

CRS Report for Congress

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Long Beach: Proposed Lease by China Ocean Shipping Co. (COSCO) at Former Naval Base

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Summary

At issue is a proposal by the City of Long Beach, California, to build a container terminal at the site of a closed naval station and a lease (now canceled) for the terminal to be operated by China Ocean Shipping Company (COSCO). COSCO is a commercial shipping company owned by China. The proposed expansion of COSCO's facilities at the Port of Long Beach has raised issues concerning smuggling of guns by Chinese defense-related companies, proliferation of weapons of mass destruction, intelligence collection, and access to U.S. and Panamanian ports. In response, senior Administration officials have written that COSCO's use of a terminal to be built on former Naval property would not adversely affect national security. Meanwhile, a lawsuit to block construction of the terminal (not the lease with COSCO) has resulted in cancellation of the lease and delays in construction. The Navy completed its environmental impact report on May 26, 1998, which approved Long Beach's reuse plan. Some in Congress have raised national security concerns about this proposed lease. Other Members say that, based on intelligence briefings, the proposed lease poses no national security threats. The Defense Authorization Act for FY1998-1999 (P.L. 105-85) contains a compromise in Section 2826 that prohibits the Navy to convey the closed naval station to COSCO but allows the President to waive the ban. Current Congressional proposals by Rep. Hunter and Sen. Inhofe to the Defense Authorization Act for FY 1999 (**H.R. 3616, S. 2057**) would remove the waiver authority.

Introduction

A proposal by Long Beach to reuse property at a closed naval station and lease a new terminal to COSCO has raised a number of issues. Some have expressed concerns about awarding an expansion of facilities to COSCO, which has been linked by critics to smuggling of guns by defense-related companies, weapons proliferation, intelligence collection, and increased access to U.S. ports and ports at the Panama Canal. This CRS report provides background and analysis concerning potential national security issues, congressional action, and current status and outlook.

Former Naval Station

Defense Department spokesman Kenneth Bacon said on March 20, 1997, that “right now there is no Navy operation taking place at the Naval Station in Long Beach.” The naval station at Long Beach — a homeport for some Navy ships — was designated for closure during the 1991 round of the Department of Defense (DOD) base realignment and closure (BRAC) process. The naval station was closed in September 1994. The naval shipyard at Long Beach closed in September 1997. According to the Defense Base Closure and Realignment Act of 1990, the local community where the base is located has the responsibility to determine how to reuse the facility.

Long Beach’s Plan

The City of Long Beach proposed to acquire the closed naval station from the Navy and use the property to build a new container terminal. Under the plan, the new terminal would generate about 1,600 engineering, environmental, and construction jobs and thousands of other transportation, trade, and service jobs nearby. Long Beach is the busiest port in North America, handling more than 3.5 million containers annually. About one-fourth of China’s exports to the United States arrives through the Port of Long Beach. Under the plan, the Port of Long Beach would spend \$200 million to convert the 145-acre facility into a modern cargo terminal, and the terminal operator would pay at least \$14.5 million a year. The original lease with COSCO (now canceled) expected the new terminal to be completed by July 1998.

COSCO

COSCO has operated at the Port of Long Beach since 1981 but does not have its own terminal. It currently subleases space in the Pacific Container Terminal. COSCO was the only company to express interest in the proposed terminal. COSCO, China’s merchant shipping corporation, operates about 600 ships, the world’s largest ocean shipping fleet. COSCO is owned by the Chinese government’s Ministry of Communications. That government has stated that it does not interfere with COSCO’s business operations and does not provide any subsidies to COSCO. Despite the gun-smuggling and chemical proliferation cases described below, COSCO is not run by the military, the People’s Liberation Army (PLA). The PLA or its commercial businesses, however, may use COSCO ships in commercial shipping or in wartime.

COSCO’s ships currently make direct calls, delivering and receiving cargo, at seven U.S. ports. They are: Baltimore, Charleston, Long Beach, New York, Norfolk, Oakland, and Seattle. COSCO also has facilities for trucking and rail services around the country.

Potential Implications for National Security

There are concerns among some that an expansion of COSCO’s presence at the Port of Long Beach would increase Chinese smuggling of guns and other contraband, and collection of intelligence about U.S. naval operations. Although COSCO is owned by the Chinese government, COSCO’s presence at U.S. ports represents commercial operations. On March 20, 1997, Defense Department spokesman Kenneth Bacon said that “COSCO has been operating in the United States commercially for some time.” COSCO’s

facilities, unlike Chinese consulates in the United States, are subject to U.S. laws. COSCO's ships have been reported to be under surveillance by U.S. law enforcement for criminal activities, including gun-smuggling and evasion of textile quotas. Moreover, American workers and law enforcement agents could be present at COSCO's facilities.

Proponents of the lease to COSCO argue that COSCO has been a tenant at Long Beach since 1981 without raising national security concerns — even while the naval station was active. They also contend that a focus on Long Beach is unfair, because COSCO's ships make calls to other cities around the country. Moreover, they argue, since the naval station closed in September 1994 and the naval shipyard closed in September 1997, there is no naval presence close to the Port of Long Beach. Some point out that Taiwan, which faces a threat from the PLA, allows ships owned by COSCO to call at the port of Kaohsiung. There has been discussion about COSCO setting up subsidiaries in Taiwan through another country.

Critics of the lease argue that a larger COSCO presence at U.S. ports would facilitate increased illegal smuggling of contraband and Chinese intelligence collection, and reward a company involved in shipments related to weapons proliferation. In the reported cases of Chinese proliferation of nuclear, chemical, and biological weapons, and ballistic missiles, a number of Chinese defense-industrial companies or organizations have been targets of U.S. sanctions, but not COSCO.¹ Critics have cited at least two cases where COSCO has ties to the PLA or defense-industrial companies and allegedly undermined U.S. national interests. One involved the smuggling of assault weapons and the other involved the alleged shipping of chemicals to Iran:

- **Gun Smuggling Case.** In 1996, 2,000 AK-47 assault weapons were reportedly smuggled aboard a COSCO ship, *Empress Phoenix*, into the port of Oakland. Two Chinese companies were under investigation for the smuggling: Poly Technologies, which is owned by the General Staff Department of the PLA, and Norinco, or China North Industries Corporation, which is part of China's defense industries and owned by the Chinese government.² COSCO is not being charged in this case and is not the subject of ongoing investigations by Federal law enforcement agents.
- **The “Yinhe” Case.** In July 1993, the United States sought to prevent a Chinese cargo ship, *Yinhe*, from reaching Iran. The United States believed that the ship was carrying chemicals that could be used for mustard gas and nerve gas — specifically, thiodiglycol and thionyl chloride. One unusual factor in this case was that the Chinese media originally disclosed the issue, along with extensive details. China did not agree to allow U.S. representatives to participate in a Saudi inspection of the ship's cargo until August 26, 1993. Before the completion of the inspection, China

¹ See CRS Issue Brief 92056, *Chinese Proliferation of Weapons of Mass Destruction: Current Policy Issues*, updated regularly, by Shirley A. Kan.

² Mann, Jim and Ronald J. Ostrow. “U.S. Seizes Assault Arms As Smuggling By China Is Probed,” *Los Angeles Times*, May 23, 1996; Sanger, David E. “Senators Ask for Inquiry on Leasing of California Base to Chinese,” *New York Times*, March 13, 1997.

declared that no chemicals were found. After the inspection, the State Department said that the suspected chemicals were not found aboard the ship.³

Chinese access to the Panama Canal has been another question raised by critics. In February 1997, the government of Panama awarded a lease to Hutchison Port Holdings Ltd., a subsidiary of Hutchison Whampoa Ltd., one of Hong Kong's oldest and largest conglomerates. A news report alleged that this Hong Kong company has "ties to the Chinese government" and "members of Hutchison's board of directors consult to COSCO." Hutchison operates much of Hong Kong's ports and several terminals in southern China. The 25-year lease allows Hutchison Port Holdings Ltd. to operate ports on both sides of the Panama Canal: Balboa on the Pacific Ocean and Cristobal on the Atlantic, "two commercially strategic sites," according to the news report. James McCarville, President of the Port of Pittsburgh, viewed this development in economic terms, saying "I don't think we should be terribly surprised to see the Chinese proceeding in the same types of capitalistic endeavors as we have been encouraging them to do." Panama's ambassador responded to the article, stating "Hutchison International Terminals, a world-class port operator based in Hong Kong, made, by far, the best offer by relying on its competitive advantages and not on the strength of its government. We made a business decision, not one of state."⁴ A staff report to Senators Helms and Biden of the Committee on Foreign Relations concluded on May 14, 1997, that development of the two ports by Hutchison Port Holdings "does not translate into a direct national security threat to the Panama Canal."⁵

Another question involves access of Chinese ships to U.S. ports. The U.S.-China Maritime Transport Agreement of 1988 regulates the use of American ports by Chinese ships and of Chinese ports by U.S. ships. The agreement provided 40 Chinese ports that are open to vessels flying the American flag, subject to 24-hour's advance notice, and allowed vessels flying the Chinese flag to enter any U.S. port with 24-hour's advance notice, except for 12 ports. Entry by ships with Chinese flags to those 12 ports required four-day's advance notice. Those 12 ports did not include Long Beach. They were Portsmouth, NH, New London and Groton, CT, Hampton Roads, VA, Charleston, SC, Kings Bay, GA, Port Canaveral, FL, Panama City, FL, Pensacola, FL, Port St. Joe, FL, San Diego, CA, Port Hueneme, CA, and Honolulu, HI.

In June 1996, the United States and China agreed to extend the agreement. In addition, China agreed to allow two U.S. companies (American President Lines and Sea-Land) to set up a container transportation service company and six branch offices in China. This was the first time that China allowed foreign investment in establishing such companies. As part of the negotiations and for reasons of reciprocity, the United States agreed to remove the requirement that Chinese vessels enter the 12 ports listed above only

³ CRS Report 96-767, *Chinese Proliferation of Weapons of Mass Destruction: Background and Analysis*, by Shirley A. Kan.

⁴ Woellert, Lorraine. U.S. Upset at Deal Ceding Panama Ports to China. *Washington Times*, March 19, 1997; Morgan-Gonzalez, Eduardo. Letter to the Editor. *Washington Times*, March 27, 1997.

⁵ See CRS Issue Brief 92088, *Panama-U.S. Relations: Continuing Policy Concerns*, by Mark P. Sullivan.

after giving four-day's notice.⁶ Since the Coast Guard lifted those restrictions in August 1996, Chinese ships now provide 24-hour's notice for entry into all U.S. ports.⁷

Congressional Action

Some Members in Congress have disputed that there are national security issues. For example, in a Dear Colleague letter dated March 25, 1997, Representatives Horn and Dreier concluded that, based on intelligence briefings from the Central Intelligence Agency, Office of Naval Intelligence, Coast Guard, and Bureau of Customs, "there is no evidence that the agreement between the City and Port of Long Beach and the China Ocean Shipping Company (COSCO) is a national security issue."

Some Members have requested official assessment. On March 11, 1997, Senators Boxer and Feinstein wrote letters to National Security Adviser Samuel Berger and Secretary of Defense William Cohen requesting reviews of whether "there are any security reasons that this planned reuse should not occur." On May 5, 1997, Secretary Cohen responded that "a review of Department of Defense records reveals no significant national security concerns" resulting from COSCO's commerce in the United States. In reply to Congressman Solomon, Navy Secretary John Dalton wrote on June 3, 1997, that he does not believe that COSCO "poses a tactical or strategic threat to the U.S. Navy." On June 18, 1997, National Security Adviser Samuel Berger reported to Members of Congress that a review by the inter-departmental Committee on Foreign Investment in the United States (CFIUS) found "no credible evidence" that: (1) COSCO has reasons other than commercial ones for operating at U.S. ports; (2) COSCO's planned expansion in Long Beach could threaten U.S. national security; nor (3) COSCO is engaged in espionage, smuggling, or other crimes in the United States. CFIUS includes representatives of the Departments of Treasury, State, Defense, Commerce, and Justice. The CIA, FBI, Office of Naval Intelligence, Customs Service, and Coast Guard commented on the review.

Critics in Congress have raised national security concerns about the proposed lease to COSCO. Representative Hunter introduced legislation (H.R. 1138) on March 20, 1997, to prohibit the conveyance of property at the Naval Station, Long Beach, to a commercial shipping company owned or controlled by a foreign country. In June, Rep. Hunter and Taylor amended the House-passed Defense Authorization bill (H.R. 1119) to prohibit such conveyance of any closed military installation. In October 1997, Rep. Hunter and Senator Inhofe introduced separate bills (H.R. 2715 and S. 1306) to more narrowly prohibit the conveyance of the closed naval station at Long Beach to COSCO.

The Defense Authorization Act for FYs 1998 and 1999, signed into law on November 18, 1997 (P.L. 105-85), contains a compromise in Section 2826 that narrowly prohibits the Navy to convey the closed naval station at Long Beach to COSCO but allows the President to waive the ban. Either direct conveyance or indirect conveyance (e.g., by a subsequent lease) is prohibited. A waiver may be used if the President determines that any increased national security risk is being addressed and the conveyance

⁶ Memorandum of U.S.-Sino Maritime Discussions, signed June 14, 1996.

⁷ U.S. Pacts Ease Port Calls by Chinese. *Washington Times* (from AP), April 1, 1997.

would not adversely affect national security or significantly increase the U.S. counter-intelligence burden. If necessary, the President may issue the waiver allowed under current law, since senior Administration officials have not expressed national security concerns about the proposed lease with COSCO. Also, the Secretary of Defense and the FBI's Director are to report on national security implications. Those reports have not been submitted.

The Defense Authorization Act for FY 1999 (H.R. 3616) contains an amendment by Representative Hunter that would prohibit the direct or indirect conveyance of the property at the closed naval station at Long Beach to COSCO — but without the authority for the President to waive the ban. The House passed H.R. 3616 on May 21, 1998. Senator Inhofe intends to propose an amendment to the Senate's version (S. 2057) with a similar prohibition that also does not allow a Presidential waiver.

Status and Outlook

Meanwhile, the Navy announced on May 26, 1998, that it completed the environmental impact report on the disposal of the closed naval station and shipyard at Long Beach, the final step in the required environmental evaluation. The Navy approved Long Beach's proposal to redevelop the naval station by building a marine container facility, intermodal railyard, and a sea launch facility. That decision did not involve COSCO. The Navy and the city may now discuss conveyance of the naval property to the city. The Long Beach Board of Harbor Commissioners voted on June 1, 1998, to endorse the environmental impact report. Construction of the terminal may begin in August 1998.

In addition, a lawsuit brought by the neighboring cities of Vernon and Compton, and Long Beach Heritage (a historic preservation group) against the Board of Harbor Commissioners and the Port of Long Beach has delayed construction of the terminal. The City of Long Beach and COSCO Terminals America Inc., a California-based corporation, had signed a lease for the proposed terminal in November 1996. Long Beach Harbor Commissioners had approved the plan to reuse the property as a terminal in September 1996 and reaffirmed it in March 1997, after Superior Court Judge Robert O'Brien in Los Angeles ordered a review. Opponents of the planned terminal, however, argued that the existence of the lease prejudiced the review. As ordered by Judge O'Brien, the Harbor Commissioners canceled the lease with COSCO on April 21, 1997. Judge O'Brien issued a tentative ruling on May 20, 1997. That ruling questioned the process of approving the environmental impact report and held that the Board of Harbor Commissioners was predisposed to approve the proposed terminal, because the port's executive director and COSCO had signed a letter of intent on April 4, 1996. Long Beach authorities appealed and won. On April 29, 1998, the California Court of Appeals ruled in favor of the Port of Long Beach, agreeing that it was legal for the port to propose a reuse for the closed naval station before completing an environmental assessment of the development and that the proposal was not a "pre-commitment."

Another lease with COSCO would have to be signed, if and when approvals are given and COSCO is still willing to lease the planned terminal at Long Beach. Meanwhile, Los Angeles, with a port next to Long Beach's port, is seeking business with COSCO.