



FREIGHT TRANSPORT ASSOCIATION

**The Customs and Security Environment
for UK International Traders**



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Foreword

Many changes are coming in 2009 to the customs and security regulation that international traders face – both for importing and exporting. Further changes will also come into effect over the next few years. Traders, even those who do not operate vehicles or outsource to 3PLs, need to be aware of the extra information they will have to provide and the limitations measures will impose on the supply chain.

This guide has been developed by Freight Transport Association (FTA) and the body for simplifying international trade (SITPRO) as a briefing for supply chain managers, logistics buyers and those responsible for trading procedures. Customs and security are dealt with together as there is an increasing overlap between these two areas – customs systems are used to implement security measures whilst efficiency improvements to customs are conditioned by the wider security agenda. Traders need to be aware of both.

It aims firstly to provide a general introduction to how the customs and security system works – how policy is made and what the key elements are. This should help supply chain managers understand how international organisations set standards and how these interact with the regulation in practice they encounter on the ground.

Secondly it sets out to provide an update on the key upcoming issues that will have a significant impact on how the supply chain operates. For example, the changes to import/export controls in the EU or the introduction of 100 per cent container scanning in the US.

Those looking to go straight to the practical impacts on their business should go straight to this section: pages 9–13 for detail and advice on EU measures; and pages 16–18 for US measures.

These measures are changing all the time and members of FTA should check for updated information at www.fta.co.uk/information/international-supply-chain.

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Introduction

Overview – customs and security in the supply chain today

The linked environments of customs and security initiatives are integral to the smooth movement of goods along the supply chain. The developing safety and security dimension of Customs' role has been from the outset seen as forming an integral part of its remit. In the EU, as an example, it is through the combination of Customs' expertise in controlling goods, the use of modern technology and efficient and effect risk assessment that the detection of threats to safety and security is deemed at its most effective. This document will focus on giving an insight into the initiatives at the forefront of the changing operating environment for the supply chain.

Security regulation today is more complex and frequently changing than in the past. The nature of the terrorist threat, together with the growth in world trade, has ensured this. However, security has always been a feature of logistics operations and such regulations exist for far more reasons than just the threat of terrorist attack. Customs enforcement, disease prevention, food quality protection and, of course, immigration control are all additional objectives of the regulatory regime. As a result, there are a number of Government bodies in the UK alone that have responsibility for issues falling under the wider security banner. For example, HMRC's remit includes security of the supply chain, the Department for Environment, Food and Rural Affairs (Defra) and its agencies (FAS – Farm Advisory System, Plant Health Seed Inspectorate, Animal Health and Welfare, etc) are responsible for plants, seeds, animals and food, and the Department for Business Enterprise and Regulatory Reform (BERR), export controls and import licensing.

Customs regulation is a central part of the globalisation process, playing a key role in the monitoring and management of international trade. The role of customs regimes within the European Union has changed significantly since the creation of the Single Market and, more recently, in the post-2001 security agenda. In addition, customs administrations are seeking to facilitate import and export procedures and reduce compliance and administrative costs. These aims have led to a rapid development in customs policy and legislation in the last few years, shaping the current and future environment.

As regimes become both more detailed and more sophisticated, there is an increasing overlap between security and customs regime – the trend towards electronic monitoring and compliance should see this trend continue into the future.

How the policy is made and implemented

The vast majority of UK customs and security initiatives are part of wider international efforts. In this area, measures largely come from global initiatives driven by international

institutions such as the International Maritime Organisation (IMO) or the World Customs Organisation (WCO). Once agreed, these measures are transposed into European and national law, and then the national government's agencies carry out implementation. The EU also creates initiatives of its own – including those aimed at intra-EU traffic – though usually these will fit with established global standards. Finally, there are purely national security initiatives, which are responses to country specific security concerns – in the case of the UK for example, immigration issues or duty enforcement on particular products.

The UK's international trade is also impacted by the national security and customs measures taken by third party countries with whom we trade. The most significant of which is the US, due to its size as a trading partner and willingness to enact more unilateral measures on security than other nations.

The players developing and implementing policy

The number of Government agencies involved in setting the policy and enforcing these controls and procedures is considerable.

Government stakeholders include all those executive agencies which are directly responsible for controlling the cross-border environment and administering the applicable procedures. Government stakeholders also include all those bodies which define relevant policy. In the UK, executive powers and policy making are usually kept at arms-length, which subsequently adds a further layer to the governance of security controls and procedure.

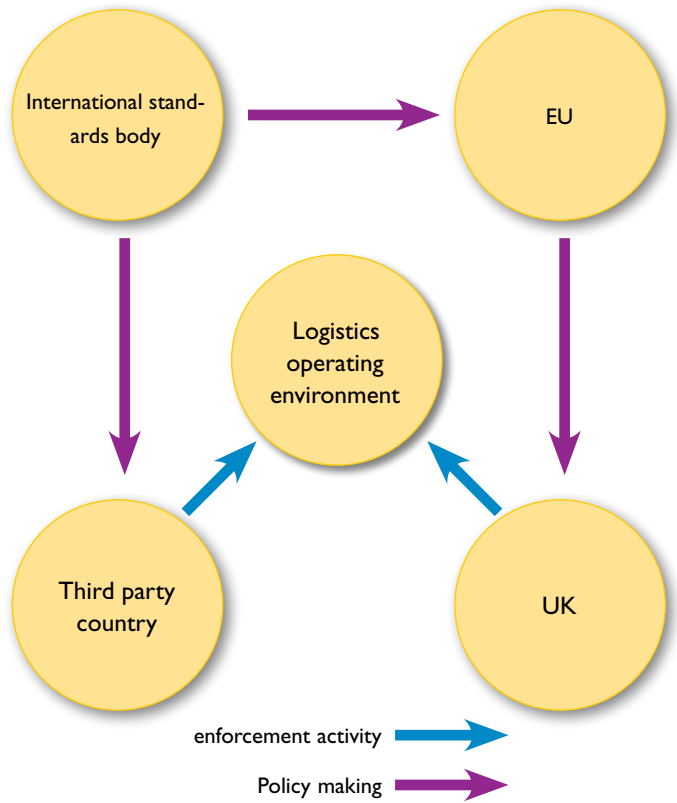


Manchester International Freight Terminal

	EXAMPLE BODIES
International standards bodies	WCO ICAO IMO ISO
Europe	DG TAXUD DG Tren
National (policy)	Department for Transport (TRANSEC) Home Office Department for Environment, Food and Rural Affairs HM Treasury BERR
National (implementation/enforcement)	HMRC UK Border Agency Police Port Health Authority

Global standards

European regulations



EU customs policy and security

The European Union's basic customs legislation is contained in the document known as the 'Customs Code'¹. It compiles the rules, arrangements and procedures applicable to goods traded between the European Union and non-member countries. The Code is a single act covering the scope, definitions, basic provisions and content of Community customs law.

Reform to the Customs Code and the EU Customs Security Programme

EU customs' systems have been undergoing a process of reform in recent years. The aims of this process have been firstly to simplify customs process and procedures for both customs authorities and traders and, secondly, to increase the safety of goods and the security of international trade. As part of this process, the need to increase the efficiency of the organisation of customs controls and to ensure the seamless flow of data to make customs clearance more efficient were identified. Thus, the move towards computerisation of customs procedures was instigated.

Union v Community

The European Community (EC) is one of the three pillars of the European Union (EU) created under the Maastricht Treaty (1992). The other two pillars are Police and Judicial Co-operation in Criminal Matters (PJCC) and Common Foreign & Security Policy (CFSP).

The Commission felt that terrorist attacks have highlighted the vulnerabilities of the supply chain. Consequently, DG TAXUD has developed (and continues to develop) a security-management model (the EU Customs Security Programme) for the Community's external borders to address the challenge of how best to design and implement effective measures that will successfully defend the EU's trading and transport system from threat while concurrently not disrupting legitimate trade. The measures created aim to enhance security through improved customs controls in conjunction with maximising the combined impact of controls carried out by different authorities along with making more resources and equipment available.

The mechanism for creating the initiatives supporting this whole agenda has been the Electronic Customs Initiative – enabling customs transaction to be dealt with electronically reducing paperwork and improving central knowledge management: security of the supply chain could not be effective without integrating security related measures into customs procedures as a whole.

The Electronic Customs Initiative

The Commission and the member states have been tasked to provide efficient, effective and interoperable information and communications systems for the exchange of information between public administrations and trade. The objective is to enhance security at the EU's external borders and to facilitate trade and was developed to address the pressure to reduce costs and delays.

There are essentially three pieces of legislation that implement the Electronic Customs Initiative and provide the framework for EU customs measures, such as AEO for example: Security Amendment to the Customs Code; Electronic Customs Decision (eCustoms Decision); and Modernised Customs Code (MCC). They promote the use of modern tools and technology, with the MCC and eCustoms Decision in particular generating a re-engineering of procedures through radical simplification and modernisation. This will promote uniform application of the law and reduce costs for business and the risk of error.

Security Amendment to the Customs Code²

The Security Amendment was the EU's response to the increase in global terrorist attacks. It provides for the full computerisation of all procedures related to security and safety – ie the lodging and/ or filing of all customs information is to be done electronically – and envisages the exchange and sharing of information between the member states and the Commission. Through this regulation, the Community has introduced a number of measures to tighten security around goods crossing international borders and to construct a common approach to border control.

The measures created under the Security Amendment aim to produce faster and better-targeted checks that facilitate legitimate trade but tighten security and safety requirements. They include the provision of pre-arrival and pre-departure information, AEO (Authorised Economic Operator) status, risk management framework and electronic treatment of exports and can be divided into three interlinked sections.

- The requirement for traders to provide customs authorities with information on goods prior to arrival/import to or departure/export from the European Union (see page 9)
- Reliable traders to be provided with trade facilitation measures (page 12)
- The introduction of a mechanism for setting uniform Community risk-selection criteria for controls, supported by computerised systems (page 9)

eCustoms Decision³

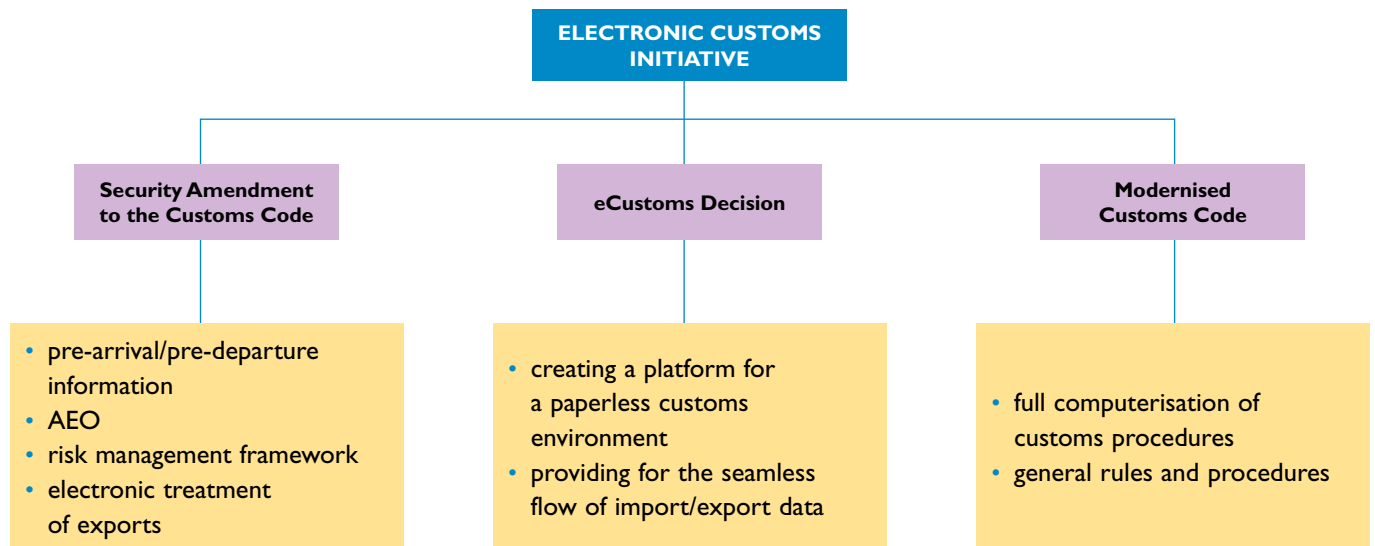
This Decision, of January 2008, is intended to create the platform for a paperless environment – referred to as the

¹ The current Customs Code is Council Regulation (EEC) No 2913/92 and its Implementing Provisions Commission Regulation (EEC) No 2454/93

² Regulation (EC) 648/2005, entered into force May 2005

³ Decision on the paperless environment for customs and trade, Dec No 70/2008/EC

Customs reforms: diagrammatic representation and resulting key measures



Electronic Customs System – for customs and trade, setting the basic framework and major deadlines (ie the structure, means and timeline). There are six objectives stated in the Decision that the system is designed to meet to establish a secure pan-EU interoperable electronic customs system.

- Facilitation of import and export procedures
- Reducing compliance and administrative costs and improving clearance times
- The coordination of a common approach to the control of goods
- Aiding the proper collection of duties and other charges
- Ensuring the rapid provision and receipt of information pertaining to the international supply chain
- Enabling the seamless flow of data between exporting and importing countries' administrations and between customs authorities and economic operators

These objectives are to be achieved through a number of means including harmonising the exchange of information, re-engineering customs and its related processes and offering economic operators a wide range of electronic services.

The eCustoms Decision refers to systems for the:

- seamless flow of import and export data
- identification and registration for economic operators that enables the latter to register only once for all their interactions with customs authorities throughout the Community
- authorisation procedure, including the registration and management of AEO certificates

For the creation of other systems in the longer term, specifications will be evaluated by February 2011 for a) a framework of common access points b) a one stop shop interface for economic operators where all customs-related business can be conducted and c) single window services.

Modernised Customs Code⁴

Like the Customs Code (conceived during the 1980s and adopted in the early 1990s), the MCC lays down the general rules and procedures applicable to goods imported into and exported from the Community. It provides the legal basis for the full computerisation of customs procedures: obliging economic operators and member states to use IT systems for declaring goods, lodging declarations and processing procedures. Seen as part of the renewed Lisbon Strategy, the Modernised Customs Code continues to develop the customs landscape, finding solutions that can marry security concerns and trade facilitation, and has absorbed into it current practices and initiatives.

The new Code will streamline, rationalise and modernise customs legislation to, amongst other things, take into account changes in business trends and tackle fraud. The MCC was also designed to reflect the Community's trade facilitation agenda and the shift away from the collection of customs duties towards the application of non-tariff measures, for example those relating to safety and security, counterfeit goods, money laundering and environmental, sanitary, health and consumer protection.

The implementing provisions are expected to be finalised during 2009.

⁴ Regulation 450/2008

Implementing change: the MASP

The MASP (Multi Annual Strategic Plan) is the EU's comprehensive plan for the implementation of the electronic customs proposals. It provides a comprehensive summary of projects including detailed descriptions, is updated and revised annually and sets out implementation schedules and milestones.

Part of the role of the MASP is to make member states' electronic customs systems compatible with each other and

to eventually create a single shared computer portal. The MASP will continue to adapt and develop as the systems become operational: for example, "it is the intention to have the same IT interface for the EORI system, AEO authorisations and other future authorisations granted to economic operators"⁵.

⁵ MASP revision 9 paragraph 6.2

The stages of introducing electronic customs

Due to be fully operational by mid 2009

- Building on existing NCTS to cope with security requirements of Reg 648/2005 and risk management
- Creating the foundation for an electronic (entry/exit) customs declaration environment
- Economic Operator Registration and Identification (EORI)
- AEO

Providing aspects of the electronic customs vision primarily addressing traders concerns. Planned full implementation between 2011 and 2013

- EU customs information portal
- Integrated tariff environment

- Single authorisations
- Functional specifications for single electronic access point, centralised clearance and single window

The more ambitious aspects of the electronic customs environment (based on the MCC)

- Leading to completion of a fully automated export and import system, including centralised clearance

Final stage

- Establishment of the single window

Key EU initiatives

The key European Union customs and security initiatives which affect international trade supply chain fall under three main themes.

Pre-arrival, pre-departure information

Through Export Control System phase 2, the Import Control System and New Computerised Transit System – Safety and Security, customs authorities will be able to collect data for the purpose of entry and exit safety and security controls. Traders will provide customs with advance information on goods brought into or out of the Community.

Trade facilitation

EORI will create a common system for traders across the Community that enables the member states' customs authorities to recognise traders through a unique identification number. January 2008 saw the provisions for the Authorised Economic Operator programme entering into force. AEO is the EU's attempt to strike a balance between increasing security requirements and offering facilitation for compliant traders.

Risk assessment

In the last few years a common risk management framework has been used to support improved risk-based controls by customs authorities. In addition, the member states will supplement the Community risk assessment strategy with their own.

The main new regulations that will impact traders are set out over the next pages.

Import Control System: pre-arrival declaration

- Requirement to lodge entry summary declarations before goods are brought into the EU, implemented in the UK from 9 May 2010



- To provide in advance the information necessary for risk-based controls on the admissibility of goods and aiding quick release on entry into the Community

The Import Control System (ICS) is for the safety and security of cargo entering the EU: providing for the electronic handling of Entry Summary Declarations (ENS). The data collected will be used for risk analysis and appropriate messages relating to the goods (eg 'do not load') will be issued. Traders will be required to provide the ENS in advance of goods being imported into, or transiting through, the EU.

The data sets that will have to be supplied are⁶:

- number of items
- place of loading
- unique consignment reference number
- place of unloading code
- transport document number
- type of packages (code), number of packages, shipping marks
- consignor
- container number
- person lodging the summary declaration
- goods item number
- consignee
- goods description
- carrier
- HS code (4-digit level)
- identity of active means of transport crossing the border
- nationality of active means of transport crossing the border
- date and time of arrival at first place of arrival in the EU
- first place of arrival code
- gross mass
- dangerous goods code
- declaration date and signature
- seal number
- notify party
- transport charges method of payment code
- other specific circumstance indicator
- country(ies) of routeing codes
- conveyance reference number

ICS was originally due to be implemented in July 2009 but has been delayed across the EU to allow for a successful implementation. The new date the UK is aiming towards is May 2010.

Entry summary declarations are to be lodged at the first office of entry into the Community. The person responsible for lodging ENS is the carrier, ie the operator of the active means of transport – or their agreed representative, for example, an authorised freight forwarder or agent. The time limits for lodgement of ENS are as follows.

⁶ These are the requirements for maritime and air movements, rail and road imports from outside the EU have differing requirements. Exact requirements on entry forms may still be subject to change.

- Maritime containerised cargo: 24 hours prior to loading at the port of departure
- Maritime bulk and break bulk cargo: at least four hours prior to arrival
- Maritime sea voyages of less than 24 hours: at least two hours prior to arrival
- Short haul flights (ie flights of less than four hours' duration): by the time of actual take-off
- Long haul flights: at least four hours prior to arrival
- Rail and inland waterway traffic: at least two hours prior to arrival
- Road traffic: at least one hour prior to arrival

ICS is part of the **Automated Import System (AIS)** which will ultimately allow for the full computerisation of import procedures and thereby support the exchange of information between customs offices and traders. It will ensure that import operations involving customs authorities of more than one member state can be completed without the re-submission of the same information.

It will be the carrier's responsibility to ensure entry summary declarations are presented to customs (as the person who brings the goods, or who assumes responsibility for the carriage of the goods into the customs territory of the Community).

There will be the possibility to lodge ENS declarations at a customs office other than the customs office of first entry – in the medium to longer term.

There will be slight variation in data requirements and time limits for submission between modes. There will be an overall increase in data to be provided to customs, but AEOs will be able to provide a reduced data set.

Implications for business

Whilst the scheme should provide greater flexibility to traders and reduce costs, it will require some additional work for exporters in terms of data provision. The implementation of the next stage of the system has the potential to cause disruption and additional administration if it does not work smoothly.

Assessment

There are problems currently with phase 1 of ECS, with it being reported in some cases that 40 per cent of electronic submission of data not being recognised. These need to be resolved for shippers to receive the full benefits of the scheme. However, in the long run this scheme should be beneficial to industry.

Best practice: FTA advice to shippers

Ahead of the implementation of the regulation in 2010, importers should audit their systems and liaise with their freight forwarders to ensure that they will be capable of supplying the data sets in the correct format to HMRC. It is likely that this will be the final form in which the system will work, so shippers should work on this basis. It is possible that the final date of implementation will still change so Members should follow FTA updates and attend industry briefings to watch for any subsequent changes.

IMPLEMENTATION DATES	LEGAL BASIS
1 January 2009 Start of deployment in the first member states	Reg 648/2005 (Security Amendment to the Customs Code): Art 36b
1 July 2009–June 2010 Full operation in all member states	Reg 1875/2006 (Security Amendment Implementing Provisions): Art 4d, 4e, 181b–187 & Annex 30A

Export Control System phase 2: pre-departure declaration

- An exit summary declaration is to be presented for goods destined to leave the EU

ECS phase 2 provides for the electronic handling of combined export declarations/exit summary declarations under the Security Amendment to the Customs Code. It will require additional information to be included in export declarations for safety and security purposes, amongst other things. This provides customs administrations with the infrastructure for fast reception and treatment (particularly risk analysis) of the pre-departure declarations.

The exit summary declaration should contain the following data⁷.

- Number of items
- Container number
- Unique consignment reference number
- Goods item number
- Declaration date
- Commodity code
- Signature
- Gross mass
- Consignor/exporter
- Customs office of exit
- Consignee
- Location of goods
- Goods description
- Type of packages (code) and number of packages, shipping marks
- Dangerous goods code
- Seal number
- Transport document number

⁷ See footnote on previous page

- Other specific circumstance indicator
- Person lodging the summary declaration
- Transport charges method of payment code
- Country(ies) of routing codes

ECS is part of the **Automated Export System (AES)** which will create a computerised EU export system, ensuring that operations started in one member state can be finalised in another. In the UK, AES has been divided into four phases for delivery and implementation, the bulk of which create the Export Control System (ECS).

This phase preserves and builds upon the functionalities delivered in ECS phase I giving better control of movements and a more rational use of resources.

The summary declaration shall be lodged either by:

- the person who takes the goods, or assumes responsibility for the carriage of the goods, out of the customs territory of the Community
- any person who is able to present the goods to the competent customs authority
- a representative of either of the above

The time limits for submission of export summary declarations vary slightly between modes.

- Maritime containerised cargo: 24 hours prior to loading at the port of exit
- Maritime bulk and break bulk cargo: at least four hours prior to departure
- Maritime sea voyages of less than 24 hours: at least two hours prior to departure
- All air traffic: at least 30 minutes prior to departure
- Rail and inland waterway traffic: at least two hours prior to departure from customs office of exit
- Road traffic: at least one hour prior to departure from customs office of exit

Assessment

This system will provide greater flexibility to traders in their relationship with the customs authorities of the Community.

Best practice: FTA advice to shippers

As with import controls, exporters should audit their systems and liaise with their freight forwarders to ensure that they will be capable of supplying the data sets in the correct format to HMRC. Shippers should keep alternative proofs of export available (invoice, bill of lading, import notice from destination country) to ensure they are not faced with a demand for VAT payments. As there remain concerns over how well the system is operating, exporters should keep abreast of evolving discussion on the issue to be aware of potential disruption of the export supply chain when the next stage of the regulation comes into force.

IMPLEMENTATION DATES	LEGAL BASIS
4 July 2008 Start of deployment in the first member states	Reg 648/2005 (Security Amendment to the Customs Code): Art 182c(2), 182d(1), 182d(2)
1 July 2009 Full operation in all member states	Reg 1875/2006 (Security Amendment Implementing Provisions): Art 201, 592a–g, 787–796e, 841, 842a–d & Annex 30A

NCTS – safety and security

Incorporating safety and security requirements into transit procedures

The safety and security addition to NCTS will incorporate into the system the additional features arising from the Security Amendment to the Customs Code and its implementing provisions. Customs will thereby be able to obtain information for risk analysis on transit shipments. In addition, a development in the Anti-Fraud Transit Information System (ATIS) will enable the system to forward a copy of transit movements to DG OLAF (the European Anti-Fraud Office) for movements, including sensitive goods.

New Computerised Transit System (NCTS) will streamline and harmonise the core transit process whilst incorporating the data required for security purposes. NCTS facilitates the management and control of Community transit, thereby enabling goods not in free circulation to move between two points within the Community without being subject to import duties and other charges.

Implications for business

- Time and cost savings
- The possibility of using a single declaration for two purposes

Assessment

This addition to NCTS gives customs faster and more effective control and discharge of transactions involving goods in transit by more efficient handling at the offices of transit within the Community. There is also the possibility for customs authorities to re-use existing transit declarations for another – ie security – purpose.

Best practice: FTA advice to shippers

The changes in this version mainly relate to conditions around Authorised Economic Operators (AEO) and Economic Operators. The main NCTS system has been running for some years now so the transition is hoped to be straightforward. Traders should contact HMRC's NCTS Live Service Helpdesk on 01255 244709 or ncts.helpdesk@hmrc.gsi.gov.uk for further detail.

IMPLEMENTATION DATES	LEGAL BASIS
1 July 2009	Reg 648/2005 (Security Amendment to the Customs Code) Reg 1875/2006 (Security Amendment Implementing Provisions)

IMPLEMENTATION DATES	LEGAL BASIS
1 July 2009	Decision 70/2008 (eCustoms Decision): Art 4(4)b Reg 450/2008 (Modernised Customs Code): Art 10 Reg 2454/93 (Customs Code Implementing Provision)

Economic Operator Registration and Identification (EORI)

- Establishes a unique EU-wide system for registration and identification of economic operators

EORI was created to make the implementation of the security measures in Regulation 648/2005 more effective by enabling persons concerned to be identified by a common number that is unique to each person and valid throughout the Community. The EORI system of registration and identification for economic operators is meant to include recognition of authorisations granted to an economic operator. Therefore, it is understood that through this single system all authorisations given by any of the member states will be identified and recognised across the Community.

On receipt of an EORI number, economic operators will obtain a unique identification number assigned by a member state's customs authority that is valid throughout the Community.

Implications for business

- A single identifier that can be used for all communications with customs authorities in the EU when one is required
- In the UK, the EORI number will be issued as part of the Trader Unique Reference Number (TURN)

Assessment

A single registration number should ensure that dealings with the Community's customs authorities become less complex. In addition, the connection between this and other customs systems should create simplifications and higher security of customs operations. The use of the TURN for issuing EORI numbers will assist a seamless implementation of the scheme – automatic issuance will also be given to all traders who have used a TURN in the last two years.

Best practice: FTA advice to shippers

Traders who currently use the TURN, or have done so in the last two years, will automatically qualify for an EORI number and will be sent notification to that effect. You do not need to respond to this unless your details are incorrect, you do not want an EORI number, or you do not wish your details published on the Commission internet site.

If, however, you are a new trader or one that has not used your TURN in the last two years, you will have to submit an application. Contact HMRC for further details on [eori.customs&intl@hmrc.gsi.gov.uk](mailto:customs&intl@hmrc.gsi.gov.uk).

Authorised Economic Operator (AEO)

Giving reliable businesses a chance to benefit from simplifications in the security and safety area, AEO aims to strike a balance between increasing security requirements and facilitation for compliant, reliable traders by providing them with authorisations. This authorisation is the recognition that a trader is a compliant and trustworthy economic operator and as such, AEOs should be able to take maximum advantage of widespread use of simplification and benefit from reduced levels of customs controls.

Through the AEO scheme traders are recognised as secure and their customs controls and procedures are deemed efficient and compliant. Hence, with an AEO certificate traders can be considered a reliable trading partner that has proved itself to be trustworthy, and where applicable, safe and secure. It confers on them, for example, fewer physical and document based customs controls, easier admittance to customs simplifications and/or entitles the holder to facilitations concerning security and safety controls.

Implications for business

- A voluntary programme
- Potentially easier access to customs simplifications and relaxation of security and safety controls

Assessment

Although there are three AEO certificates available (i security and safety; ii customs simplifications; and iii full (security and safety and customs simplifications)), it is advised that businesses interested in applying should apply for the full certificate, allowing them to receive the maximum benefits potentially available under the AEO scheme. Additionally, being recognised by the Community's customs authorities as a 'secure' trader and thus reliable business partner may also mean the potential benefits are commercial in nature.

The AEO scheme is not without its critics, particularly on the side of industry, with many questions remaining unanswered. The key issue is that the costs involved with meeting the necessary criteria for certification may be very high and the benefits perhaps not immediate or as great as anticipated. Existing simplification procedures will remain in place whether or not a company entitled to them is an AEO. Future customs facilitations however, for example trader guarantees and self-assessment, may only be applicable to AEOs.

Best practice: FTA advice to shippers

AEO status is not yet an essential – it will become more important and useful as time goes on, but the question is, should companies sign up to it now? The usefulness of AEO and the ease of qualifying for it vary by operation: those not involved in air freight stand to benefit less at the moment, whilst those operating in relatively high security environments already will find it easier to get. Those who operate with the US may wish to wait for developments on mutual recognition with equivalent US systems before proceeding at this time.

In the long run the advantages of AEO will be considerable, but currently the case is not overwhelming for those who would have to undertake considerable investment to qualify.

IMPLEMENTATION DATES	LEGAL BASIS
Phase 1: 1 January 2008	Reg 648/2005 (Security Amendment to the Customs Code): Art 5a
Phase 2: 1 July 2009	Reg 1875/2006 (Security Amendment Implementing Provisions): Art 14a–x Decision 70/2008 (eCustoms Decision): Art 4(1)c Reg 450/2008 (Modernised Customs Code): Art 10, 14–16

UK implementation dates

Authorised Economic Operator Certification for reliable trusted traders	1 January 2008
Automated Export System PHASE 3: Export Control System phase 2 Implementation of exit 'security' controls	July 2009
Automated Import System PHASE 1: Import Control System Implementation of entry safety and security controls	May 2010
New Computerised Transit System PHASE 3: NCTS-Safety and Security Incorporation of security data elements	1 July 2009
Economic Operators Registration and Identification Registration and identification for economic operators	1 July 2009

Third country secure supply chain initiatives – overview

Globally, one of the chief security concerns is the potential misuse of a container to smuggle a nuclear or radiological device. Therefore, to combat the increasing threat of deliberate attacks or risks to safety and security, national governments have taken steps to ensure greater control on the movement of goods. Through various initiatives promoting the concept of sharing responsibility for controls between trading partners, it is believed the entire supply chain will, and is, becoming more secure.

United States of America

The customs authorities of the USA have developed initiatives designed to improve international supply chain security as a response to potential terrorist threats. US Customs and Border Protection (CBP) is the unified border agency within the Department of Homeland Security charged with the management, control and protection of the United States' borders, including keeping terrorists and terrorist weapons out of the country while enforcing US laws. CBP has implemented what it deems to be a comprehensive, multi-layered cargo security strategy designed to enhance national security while protecting the economic vitality of the United States. Initiatives include: the 24-hour Manifest Rule; Container Security Initiative, Customs-Trade Partnership Against Terrorism; Non-Intrusive Inspection Techniques; Automated Targeting System; the Secure Freight Initiative; and the National Targeting Center.

Container Security Initiative (CSI)

CSI is one of the anti-terrorism programmes developed by the United States as a consequence of the terrorist attacks of 2001. Its primary aim is to protect the global trading system and the trade lanes between foreign CSI ports and the United States by:

- identifying high risk containers that pose a potential threat. Using risk assessment criteria to assess the safety and security of containers destined for the US prior to departure
- pre-screening and evaluating containers. Containers identified as posing a potential risk are inspected at the foreign port of loading before being placed on a vessel destined for the US

There are about 60 CSI ports around the world, 21 of those in the EU (including Felixstowe, Liverpool, Thamesport, Tilbury and Southampton in the UK).

Assessment

- CBP believes that CSI should make the movement of low risk cargo containers more efficient because the containers are targeted and examined in the lag time between arrival in the port of departure and loading
- It is stated that containers which have gone through CSI will be released immediately on arrival into the US



Sydney Harbour

- The country of export determines who pays for the direct costs of screening and unloading containers
- Costs associated with moving, inspecting and unloading containers at US ports are charged to the importer
- CBP has stated that in the event of terrorist attacks CSI ports with their security systems already in place will experience the least disruption and have a competitive advantage

SFI uses advanced cargo scanning and data integration technology to enhance risk management tools, thereby better identifying containers that pose a risk to the global maritime supply chain. A central part of this is testing the feasibility of scanning 100 per cent of US-bound container cargo. Data from radiation detection and non-intrusive inspection equipment is integrated with manifest data and other risk analysis information to improve the CBP risk assessment process.

Advanced cargo manifest information aka '24 hour rule'

The 24 hour rule is an additional layer used to select high-risk shipments via the United States' automated target system. Carriers are obliged under this regulation to provide CBP with electronic manifest data (ie consignment details) at least 24 hours before loading sea containers bound to the USA. For air cargo, information should be made available straight after take off.

Australia

Customs screens and risk assesses all import and export cargo. In addition, all cargo including 'in transit' and 'transshipment' must be reported to Australian customs at least 48 hours prior to a vessel's estimated arrival at the first Australian port. (Where the voyage is less than 48 hours, a shorter reporting timeframe is applicable.)

Frontline is a cooperation programme between customs and industry groups involved in international trade and transport. The programme draws on the knowledge and expertise of people in the industry to help prevent illegal activities: drug

trafficking; wildlife and flora smuggling; money laundering and illegal importation or exportation of prohibited items such as weapons and chemicals. Frontline members are acknowledged by customs as partners in the fight against illegal activities. Trade uses its commercial expertise to identify suspicious behaviour and assist customs in protecting Australia's borders.

Canada

Partners in Protection (PIP) is a Canada Border Services Agency (CBSA) programme that enlists the cooperation of private industry to enhance border and trade chain security, combat organised crime and terrorism and help detect and prevent contraband smuggling while facilitating legitimate trade. It is a voluntary programme that aims to secure the trade chain, one partnership at a time. A modernised PIP programme was launched in June 2008 to better align PIP with international standards (ie the WCO SAFE framework and Authorised Economic Operator scheme) and with C-TPAT (Customs-Trade Partnership Against Terrorism) for compatibility and mutual recognition.

Free and Secure Trade (FAST) programme is a Canada – US initiative. It provides expedited border clearances for pre-approved eligible goods. Members of PIP and C-TPAT are able, on application, to benefit from harmonised commercial processes. Thus, shipments for approved companies, transported by approved carriers using registered drivers, will be cleared into either country with greater speed and certainty (through the use of FAST lanes).

New Zealand

Secure Exports Scheme (SES) is a voluntary scheme through which the Customs Service works with business to improve export security. Approved exporters agree to maintain certain security standards regarding packing, sealing and transportation of their goods to the point of loading. NZ Customs Service signed a Mutual Recognition Arrangement with United States CBP in June 2007. SES supports enhanced security of exporters' supply chains, which means greater certainty as it smoothes the progress of their shipments to and through the United States, and around the world.

Key US initiatives – detail

100 per cent scanning

- A blanket measure requiring 100 per cent scanning of US bound container cargo at foreign seaports and 100 per cent scanning of air cargo on passenger planes
- Its aim is to prevent radiological or nuclear material from entering the US undetected

Under the 9/11 Act (2007) it is required that by 2012, 100 per cent of US-bound container cargo is to be scanned at foreign seaports using a non-intrusive inspection process involving equipment such as X-rays and radiation detection equipment. The Act also provides for the scanning of 100 per cent of cargo on passenger aircraft by August 2010 – domestic and imports.

Should it be rolled out, who will pay for the additional resources (including increased staff, equipment, and infrastructure) needed? The answer to this question remains unclear. Under the pilot schemes, equipment and personnel have been provided by the US Government, but this probably will not be the case on implementation. It will be the responsibility of ports to decide if they wish to participate, and potentially have to purchase approved equipment, in order to continue exporting to the US. It can be assumed that any costs incurred by the ports will be passed on to their customers. The manner in which this is done will be up to the port, as with any commercial cost.

Whilst under the law universal scanning must be brought in, there is potential flexibility as regards how the measures will be introduced by the US Government.

- Possible exemptions for individual seaports for which the Department of Homeland Security (DHS) certifies that specified conditions exist. They are, inter alia: (i) adequate scanning equipment is not available or cannot be integrated with existing systems; (ii) a port does not have the physical characteristics to install the equipment; or (iii) use of the equipment will significantly impact trade capacity and the flow of cargo
- Detailed meaning. Most experts (including the US's own DHS) are unclear as to what exactly is acceptable under the provisions of the act. The exact definition of 'scanning' and the extent to which every port in the world that exports to the US is expected to be covered immediately are under debate. If a low intensity version of scanning can be agreed, the impact on shippers should be reduced
- Timing. The measures for 100 per cent scanning of maritime cargo are due to be introduced by 2012. It is thought that DHS will not seek to introduce the measures any earlier than they have to. Additionally, there are a series of qualifications which DHS can cite if they wish to delay implementation by a further two year period. An interim requirement of 50 per cent scanning of air freight was met in February 2009, ahead of the August 2010 full deadline

Implications for business

- Costs associated with the scanning equipment (purchase, operation and changes to infrastructure) and how they are recovered throughout the supply chain
- Costs attributed to delays: it will be up to each port/airport to decide how much equipment is required and the logistics for scanning US bound goods
- All ports/airports currently operating US bound routes may not install the requisite equipment, thereby reducing choice

Assessment

The full impact of this measure is still unknown. However, during the summer of 2008, which saw the conclusion of some of the trials, it was announced that:

"Following careful consideration of the trial results and feedback from these pilot ports, CBP has decided to focus on high-risk trade corridors in order to maximize the security benefit realized given the limited resources available to all governmental and private sector operators in the international supply chain as the most effective strategy to initiate 100 per cent scanning." CBP Statement on SFI Trial in Singapore, 21 August 2008

This meant that the Singapore trial did not go ahead: instead, CBP and Singapore's Government would work together to explore alternative approaches toward enhancing container and trade security through risk management and a total supply chain security approach. In support of this, the US is working with Singapore towards mutual recognition of each others' authorised economic operator programmes – similarly with the EU.

One hundred per cent scanning runs counter to, and could adversely impact the implementation of, international customs security standards such as the SAFE Framework. Given limited resources, CBP and Customs administrations in Europe have said that 100 per cent scanning may provide a lower level of security if customs officers are diverted from focusing on high-risk container cargo. In conjunction with the very real cost implications to be faced by all members of the supply chain, this initiative does not appear to represent an overall benefit.

The implications for exporting to the US are highly concerning and the measure has been argued against by almost all stakeholders – both internationally and in the United States. Due to the nature of the American political system it is now highly unlikely that this measure will be completely repealed. On the other hand, the potential to delay or reduce the cost of the introduction of such scanning (as set out above) and the statutory exemptions may provide some scope for flexibility on this blanket burden.

Best practice: FTA advice to shippers

Shippers should monitor FTA news for any developments here, in terms of a delay in implementation or change in form – as discussions between the US and EU currently continue. As the 2010 (air) and 2012 (maritime) deadlines approach shippers should liaise with their forwarders to ensure that the necessary equipment is in place at their key gateways. Those shippers with substantial US operations should lobby through those companies on the negative impacts this measure will have.

It is believed that aviation should be better placed to meet this regulation than maritime services, so despite the nearness of that deadline extreme disruption to the supply chain should be avoided.

be the introduction of I0+2. Currently, CBP relies primarily on carrier manifest information to perform advance targeting prior to vessel loading. The proposed regulation is intended to satisfy provisions outlined in the 2006 SAFE Ports Act, which require the submission of additional data elements for improved high-risk targeting.

It is believed that identifying actual cargo movements and improving the accuracy of cargo descriptions through I0+2 will not only improve CBP's ability to target high-risk cargo but also facilitate international trade through the recognition of low-risk (ie lawful) shipments much earlier in the supply chain.

Importers are required to submit an 'Importer Security Filing' containing the following 10 data elements 24 hours before loading.

IMPLEMENTATION DATES	LEGAL BASIS
August 2010 (air)	Implementing Recommendations of the 9/11 Commission (9/11) Act, 2007
July 2012 (maritime)	

- Manufacturer (or supplier) name and address
- Seller (or owner) name and address
- Buyer (or owner) name and address
- Ship-to name and address
- Container stuffing location
- Consolidator (stuffer) name and address
- Importer of Record number or Foreign Trade Zone applicant identification number
- Consignee number(s)
- Country of origin
- Commodity Harmonized Tariff Schedule (HTSUS) number (to the 6th digit)

Importer security filing and additional carrier requirements: I0+2

- Requirement for importers and carriers to electronically submit additional information on cargo before entry into the US
- Currently a proposal and has not been enshrined in law

Another step in the Department of Homeland Security's strategy to better assess and identify high-risk shipments will



Boston Harbour



Los Angeles container terminal

The '+2 data' – to be supplied by the carrier – is believed to enhance the security of the maritime environment.

- (1) Vessel stow plan used to transmit information about the physical location of cargo loaded aboard a vessel bound for the US
- (2) Container status messages, which report container movements and changes in status (eg, empty or full)

Failure to supply any of this data could result in importation being refused.

Implications for business

- Onus on importer to gather and pass on information, however UK-based operations will be indirectly responsible for providing some of the data
- Creation of additional administrative burdens to ensure importers are equipped with the relevant information
- Potential for imports to be held up due to incomplete or inaccurate IO+2 data, estimated at additional two days in the supply chain
- Fines for any missing information – US\$5,000 per set not supplied
- Similar implications and concerns to European entry and exit summary declarations exist for UK trade

The scheme will be voluntary until January 2010.

Assessment

The data required under this proposal sits outside the global standard for trade information, the WCO's Framework of Standards (SAFE). This extra layer of compliance for only

US-bound cargo will impose an additional burden on UK traders. Even where the information specified is already gathered, the need to ensure the importer has this data could generate further administrative burdens.

The effects of incomplete or inaccurate information being sent to CBP are potentially very damaging: adding delays, costs and unpredictability into the supply chain. In addition, there are concerns about confidentiality – with the potential for commercially sensitive information to be distributed inappropriately. Industry has expressed concerns over the proposals as they are not targeted at the most high-risk cargos, but impose burdens across industry.

The scheme went live on 26 January 2009, but is voluntary until one year from then – on that date the full penalties outlined here will apply.

Best practice: FTA advice to shippers

Exporters to the US should discuss with customers if the new system is being utilised and, if so, seek feedback on its workings. Exporters should also seek clarity on when customers will want them to start providing the full sets of information, so that systems can be prepared.

IMPLEMENTATION DATES	LEGAL BASIS
Started operating 26 January 2009	Security and Accountability for Every (SAFE) Port Act, 2006
System mandatory from 26 January 2010	Trade Act regulations

Glossary

Guide to acronyms used in this document

AEO	Authorised Economic Operator	EU	European Union
AES	Automated Export System	FAS	Farm Advisory System
AIS	Automated Import System	FAST	Free and Secure Trade (Canada–USA)
ATIS	Anti-Fraud Transit Information	HMRC	HM Revenue and Customs (UK)
BERR	Department for Business, Enterprise and Regulatory Reform	HTSUS	Commodity Harmonized Tariff Schedule
CBP	Customers and Border Protection (USA)	ICAO	International Civil Aviation Organization
CBSA	Canada Border Services Agency	ICS	Import Control System
CFSP	Common Foreign & Security Policy	IMO	International Maritime Organisation
CSI	Container Security Initiative (USA)	ISO	International Organization for Standardization
C-TPAT	Customs-Trade Partnership Against Terrorism	MASP	Multi Annual Strategic Plan
Defra	Department for Environment, Food and Rural Affairs	MCC	Modernised Customs Code
DG OLAF	The European Anti-Fraud Office	NCTS	New Computerised Transit System
DG TAXUD	Directorate General for Taxation and Customs Union (Europe)	PIP	Partners in Protection (Canada)
DG Tren	Directorate General for Energy and Transport (Europe)	PJCC	Police and Judicial Co-operation in Criminal Matters
DHS	Department of Homeland Security (USA)	SAFE Port Act	Security and Accountability for Every Port Act 2006
EC	European Community	SES	Secure Exports Scheme (New Zealand)
ECS	Export Control System	SFI	Secure Freight Initiative (USA)
ENS	Entry Summary Declarations	TRANSEC	Department for Transport – Transport Security
EORI	Economic Operator Registration and Identification	TURN	Trader Unique Reference Number
		UKBA	UK Border Agency
		WCO	World Customs Organisation

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