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TRADE SECURITY ACROSS THE POND: THE EU IMPLEMENTS AUTHORIZED ECONOMIC OPERATOR (AEO) PROGRAM

by Karen A. Lobdell



WITH THE WORLD'S GROWING AWARENESS OF TERRORISM, WE CONTINUE TO SEE EFFORTS BY GOVERNMENTS IN FINDING NEW WAYS TO SECURE THEIR BORDERS. AS A RESULT, COMPANIES THAT CONDUCT BUSINESS IN THE GLOBAL ARENA SEEK TO SECURE THEIR SUPPLY CHAINS AND DEVELOP MORE FLEXIBLE, PROACTIVE, AND SCALABLE APPROACHES TO TRADE SECURITY.

Providing for safe and secure movement of goods across international borders has become a critical component for any company doing business globally. Complying with trade regulations is no longer enough to ensure a company will remain competitive in the marketplace. Timely movement of goods to market is also dependent on being deemed a secure trader with tight transportation controls and supply chain visibility.

The question for most companies at this point is, "How much do we need to invest to be deemed secure by our business partners and governments?" The link between cost and benefit is fuzzy at best. Companies find it challenging to justify security-related investments because they focus largely on

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the direct expense (e.g., hiring of security guards and safeguarding IT systems) and not on the collateral benefits that may be realized, like supply chain efficiency, brand recognition, and good will.

Regardless, the global marketplace today is a maze of security initiatives and regulations through which companies must maneuver, and although many US companies are familiar with US-based initiatives, new security programs with some of our largest trading partners require companies to take a second look to ensure they are positioned to remain competitive.

UNITED STATES CUSTOMS-TRADE PARTNERSHIP AGAINST TERRORISM (C-TPAT)

The United States Customs and Border Protection's (CBP) C-TPAT program is a voluntary program between CBP and US companies that are members of the international supply chain (e.g., US importers, carriers, brokers, etc.). The program, implemented in early 2002, is import-driven, and where participants meet minimum security criteria, they will receive certain defined benefits, such as reduced customs inspections/examinations and expedited release of cargo during heightened alerts.

The C-TPAT program has been a model for the development of numerous other voluntary security initiatives in other countries. A few key illustrations are:

- Sweden's StairSec Program
- New Zealand's Secure Export Scheme (SES)
- Australia's Frontline Program
- Jordan's Customs Department Golden List Program (GLP)
- Singapore's Secure Trade Partnership (STP)
- The World Customs Organization SAFE Framework of Standards
- The European Union's Authorized Economic Operator (AEO) Program

THE WORLD CUSTOMS ORGANIZATION SAFE FRAMEWORK OF STANDARDS

In June 2005, the World Customs Organization (WCO) unanimously adopted the SAFE Framework of Standards (SAFE Framework). This initiative was viewed as a comprehensive set of global supply chain security standards, covering customs-to-customs network arrangements and customs-to-business partnerships, for progressive implementation by both customs administrations and the trade community. While C-TPAT certainly played a role in the development of this program, the SAFE Framework provides the standards and structure for a broad approach to supply chain security that would be consistent from country to country, thereby setting the stage for mutual recognition of trusted traders. With 170 countries participating, representing 99% of global trade, the SAFE Framework will ultimately provide certainty and predictability of supply chain security on a global level.

Like C-TPAT, the SAFE Framework is a voluntary initiative and participants will be required to meet minimum security criteria in exchange for status as an Authorized Economic Operator (AEO). With this status comes benefits contributing to the facilitation of trade for those who choose to participate. Certainly, one of the most significant benefits to be had (once more countries implement the SAFE Framework) will be mutual recognition of being a trusted trader worldwide, providing a company with expedited processing, not only in its own country, but in others as well.

THE EUROPEAN UNION AEO PROGRAM

The EU-AEO program went into effect on January 1, 2008. With implementation, all 27 members of the EU will now offer trade members the opportunity to voluntarily participate. This program is fully compatible with the WCO SAFE Framework and working groups

between the US and the EU have been established with the goal of obtaining mutual recognition for members of either program.

Member States will be entitled to grant the AEO-status to any economic operator that meets common criteria relating to the operator's control systems, financial solvency, and compliance record (a slightly more expanded version of C-TPAT in that the program will take financial solvency and customs compliance into consideration—the C-TPAT program only focuses on control systems). The status of the authorized economic operator granted by one Member State will be recognized by the other Member States, making this particular program the first to incorporate a large number of countries in one rollout.

For US businesses, this will pose some interesting questions as to how supply chain security will evolve going forward. For US companies (already in C-TPAT) that import from the EU, sourcing from EU companies that are designated AEOs will streamline imports as both ends of the supply chain will now be deemed low-risk by CBP. It will also reduce the work involved by the US importer in conducting due diligence on the foreign EU supplier with respect to security. If the foreign supplier is AEO-certified, that is all the US importer will need to validate.

On the flip side, the expansion of security programs outside the US may be a cause for concern for US exporters to the EU. As EU companies join the AEO program, they will be assessing the security of their own supply chains; US exporters could be required to supply their EU customers with documentation confirming they have security procedures in place that are consistent with program criteria. While the weak dollar has enabled US companies to be more competitive in foreign markets, they may be at a disadvantage if EU customers include security criteria as a requirement for doing business with them.

Unfortunately, under the current C-TPAT guidelines, the program is not open to US exporters. This adds to the potential concern since the AEO programs are open to both importers and exporters. This leaves US exporters questioning how they will obtain the status of a "secure trader" if there is no current program to designate them as such. Although CBP has acknowledged this is an "issue," to date there has been no movement to include exporters in C-TPAT. Continued pressure from the trade on CBP with respect to this issue could facilitate movement on the agency's part to find a solution to this growing problem.

In the meantime, US exporters should review what security processes and procedures they have in place—that are consistent with C-TPAT and the AEO Standards—and ensure that they have the ability to provide feedback to their EU

customers if requested in the future. If the company is already a member of C-TPAT (as an importer), this will help as many of the security criteria are applicable regardless of whether the company imports or exports (e.g., physical security such as video surveillance and fencing has application for both).

The events of 9/11 exposed the preexisting and latent risk of disruption to supply networks from terrorist attacks. As a result, companies have been taking multiple steps, both voluntarily, or to meet mandated government regulations, to ensure the safe transit of their goods across international borders. The US has done a notable job in leading the way on supply chain security programs, however, with the expansion of programs beyond its borders, it is time for US exporters to become more involved.

The question each of us must ask as we begin a new year is, *"How will my company face the demands from customers in different countries to meet country-specific supply chain security requirements?"* ■



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