

June 20, 2016

The Honorable Jeh Johnson
Secretary of Homeland Security
Washington, D.C. 20528

RE: Request for Information – Strategies to Improve Maritime Supply Chain Security and Achieve 100% Overseas Scanning Request for Information

Dear Secretary Johnson:

On behalf of the undersigned organizations representing United States manufacturers, farmers, wholesalers, retailers, importers, agribusiness, distributors, and transportation and logistics providers, we are writing in strong support of your May 2, 2016 decision to renew, for another two years, the extension of the deadline for implementation of the 100 percent overseas scanning of U.S. bound maritime cargo containers. We continue to believe that the current multi-layered risk-based strategy employed by the Department of Homeland Security (DHS) is the right approach to secure U.S. commerce and enhance global supply chain security. We also strongly believe that Congress needs to re-evaluate the 100% scanning mandate as required under the Security and Accountability for Every Port Act of 2006 (SAFE Port Act) (P.L. 109-347) and focus on practical supply chain security solutions.

The statutory provision calling for 100 percent overseas container scanning has always been, and remains, impractical to achieve on a global level. While there have been some limited improvements in scanning technology, the reasons why the 100% scanning mandate is not achievable have not demonstrably changed since your predecessor issued the first two-year waiver of the 100% scanning mandate in 2012. Your 2014 assessment that, “DHS’s ability to fully comply with this unfunded mandate of 100% scanning, even in long term, is highly improbable, hugely expensive, and in our judgement, not the best use of taxpayer resources” continues to be accurate. If implemented, this mandate would have a significantly negative impact on global commerce and cause significant conflict with our foreign trading partners, many of which have stated their opposition to the U.S. mandate.

U.S. Customs and Border Protection (CBP), working with the support of U.S. importers, exporters, ocean carriers and other supply chain stakeholders, has developed an effective and practical multi-layered risk-based supply chain security strategy. This strategy employs novel risk-analysis systems that apply targeting rules to multiple sources of data for each container to determine which containers are high risk or warrant a closer examination. CBP then uses state of the art scanning technology to thoroughly inspect all high risk containers. This strategy has continuously improved as CBP has enhanced its ability to risk-screen 100 percent of containerized cargo bound for the United States and inspect containers determined to be high risk. Unlike the 100% scanning mandate, this strategy ensures CBP’s resources are focused on cargo that poses the greatest risk and does not impair the efficiency of the global supply chain.

CBP also continues to enhance global supply chain security by investing in critical partnerships with industry, through the Customs-Trade Partnership Against Terrorism (C-TPAT),

and foreign governments, through the Container Security Initiative (CSI) and Authorized Economic Operator (AEO) programs, and by supporting global adoption of the World Customs Organization (WCO) SAFE Framework of Standards, which is built on risk-based targeting of shipments.

As you are aware, the statutory provisions mandating 100 percent container scanning did not address key operational questions, including:

1. What does the term “scanned” mean? Does it simply mean taking a reading or image of a given container, or does it also require an analysis of the reading or image to determine if the container poses a threat?
2. Who will perform the analysis of each “scan”?
3. Who is responsible for responding to an alarm or a questionable scan or image?
4. What are the standards for the applicable scanning technology?
5. Who pays for the capital cost of the scanning equipment and for the operation and maintenance of the equipment?
6. Who is to operate, maintain and monitor the equipment?
7. Does DHS have the consent of foreign governments to implement such a mandatory regime within their sovereign territories?
8. How will the United States respond when our trading partners insist on a reciprocal 100% scanning requirement for U.S. containerized exports?

As required by the SAFE Port Act, CBP conducted a series of overseas pilot programs in an attempt to address these and other operational questions. The results of the pilot programs showed the impracticality of achieving 100 percent scanning in the maritime environment. Given this and the fact that key operational questions about 100% container scanning remain unanswered today, we have questions about how the Department’s Request for Information (RFI) – *Strategies to Improve Maritime Supply Chain Security and Achieve 100% Overseas Scanning* supports DHS’s existing risk-based supply chain security strategy.

While we support and encourage DHS’s evaluation of new supply chain security technologies, we note that the RFI does not take into account DHS’s current multi-layered, risk-based supply chain security strategy, the key operational reasons for the ongoing 100% scanning waiver, or the potential impacts of new security technologies on the efficiency of the global supply chain. We are concerned that DHS is seeking “quick wins” without identifying what the “immediate payoffs” should be or clarifying that such recommendations should not impose a greater burden on the larger trade community. As DHS, along with the stakeholder community, looks to address these security issues in the future, it is of utmost importance to consider long term workable solutions as our collective goal.

We fully support your two-year waiver of the 100 percent scanning mandate. Instead of going through this waiver exercise every two years, however, we urge the Administration to recommend to the Congress a comprehensive re-evaluation of the 100% scanning requirement to find a path forward that allows the Department, industry and our trading partners to focus on real solutions to address any security gaps that remain in the global supply chain. With limited

resources, we need to implement the most effective strategy that actually provides enhanced supply chain security. We stand ready to work with the Administration on this initiative.

Sincerely,

Agricultural & Food Transporters Conference
Agricultural Retailers Association
Agriculture Transportation Coalition
Airforwarders Association
Airlines for America
Alliance of Automobile Manufacturers
Almond Hullers & Processors Association
American Apparel & Footwear Association (AAFA)
American Association of Exporters and Importers
American Association of Port Authorities
American Chemistry Council
American Coatings Association, Inc.
American Cotton Shippers Association
American Frozen Food Institute
American Herbal Products Association
American Import Shippers Association
American Pyrotechnics Association
American Trucking Associations
Association of Food Industries
Association of Global Automakers, Inc.
Auto Care Association
Beer Institute
Border Commerce and Security Council
Business Alliance for Customs Modernization (BACM)
California Business Properties Association
California Chamber of Commerce
California Retailers Association
California Trucking Association
Canadian/American Border Trade Alliance
CAWA – Representing the Automotive Parts Industry
Coalition of New England Companies for Trade (CONNECT)
Columbia River Customs Brokers & Forwarders Association
Corn Refiners Association
Customs Brokers and Freight Forwarders Association of Washington State
Customs Brokers and Forwarders Association of Northern California
Distilled Spirits Council of the U.S., Inc.
Express Association of America (EAA)
Fashion Accessories Shippers Association (FASA)
Footwear Distributors & Retailers of America (FDRA)
Foreign Trade Association
Gemini Shippers Association

Global Cold Chain Alliance
Green Coffee Association
Halloween Industry Association (HIA)
Harbor Trucking Association
Home Furnishings Association
Institute of Makers of Explosives
Intermodal Motor Carriers Conference
International Association of Freight Forwarders Associations
International Association of Movers (IAM)
International Association of Refrigerated Warehouses
International Refrigerated Transportation Association
International Wood Products Association
Juvenile Product Manufacturers Association
Los Angeles Area Chamber of Commerce
Los Angeles Customs Brokers and Forwarders Association
Meat Import Council of America
Motorcycle Industry Council
National Association of Beverage Importers
National Association of Chemical Distributors
National Association of Manufacturers
National Cotton Council
National Council of Farmer Cooperatives
National Customs Brokers and Forwarders Association of America (NCBFAA)
National Fisheries Institute
National Foreign Trade Council
National Grain and Feed Association
National Oilseed Processors Association
National Onion Association
National Potato Council
National Retail Federation
National Strategic Shippers Transportation Council (NASSTRAC, Inc.)
New Jersey Motor Truck Association
New York/New Jersey Foreign Freight Forwarders and Brokers Assn
North American Export Grain Association
North American Meat Institute
North American Shippers Association, Inc.
Pacific Coast Council of Customs Brokers and Freight Forwarders Assoc. – The PCC
Produce Marketing Association
Promotional Products Association International (PPAI)
Retail Industry Leaders Association
San Diego Customs Brokers Association
Specialized Carriers & Rigging Association
Sports & Fitness Industry Association
Tea Association of the U.S.A., Inc.
The Hardwood Federation
The National Industrial Transportation League

Toy Industry Association
Transportation Intermediaries Association
Travel Goods Association (TGA)
U.S. Chamber of Commerce
U.S. Hide, Skin and Leather Association
United Fresh Produce Association
United States Council for International Business (USCIB)
United States Fashion Industry Association
Washington Retail Association
Washington State Potato Commission
Western Growers
Wine & Spirits Wholesalers of America
World Shipping Council