

REMARKS BY

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REPRESENTING

THE DEPARTMENT OF TRANSPORTATION

BEFORE

THE U.S. COMMISSION ON OCEAN POLICY

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Admiral Watkins, distinguished members of the Ocean Commission, ladies and gentlemen, Good Afternoon. It is a privilege and a distinct pleasure to be here with you today as you begin your briefings on the activities and functions of the various federal agencies that collectively formulate and execute this nation's ocean and coastal policies.

I am Admiral Jim Loy, Commandant of the Coast Guard but I am not here today solely in that capacity. While I can and will talk to you about specific Coast Guard issues and concerns, I must point out that I am here as a representative of Secretary of Transportation Norman Y. Mineta and all of the Department of Transportation agencies that are involved with ocean, coastal and maritime issues. In addition to the Coast Guard, the maritime agencies in the Department of Transportation include the Maritime Administration and the Saint Lawrence Seaway Development Corporation.

While the Congressionally assigned missions, statutory authorities, geographic areas of responsibility and performance expectations of each of these agencies is necessarily different, we are united by our collective pursuit of the Department of Transportation's overarching goals for Safety, Mobility, Economic Growth, protection of the Human and Natural Environment, and enhancing National Security.

I spoke with Secretary Mineta this morning about my appearance before the Commission. He asked me to express his personal interest in the Commission's work and his commitment to doing everything within his power to help ensure your success. Similarly, I want to assure you that each of the maritime agencies within DOT will fully support the Commission as you go about your important task.

I have been informed that the Commission does not desire basic briefings on agency functions, but rather that you want to hear our thoughts on the larger issues that the Commission should keep in mind as you go about your work. I have also been told that you want to hear the “Lessons Learned” from our experiences working in the inter-agency realm. I will try to structure my comments accordingly. In discussing some of my ideas, I will be using mostly Coast Guard examples to illustrate my point. It is not that the policy formulation or budgetary problems I am raising are unique to the Coast Guard or that the effect on us is more significant than on any other agency. It is just that I am most comfortable using examples that are most familiar to me.

Also, I won't be talking to certain issues likely to be of extreme interest to you, such as Invasive Species or the U.S. fisheries enforcement regime, as I expect others to cover those issues in more detail. However, I ask you to keep in mind that the Coast Guard is the principle federal maritime law enforcement agency and frequently acts as an enforcement arm for other agencies. Further, the Coast Guard is a recognized leader in marine technology and marine environmental protection. Thus, the CG is heavily involved in a wide variety of issues, either in a lead or supporting role, and can provide additional information as desired.

National & Homeland Security The first major point I want to discuss is the necessity for the Commission to consider National Security implications of U.S. ocean and coastal policies and operations. I recognize that there was some thought early on that National Security issues were largely off the table for this Commission. However, the events of September 11th have proved beyond any doubt that there are serious threats to the security of this nation, both at home and abroad. I would submit that some of those threats are maritime in nature and that the Commission cannot fulfill its mandate without giving at least some attention to National and Homeland Security implications in U.S. ocean and coastal policy.

Your mandate includes a requirement to examine commercial interests including marine transportation. However, marine transportation is more than an economic issue. Our ports are essential for maintaining vital sea lines of communication, not just for strategic commercial trade, but also for re-supply of deployed U.S. military forces around the world. The reality is that, while aviation gets the headlines, more than 95% of our overseas military cargo moves by ship. Thus, a healthy and vigorous marine transportation system remains an essential requirement for National Security.

At the same time, marine transportation remains a significant source of vulnerability for the Homeland. More than 6 million containers enter this country each year. Only a very small percentage, less than 2%, is ever inspected in any meaningful way. Increasing global trade and “just-in-time” delivery systems

dictate that our borders be as open as possible. Now, however, the new security imperative may require that we far more carefully scrutinize this flow. As noted by the Hart-Rudman Commission in its first report, the dilemma is to find ways to ensure security in necessary economic flow without cutting it off.

The United States is now embarked on a massive national effort to define “the New Normalcy.” This effort involves all levels of government, the private sector that owns so much of our critical infrastructure, and the public at large. One of the strengths of the Coast Guard, due to its military nature and the flexibility inherent in our multi-mission capabilities, is that I can very quickly change our operational focus in response to an emergency event. On September 11th, when it became obvious that we were under attack, I ordered “Hard Left Rudder” and the Coast Guard shifted in a matter of hours from our earlier operations and priorities to a focus on Port Security not seen since World War II. What we don’t know, because we are still defining “the New Normalcy,” is what the appropriate level of effort in Port Security will be in the months and years ahead. I suspect it will be more than what we were doing on September 10th and less than what we are doing today, especially as we get better in defining the threats and vulnerabilities and are better able to identify those measures that provide the best return on investment.

Of course, Homeland Security threats pre-date September 11th and extend well beyond Port Security. For example, we have literally thousands of offshore oil and gas production platforms that may make excellent targets for eco-terrorism and economic sabotage. We also have illegal migrants coming to this country by sea. As controls get tighter on air travel and on the land borders, it is not unreasonable to expect that foreign terrorists intent on harming this country may turn to illegal maritime migration as the best way into the country. We have already seen evidence in Italy of terrorist smuggling by container. Illegal drugs are another long-standing threat to the health and safety of the United States. Further, there is a proven connection between illegal drugs and financial support for terrorist organizations, both in this hemisphere and for al Qaeda. Finally, to the extent that the Coast Guard is not enforcing U.S. fisheries and related environmental laws because of the current emphasis on other aspects of Homeland Security, our fisheries and coastal resources remain vulnerable to foreign predation and illegal discharges of harmful pollutants.

I am not suggesting that this Commission needs to go into great detail on appropriate responses to the maritime components of National and Homeland Security threats. The Department of Defense, the Office of Homeland Security, under Governor Tom Ridge, and other similar entities will be thoroughly examining these issues over the next few months. I do, however, suggest that this Commission needs to follow those efforts and, at a minimum, not act so as to undercut recommendations that will be coming from Governor Ridge, Secretary of Defense Rumsfeld or other officials with Homeland Security responsibilities.

Finally, when you consider the vessels, personnel, communications and other resources required to carry out U.S. ocean and coastal policies, I ask that any recommendations you make with respect to multi-mission assets be made with due consideration to the full mission portfolio to which those assets are dedicated. While this comment probably applies to a number of agencies, it is of particular concern to the Coast Guard.

A Comprehensive “National Ocean Strategy” When we were first asked to comment on what eventually became the Oceans Act of 2000, the Coast Guard responded that any review of U.S. ocean and coastal policy and operations had to be a broad review and had to take a comprehensive approach. The Coast Guard was only one of many agencies providing that same kind of input and the final wording in the Oceans Act of 2000 does reflect the importance of an integrated analysis of ocean and coastal policy.

Many of the perceived deficiencies in current policy and program execution seem to stem from management approaches based on sectoral thinking rather than systemic or holistic thinking now seen as necessary. In the fisheries realm, this is reflected in the emphasis on species management, rather than on managing the ecosystems in which those species live and interact. In the port and waterway realm, this is reflected in the practice of making waterfront facility decisions on the basis of highway and rail connections without consideration of any facility-related vessel traffic implications.

As you go about your work, the Department of Transportation urges you to give consideration to what a comprehensive “National Ocean Strategy” might look like and how it might be best implemented. In that regard, the Department suggests that a holistic or system-based approach will help you identify overlaps between the agencies (i.e., potential for eliminating redundancy and improving efficiency) as well as gaps between related agency functions (i.e., potential for improving coordination and effectiveness).

In developing your ideas, the Department also urges you to give due weight and consideration to the importance of marine transportation. Certainly, we are not asking you to ignore important environmental and ocean resource issues, but for too long policy makers and the American people have been oblivious to the importance of marine transportation. Despite the fact that more than 95% of our overseas trade arrives by ship and almost all of our oil and petroleum products move by water at least once in moving from wellhead to consumer, most Americans think of transportation only in terms of aviation and highways. For most Americans, their only involvement with the oceans comes from recreation and seafood. Accordingly, educating policy makers, as well as the public at large, on the importance of the oceans must be an important goal for this Commission and any future “National Ocean Strategy.”

Building on Complementary Efforts. You have a daunting challenge ahead of you. Comprehensively examining U.S. ocean and coastal policies and activities would be difficult under the best of circumstances. Doing so in 18 months will be far more difficult. To speed you in your task, I strongly encourage you to take full advantage of the quality results already produced by others before you. While every agency is likely to have reports of earlier studies to bring to your attention, I want to mention three in particular.

- I. An Assessment of the U.S. Marine Transportation System: A Report to Congress; September 1999. This report is an outgrowth of the Marine Transportation System (MTS) Initiative, undertaken by the Department of Transportation at the instigation of the Coast Guard and Maritime Administration and in recognition of current and projected future inadequacies in marine transportation. This report reflects a comprehensive analysis of the nation's ports, waterways and their intermodal connections in light of current and projected demand and sheds particular light on the complexity of the MTS and the resulting management challenges. Of particular interest to this Commission, the MTS Initiative is a coordinated effort involving multiple agencies and affected public and private stake-holders. This report was prepared after an extensive series of national and regional listening sessions, not unlike what this Commission will begin next January, and presents a balanced approach reflecting a wide range of potentially competing interests. This report contains numerous significant recommendations that I commend to you as potential starting points for your own deliberations.
- II. The Report of the Inter-Agency Commission on Crime and Security in U.S. Seaports; Fall, 2000. This report was undertaken in response to specific Congressional direction and in recognition that marine transportation is a source of both obvious economic benefit and hidden threats to the nation. Among the threats are cargo theft, drug smuggling and the potential for marine transportation to be used to smuggle Weapons of Mass Destruction into the country. Among the findings are that current port security measures and cargo screening programs are inadequate and that multiple agencies, including federal, state and local, share Port Security responsibility. Due to its dual status as a military service and a civil authority, the broad statutory authorities inherent in the Captain of the Port and its wide range of port and waterway activities, the Coast Guard was recognized as the lead agent for port security at the national level. Congress is already considering legislation in response to the recommendations of this Commission (The Port and Maritime Security Act of 2001 (S. 1214) introduced by Senator Hollings). I recommend that this Commission carefully consider the work of this earlier Commission, both with respect to the Homeland and National Security implications in its

findings and for its observations on the division of functions across the executive branch.

- III. A Coast Guard for the 21st Century: the Report of the Interagency Task Force on U.S. Coast Guard Roles and Missions; December 1999. This report documents the findings of a 16 agency review of Coast Guard Roles and Missions ordered by the President as a prerequisite to committing to a major recapitalization of the Coast Guard's offshore operating assets. The Task Force's "...findings reinforced the value of a multi-missioned Coast Guard with regulatory, law enforcement, and humanitarian-focused emergency response authority, and military capability..." In short, the Task Force concluded that the Coast Guard's Roles & Missions are "Responsible Government" and that the Coast Guard is the right agency to perform its assigned missions. The Task Force also concluded that the Coast Guard needs to be adequately funded and its offshore assets need to be recapitalized if the service is to be able to meet the needs of the 21st Century. I encourage you to give careful consideration to this report, especially as you consider the adequacy of government facilities and operating assets in U.S. ocean and coastal areas, and I specifically invite you to validate the Task Force's findings.

I will be making copies of these reports and other documents available to the Commission and its staff

The Need for Feasible Recommendations. Ocean and coastal policies, statutes, regulations and the operational concepts lying behind agency operating plans must reflect the realities of the ocean environment, the limits of available technology and the limits of human strength and endurance. Policies, programs and operations not founded in reality are, at best, useless and may well be harmful. To give you some idea of what I mean, I offer the following example. Several years ago, a state agency issued rules to require tankships and oil terminals to install and use vapor recovery systems during oil transfer operations. While the idea wasn't bad, the design developed by the state agency had a very high probability that it would have caused tankers to explode. The Coast Guard intervened to apply our extensive marine engineering expertise to the problem and ensure that properly engineered vapor recovery systems were designed and then tested for adequacy before being put into wide use. These systems are now in use around the country and the world. As I said, the idea wasn't bad – it just needed proper execution by people with the requisite expertise.

The Commission undoubtedly needs to be aggressive in making many of its recommendations. After all, if there were not a perception that some things need to change, there wouldn't be a Commission. However, as you consider making your final recommendations, I strongly encourage you to draw on available

expertise to ensure that your recommendations are feasible. Don't ask us to do things that can't be done.

The Need to Ratify UNCLOS I know you received an extensive briefing from a representative of the American Bar Association on this issue, but I want to reiterate the need for U.S. accession to the United Nations Convention on the Law of the Sea at the earliest opportunity. I strongly encourage the Commission to adopt a resolution in favor of Senate ratification of UNCLOS and that your resolution be forwarded to the President and Senate leadership as soon as possible. This can't wait for the Commission's final report.

The Need for Reality in Ocean and Coastal Budgeting. This theme is, in some respects, the budgetary corollary to my earlier comment on the need for technical feasibility in ocean and coastal policies and programs. The resources made available to the various agencies must also reflect reality and the needs of responsible government. Too often in recent years, budgetary pressures have resulted in underfunding of critical functions. This underfunding has frequently been based on untested and overly optimistic assumptions about the effectiveness of a given program or the benefits of adopting new technology.

For example, the Coast Guard has been under severe pressure to cut the amount of money made available for traditional fixed and floating Aids to Navigation. These proposed cuts were ostensibly justified by the emergence of the Global Positioning System (GPS), highly precise Differential GPS and Electronic Charting Systems. Ignored in this argument was the fact that GPS and DGPS were already known to be subject to intentional and accidental jamming and accuracy degrading interference. Also ignored was the fact that electronic chart databases meeting international standards for accuracy and reliability, not to mention the requirement for a means of updating chart databases in response to changes in port, channel and navigational aid configurations, are not yet widely available. Finally, the policy implicit in the budget proposal, i.e., reliance on a single means of navigation, is contrary to centuries of legal rulings and the even older dictates of prudent seamanship. It could also be argued as an abrogation of treaty obligations to maintain an adequate system of navigational aids to assist mariners.

I am not suggesting that program budgets and government spending priorities can never change, especially in response to new technologies. To the contrary, all of us should be constantly on the lookout for better ways to meet the performance requirements expected of responsible government. In the Coast Guard's Aids to Navigation program, for example, we have a long history of adopting new technologies in the search for more effective and/or less costly ways to meet the needs of navigation. There is a difference, however, between responsibly exploiting new technology or other potential efficiencies and, on the basis of wishful thinking, ignoring the resource requirements for responsible government. There may also be a difference between what an agency would like to do and what it must do for critical functions such as safety of life. I

encourage the Commission to be sensitive to the potential for underfunding in critical functions, such as those involving safety of life.

In closing, Mr. Chairman, let me again assure the Commission that the entire Department of Transportation maritime family fully recognizes the importance of the task before you and will fully support your efforts. If there is anything that the Office of the Secretary, the Maritime Administration, the Saint Lawrence Seaway Development Authority or the United States Coast Guard can do to help you fulfill your mandate, you need only ask.

Thank you. If I can answer any questions....

