

# WebMemo



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## 10 plus 2: A Flexible Alternative to 100 Percent Scanning

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On November 25, 2008, Customs and Border Protection (CBP) issued the final rule on “10 plus 2,” which would require shippers to provide certain information before a container can be shipped to the United States. This mandate is in addition to the 100 percent scanning mandate that has monopolized the current legislative agenda. But the fact that 10 plus 2 is industry-friendly, flexible, and adds real security to the global supply chain means that Congress and the Department of Homeland Security (DHS) should not simply layer 10 plus 2 on top of the blanket mandate but instead allow it serve as a viable alternative as well as a template for future maritime security policy.

**Security Policy Gone Awry.** After 9/11, Congress began to consider cargo entering the United States as a prime target for an act of terrorism. While this theory was well-supported, the response to this threat was less than ideal. In the 9/11 Implementation Bill of 2007, Congress enacted a mandate requiring that 100 percent of all maritime cargo be scanned prior to entering the United States. DHS was adamantly opposed to the measure, citing security concerns. Congress moved forward anyway.

In reality 100 percent scanning does not make us safer, as demonstrated by Congress’s own test pilot, the Secure Freight Initiative (SFI). The SFI showed that this mandate requires a tremendous amount of resources and may even decrease our nation’s safety by providing a false sense of security to those whose job it is to protect U.S. cargo. The 100 percent scanning mandate was enacted without any thought to

this measure’s impact on the supply chain, industry, or consumer pocketbooks. And a recent Government Accountability Office report indicates that this mandate will hurt our nation economically and has even upset key trading partners across the globe.

While the 100 percent mandate is still on the books, DHS has strived to put in place policy that is more industry friendly, including the 10 plus 2 ruling. The final rule requires that CBP receive 10 data submissions, plus a vessel stow plan as well container status messages from a shipper prior to the shipment of cargo to the United States. There are several benefits to 10 plus 2, demonstrating that it could serve as a useful replacement to 100 percent scanning. These benefits include:

- **Flexibility.** The rule allows CBP to retain flexibility in certain reporting requirements, such as the container stuffing location, in order to be more receptive to industry challenges.
- **Real Security.** 10 plus 2 allows CBP to know more about what is in containers without intrusive scanning. The second constraint of the 10 plus 2 rule would require industry to submit 10 points of data that give CBP an accurate picture of the makeup of the cargo.

This paper, in its entirety, can be found at:  
[www.heritage.org/Research/HomelandSecurity/wm2217.cfm](http://www.heritage.org/Research/HomelandSecurity/wm2217.cfm)

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- *Cost-Efficiency.* As 10 plus 2 requires additional data from industry, companies can implement the rule without purchasing additional technology—a major problem with the 100 percent scanning mandate, where scanning technologies and logistical changes come with a heavy price tag.

**Free, Safe, and Prosperous.** Congress and the new Administration must not forget the impact that security measures can have on industry. Therefore, Congress and DHS should:

- Immediately establish an independent, bipartisan commission to examine the 100 percent mandate. This commission should not focus solely on the security aspects of the mandate but should also consider the economic implications. Congress should develop an alternative based on the results of this commission, being careful not to establish maritime security policy on speculation or politics.
- Provide technical support to companies. DHS should provide active support to those companies who need additional help implementing the 10 plus 2 requirements. Currently, the final rule provides one year for industry to get up to speed—but these folks may still need help from DHS along the way.
- Rely on the Framework of Standards to Secure and Facilitate Global Trade as a guideline for dealing with our international partners. This

framework allows the U.S. to partner with 165 other trusted member countries to eliminate the need for CBP agents at member country seaports. The U.S. signed on to this framework in 2005, and member trading partners use international risk-based screening methods to inspect cargo. As a result, trading partners see the 100 percent mandate as inconsistent with framework requirements, causing considerable concern and raising the potential for trade barriers. The U.S. should follow through on this commitment and look to enter into similar agreements with non-members whose interests align with our security goals. Doing so will ease the concerns of trading partners while ensuring uniform, risk-based security standards.

While it is important that our nation continues to develop policies that protect Americans, the U.S. should not handicap the American economy in the name of security. A terrorist attack is not the only risk to U.S. security; so is the potential failure of our economy. A better course is to formulate policies that keep us free and safe without jeopardizing our ability to remain prosperous.

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