

**STATEMENT OF GEORGE QUICK, VICE PRESIDENT  
INTERNATIONAL ORGANIZATION OF MASTERS, MATES & PILOTS  
to the  
COMMITTEE ON HOMELAND SECURITY  
on the  
TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL  
OCTOBER 31, 2007**

Mr. Chairman and Members of the Committee:

My name is George Quick. I am Vice President of the Pilot Membership Group of the International Organization of Masters, Mates & Pilots (MM&P) and a member of the MM&P's General Executive Board. The MM&P represents Ships' Masters, Licensed Deck Officers and unlicensed mariners working aboard United States-flag commercial vessels operating in the foreign and domestic trades and on the inland waterways. We also represent mariners working aboard civilian crewed ships in the government's Ready Reserve and Military Sealift Command fleets, as well as harbor pilots in ports throughout the United States. The seafaring and pilot members of the MM&P are among those who are required to obtain a Transportation Worker Identification Credential (TWIC). As such, we have a direct interest in the implementation of this program and the effect it will have on the ability of our members and all maritime labor to continue to do their jobs.

There should be no question that the MM&P and all the American seafaring and longshore unions have a vital interest in, and an unwavering commitment to, the enhancement of America's maritime security. America's maritime workforce is on the front lines in the war against maritime-related terrorism. It is American maritime workers who will almost certainly be among the first American citizens directly affected, injured and killed in the event of such an incident or breach of maritime security. It is America's maritime workforce which should therefore be regarded by our government as an ally here at home, in the same way that we sail and work in support of our armed forces overseas in the war against terror.

We also have another obligation to our nation: to safely and economically move America's foreign and domestic commerce. We strongly believe strengthening maritime security and facilitating the movement of cargo to protect our economic security are not mutually exclusive goals and objectives. Rather, we believe the United States can achieve both goals provided the Transportation Security Administration (TSA) understands that a poorly designed

and implemented program will unnecessarily burden our industry and seriously diminish our ability to do our jobs without providing any real maritime security benefits to our nation.

### **Interoperability with International Standards**

We have consistently argued that there is a simpler, quicker and more efficient way to implement a TWIC program than the way currently proposed. After the terrorist attacks against our country on September 11, 2001, government, industry and labor turned their attention to ways to prevent maritime-related terrorist incidents. The United States, recognizing the international nature of maritime commerce, looked to the International Maritime Organization (IMO), the United Nations body that regulates international shipping, for support. In 2002, the IMO, relying most heavily on principles put forward by the United States, developed an international maritime security regime that applies to ships and ports.

This IMO security regime has been incorporated into a mandatory international convention, the *International Ship and Port facility Security Code* (ISPS Code). The Coast Guard's maritime security regulations contained in 33 CFR 104 and 105 are based upon the ISPS Code to ensure that our country meets its international obligations under the Code.

The IMO member states collectively realized that identity documents and access control are essential elements of an effective maritime security system. They requested that the International Labor Organization (ILO), another United Nation's body, develop a uniform international standard for a seafarer's identity document to be used for access control in conjunction with the ISPS Code. With the participation of the United States, the ILO adopted the Seafarers' Identity Document (SID) Convention (C-185) in June 2003.

C-185 establishes international standards for an identity document based on the biometric identifier standards of the International Civil Aviation Organization (ICAO), the United Nations entity responsible for the regulation of international air transport. In fact, the ICAO biometric identifier standards are already being utilized by the United States in the Machine Readable Travel Documents (MRTD) systems used to read the new electronic passports held by foreign visitors entering our country through airports.

Unfortunately, rather than use the internationally accepted ICAO standards as the basis for the TWIC, the TSA made the decision to use the U.S.-specific Federal Information Processing Standard (FIPS), which was developed for Federal ID cards used by Federal workers and which has never been used in the commercial sector. We believe that many of the problems that have plagued the TWIC program and delayed its implementation can be attributed to TSA's decision to adopt the inappropriate FIPS standard as the basis for the TWIC card.

We wish to point out that Congress has strongly suggested the use of an international standard for transportation worker identity cards. For example, the MTSA encouraged the U.S. Coast Guard to:

*"...negotiate an international agreement, or an amendment to an international agreement, that provides for a uniform, comprehensive, international system of identification for seafarers that will enable the United States and another country to establish authoritatively*

*the identity of any seafarer aboard a vessel within the jurisdiction, including the territorial waters, of the United States or such other country.”*

In addition, section 303(b) (1) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Border Security Act) very clearly establishes Congress’s intent that the U.S. system of machine readable, tamper-resistant travel documents conform to international standards. The section reads, in part:

*“The Attorney General and the Secretary of State shall jointly establish document authentication standards and biometric identifier standards to be employed on such visas and other travel and entry documents from among those biometric identifiers recognized by domestic and international standards organizations.”*

Given what we believe to be the unambiguous intent of Congress as expressed in the MTSA and the Border Security Act that the TWIC and U.S. travel documents conform to international standards, it is clear that Congress recognized the value of globally interoperable systems and directed the relevant Federal agencies to pursue interoperability. What is not clear is why TSA and the Coast Guard have ignored this aspect of the Congressional mandate and have chosen instead an internal federal government standard for the TWIC that will never be interoperable with international standards and is untested and unproven on the massive scale required for the TWIC program.

The ICAO standards are a proven and internationally accepted technology for identity documents. The readers and other supporting hardware have also been proven at airports around the world. We believe TWIC should start with this established system and build upon it as technology advances and new capabilities emerge. By starting from a straightforward and uncomplicated foundation – by adopting the same proven technology that is widely used for access control of foreign visitors to the United States as well as at international airports and in foreign ports - we can dramatically reduce the problems with the present TWIC program and increase the ease and speed of implementation of the TWIC.

### **Federal Preemption**

There is another aspect of the current TWIC program that we believe must be addressed if the TWIC program is to achieve its maritime security objectives without unnecessarily disrupting and impeding the flow of commerce. Specifically, we believe that the Federally-issued TWIC must take precedence over all other state, local and private identification card requirements for maritime workers. It is, in our opinion, critical that state and local and private entities no longer be able to subject our nation’s U.S. citizen maritime workforce to additional application requirements, background checks and fees or to demand that our nation’s workforce obtain multiple and duplicative maritime port and vessel access control credentials.

We believe it is possible under a properly structured and implemented TWIC program to enhance security within America’s ports and aboard vessels in such a way that there is a minimal disruption to the movement of goods in domestic and foreign commerce and the rights of transportation workers are protected. Unfortunately, unless the Congress acts to ensure that the Federally-mandated TWIC program preempts all other state and local and private entity access control procedures and requirements, our maritime workforce and transportation system and our national economy will be adversely affected without any corresponding increase in national

security benefits. Equally important, unless Congress acts our nation's security may be weakened as Americans are discouraged by excessive regulatory burdens from entering and remaining in the maritime industry, reducing the civilian maritime manpower base relied upon by the Department of Defense

Maritime workers are a mobile workforce, moving between different states, ports and facilities. The imposition of multiple additional requirements beyond those mandated by the Federal TWIC program will force maritime transportation workers to file numerous applications, undergo repetitive, time-consuming background checks and pay all the fees associated with possibly dozens of identification credentials. If Congress does not act, and the TWIC regulations continue to allow each state and local government and port and maritime facility to develop and implement its own access control system above and beyond what the Federal government has deemed necessary to protect the national interest, then the access control identification credential system as a whole will become an unjustifiably burdensome and costly administrative impediment to the efficient flow of commerce.

America's maritime workforce must have an access control identification credential that they can present at every state, port or facility their employment takes them. If they do not, and if our government allows numerous additional requirements to be imposed, America's maritime workforce will be unduly and unfairly burdened, America's efficient and reliable waterborne transportation systems will be undermined, and America's commercial seapower capability will be weakened. In addition, in the absence of a national TWIC program that supersedes all others, mariners who do not also possess an identity card issued by a particular state, port or facility may find themselves forbidden to take shore leave or prohibited from transiting between vessels without first paying "escort" fees. The result will be American citizen mariners imprisoned aboard their vessels in American ports.

Consequently, Mr. Chairman, maritime labor is united in our position that Congress must act to ensure that the Federal laws and regulations governing the TWIC program preempt all other state and local access control requirements for maritime transportation workers. We do not believe that this request is inconsistent with the goals and objectives of the TWIC program or with our nation's efforts to prevent a maritime-related terrorist incident. Rather, we believe that the war against terror is and should be treated as a national effort, and the national standards and system put in place through the TWIC program to combat terrorism should take precedence over all others and not be secondary to the systems of each individual facility, port, city or state. America's maritime workforce must have an access control card that they can present at whatever state, port or facility their employment may take them. If they do not, and our government allows numerous additional local requirements to be imposed upon them, we will be unfairly and unjustifiably burdening this American workforce while undermining our country's efficient and reliable interstate and foreign commerce maritime transportation system.

### **Disqualifying Crimes**

Concerning the crimes that would disqualify an American worker from obtaining a TWIC, we feel that Congress had it right in the Maritime Transportation Security Act of 2002 (MTSA). MTSA sets the standard for denying a person a TWIC based upon that person's

potential as a terrorism risk. Yet, TSA has chosen through regulation to disqualify an individual who has committed crimes that do not predispose an individual to be a terrorism risk. We are troubled by the prospect that a large number of workers might be disqualified from obtaining a TWIC or become entangled in the process for past offenses that are not terrorism or national security related. It is essential that there be a fair and robust appeals process, monitored closely, to ensure that workers who pose no threat are not unjustly denied a TWIC and therefore denied the opportunity to pursue their livelihoods. We ask this Committee and the Congress to ensure that there are sufficient resources available to administer the waiver and appeals process fairly and in a timely fashion.

Our concerns about the background check process are fueled by problems encountered by workers who requested a HAZMAT endorsement. In her October 4 Senate Commerce Committee testimony, TWIC Program Director Maurine Fanguy stated, “On the HAZMAT program, we have processed over 10,000 appeals, and [in] 99 percent of them...we've discovered that we had incorrect information and we gave the person their endorsement.” While we commend TSA’s HAZMAT appeal process, which obviously looked at workers’ appeals without prejudice, we would note that over 10,000 people were initially denied an endorsement because of errors or omissions in the initial determination of security threat assessment (IDTA). Obviously, this aspect of the TWIC program warrants careful oversight.

### **Competitiveness Issues**

It is also important to note that approximately 95 percent of all the cargo entering and leaving the United States is carried aboard foreign flag vessels operated by foreign crews. What is even more important is that none of these vessels and none of these foreign crews are subject to the same requirements as those imposed by our government on U.S.-flag vessels and their American crews. Foreign crews are not covered by the TWIC program. Foreign crews operating vessels in and out of American ports are not subject to U.S. government imposed background checks. Consequently, the overwhelming majority of maritime personnel responsible for the carriage of hazardous and other cargoes in and out of our country will not have to obtain a TWIC or obtain an access control credential issued by American states, ports and facilities – only American mariners will be subjected to these numerous and onerous requirements.

### **Combining the Merchant Mariner Credential and TWIC**

All mariners employed aboard U.S.-flag merchant vessels greater than 100 gross register tons (except for those operating exclusively on the rivers) are required to have a U.S. government issued Merchant Mariner’s Document (MMD). An MMD is a card that serves as both an identity credential and as a qualification credential. They are issued to shipboard officers and to unlicensed personnel who work in support of the operation of the vessel. In conjunction with this requirement, and long before the events of 9/11 and the enactment of legislation authorizing the establishment of the TWIC program, individuals seeking employment as a licensed or unlicensed merchant mariner were subject to extensive background checks. In addition, the Maritime Transportation Security Act of 2002 (MTSA) requires transportation

workers, including individuals who hold a merchant mariners document, to undergo a criminal background check.

Currently, when an individual submits an application to the Coast Guard for evaluation for an MMD, he must include a copy of proof of citizenship and establish proof that he has a Social Security Number. The individual must further undergo a drug test, and is also fingerprinted so that the Federal Bureau of Investigation can perform the necessary criminal background checks. Finally, the individual must agree to a check of the National Driver Register so the Coast Guard can determine if there are any offenses relating to the operation of a motor vehicle which may render the individual unsuited for the duties and responsibilities associated with shipboard employment.

We believe that the merchant mariner document (MMD) that is currently issued to seafaring personnel should be updated in order to comply with the requirements of the MTSA in order to allow the MMD to serve as a TWIC for all merchant mariners, licensed and unlicensed. We believe that the MMD can and should be upgraded to include the biometric identifier standards of the TWIC and that a combined MMD/TWIC should be issued after the requirements of both statutes are met. Doing so, and giving the Coast Guard exclusive jurisdiction to provide the requisite background checks, will eliminate the need for two or more Federal agencies to perform separate background checks; will eliminate redundancies in the vetting process; will streamline the credentialing process for mariners; and will eliminate the need for mariners to carry more than one Federal identification credential for maritime employment.

We understand the Coast Guard is concerned that combining the MMD/TWIC and a license on one card would exceed the space available for printing on the TWIC card and that the amount of information may exceed the storage capacity of the chip under current technology. We agree and believe very strongly that this problem can be overcome by continuing to issue a merchant mariner's license as a separate document in its current format. It is easy to print all the information pertaining to a licensed officer's qualifications on a license in its current form which would be available for inspection by port control officers.

Under this system, an unlicensed mariner would be required to hold only one document: a combined MMD/TWIC that would serve as a certificate of qualification, an identity document and as a biometric transportation security card. Licensed officers would hold the same combined MMD/TWIC and also be issued a separate license which would serve as the individual's certificate of qualification with all endorsements clearly indicated.

## **Conclusion**

We thank you again, Mr. Chairman, for the opportunity to present our comments on the TWIC program. We stand ready to work with you and your colleagues and with other concerned and affected parties to achieve a safer and more secure maritime transportation network.