscious port.

In short, a conventional response to the growing port security threat will ultimately prove self-defeating. National or port-directed measures such as: (1) requiring shippers and carriers to comply with unique local security requirements, (2) subjecting a greater number of goods and people to more intrusive inspections by customs and immigration authorities, and (3) imposing stiffer fines and penalties for non-compliance will, at a minimum, be actively resisted by the private sector and will, at best, simply displace the problem to other transportation modes outside the port or to neighboring ports.

So what is to be done? Doing nothing should not be an option—the stakes associated with weak port security are too high. But, doing something to reduce the risk of criminals and terrorists exploiting transportation and logistics systems has two seemingly daunting preconditions: the private sector must be a willing partner, and regional governments must be willing to work towards common security goals. Since the conventional responses work against these two ends, they must be ruled out. In their place the member states of OAS should commit themselves to reaching agreement on common security guidelines and then undertake steps to remove physical and procedural barriers to transborder movements for shippers and carriers who comply with those guidelines.

At first brush, advocating an approach that calls for both raising the bar on security and facilitating cross-border flows of goods and people appears counter-intuitive. Indeed, at the outset of this paper I asserted that identifying and intercepting illicit activity in the port was already like searching for a needle in the haystack. The implications of this analogy would seem to mandate shrinking the haystack. Facilitating trade and travel presumably would have the opposite result.

Upon closer examination, however, security and facilitation do not necessarily work at cross purposes. Clearly the absence of security works against facilitation. If criminals and terrorists are free to do their worst in a port, most shippers and carriers will avoid it. Those who do not will have to bear the cost of hiring their own security forces to guard their goods in transit—a phenomenon that is becoming commonplace in contemporary Russia. Additionally, border control measures—however well-intentioned—that lead to lengthy delays may actually compromise security since the opportunity to steal goods or place contraband among them is

greatest when cargo is at rest. Too, if such measures are too onerous, they create substantial incentives for corruption which inevitably leads to less secure ports. Confronted by long queues and lengthy delays, officials will be routinely tempted by bribes for the "privilege" to move to the head of the line or to obtain early release of legitimate commerce. Those who are willing to accept these payments become easy targets for organized criminals with more nefarious interests.

Not only is facilitation not necessarily at odds with security and security with facilitation, increasingly they are mutually reinforcing. This is the natural outgrowth of new information, communications, and navigational technologies that are becoming more commonplace with the transportation and logistics industries. Shippers and carriers are embracing tracking technologies and sophisticated electronic data-bases to improve the efficiency of internal business operations and to satisfy customers that they can deliver their goods or their passengers on time. But, these same technologies hold out the potential of making the international flows of cargo and passengers "transparent" and could serve two purposes. First, it would allow cargo and passenger manifests to be examined well in advance of arrival so that non-suspicious flows could be cleared for entry without delay at the border—a boon for legitimate transporters. Second, for suspicious flows, it would provide the means to pinpoint interdiction efforts, which lowers the risk of collateral damage or disruption to legitimate cargo and passenger traffic. In other words, it would help to shrink the haystack by eliminating many of the shadows within licit flows where illicit activities could flourish.

Port security in an era of open economies and open societies should have three central elements. First, shippers and carriers throughout the transportation and logistics system must accept greater responsibility for reducing the risk they will be exploited by criminals and terrorists. Specifically, they must be willing to work with government officials in developing security guidelines that will reduce the risk that in-transit cargo or passengers can be infiltrated by those intent on causing harm. Second, they must agree to closely track and forward information essential to the performance of the work of border control agents well in advance of actual arrival time at the border. Third, governments must, in turn, reward responsible shippers and carriers by reducing intrusive random inspections and laborious administrative procedures that produced lengthy delays. Instead, people and goods should be "virtually" inspected well in advance of their arrival and cleared if there is no basis for suspecting they are involved in illicit activities.

Getting from where we are to where we need to be will not be easy. Profits margins in the transportation and logistics industries are generally quite thin and there will be substantial resistance by shippers and carriers to any new security initiative that brings with it additional costs. Moving away from traditional practices is also likely to be resisted by the government agencies and enforcement officials who are charged with border control responsibilities. Few within government understand the dynamic global forces behind the changes within in the transportation industry and many believe that the current challenges can be readily met by a greater commitment to providing more resources to their agencies. In some locales where corruption is common place, new practices that create "transparency" would threaten to undermine the lucrative ways many

officials supplement their incomes. In short, the key private sector and government actors have a substantial interest in preserving the status quo.

It strikes me that this Inter-American Commission on Ports should challenge this status quo. The motivation for doing so is straight-forward. Our ports must be prepared for the projected rise in trade within hemisphere and our governments will need to assure our respective domestic polities that security will not be unduly compromised by these increased transborder flows. Individual Port Directors should especially welcome the central element of the proposed regime—a key way to improve security is to eliminate delays from inefficient port operations, improving intermodal links, and streamlining government procedures within the port. Thus, the argument for reforming obsolete labor practices, modernizing the port infrastructure and improving the port connections to road and rail, and curbing the abuses of corrupt officials is not simply the economic one; i.e., these reforms are essential to making a port more competitive within the region. These reforms also are indispensable to making ports more secure.

For those who are concerned that weak security in Latin American ports creates greater opportunities for drug traffickers and other criminal elements, the thesis of this paper suggests that that governments and organizations must expand from the counter-narcotics base to a broader systems approach. Rather than focus on interdicting drugs alone, the United States and OAS's CICAD should advance the development of a safe, efficient, and accessible hemispheric marine transportation system that includes sound security practices. Specifically these goals and objectives should be advanced:

- (1) Have international and regional development organizations place greater emphasis on upgrading marine transportation infrastructure, but make distribution of financial assistance conditional on governments embracing regional port security guidelines.
- (2) Standardize customs regimes to support expeditious cargo and passenger clearance and improved system efficiency.
- (3) Increase awareness among shippers and carriers of vulnerabilities and threats by conducting transportation security training programs.
- (4) Forge and maintain ongoing intelligence sharing relationships with the members of the transportation and logistics industries wherever appropriate.
- (5) Modernize and automate freight transport systems, processes, and trade data information flows.
- (6) Support the development of reliable, low-cost tracking devices for ships and their cargoes.

CONCLUSION

Borders in our changing world are increasingly meeting grounds for markets and cultures. While historically their aim has been to separate, today they often have to accommodate. Thus, those who spend their time in ports enjoy ringside seats to one of the most vexing and important policy contests of our time—how to strike the right balance between control and openness. If we are willing to break with tried and true border

enforcement approaches that are no longer true, we will find that control and openness need not be antithetical. By forging stronger private and public relationships among industry, regulators, and enforcement officials; by embracing new tracking and data management technologies for carriers and cargoes; and advancing a regime that brings greater transparency to the global flows of people and goods, states will be better positioned to assure that the imperatives of port security keep pace with those of globalization.

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