



customs update: security everywhere

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You cannot pick up a newspaper today, even the general press, and not see articles about security, what may happen and everybody's guess as to the next step. While security is indeed important and should be addressed, for those engaging in international trade, we cannot afford to guess. We need hard facts and they are sparse.

At a recent conference, a high ranking official of the Transportation Security Administration characterized the activities of his agency as trying to determine threat levels. What he meant was that in each mode of transportation, the agency needed to determine the proper parameters so it knows when it should act and how. No one disagrees with that goal. Where most take exception is over the question of why there is no formalized manner in which the private sector is participating in that decision-making process?

There is no doubt, some of the TSA's efforts are true law enforcement in the traditional sense of that phrase. Nonetheless, international traders are the ones who know how cargo moves and how the international trading system works. We are the ones who can provide the practical approaches to accomplishing the security of our borders. With no offense meant to the management of the agency, they do not currently understand the supply chain and, frankly, the threat is too great for them to be able to afford the luxury of time to get up to speed. We keep hearing about tangible and imminent Al-Qaeda threats. What sense does it make for the government to take its time, when the expertise is there for the calling?

By way of example, TSA has declared its rules about known and unknown shippers in air freight to be subject to national security. As a result, when an air freight consolidator (indirect air carrier) is visited by a Customs official who is not familiar with TSA's rules, that consolidator is prohibited from giving the Customs' official a copy of those rules! Who does TSA think it is kidding? It is common knowledge that becoming a known shipper is contingent on shipping a set number of shipments (the precise number has been stated in other articles) with a given indirect carrier or passing a site visit. What's the big deal? Why make life complicated for the very folks who can help the agency heighten security? Why

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not concentrate on important issues like making the Automated Export System more useful for security purposes?

We have heard enough from various high-ranking U.S. Customs Service officials to know that the agency is working to enhance national security by relying on the Customs-Trade Partnership Against Terrorism (C-TPAT), the Container Security Initiative (CSI) and Operation Safe Container. All three programs are designed to involve the private sector in making the supply chain more secure. In other words, Customs is relying on the very folks who know the business to help it accomplish its goal. Customs is fond of saying good information at the right time equates to good targeting. Again, in general, the private sector agrees. Where we have concerns is in the implementation.

Again by way of example, it is reasonable to expect that Customs will verify the information being provided by C-TPAT members. The private sector said from the beginning that verification or assessment should not be performed via regulatory audit for the simple reason that the auditors are not security experts. In October, one Customs official announced there would be audits (when he meant verifications) and that multi-disciplinary teams (including special agents) would handle those procedures. A week later, Customs Commissioner Robert Bonner was quoted as saying special agents would not be included on those teams. Similarly, we now hear rumblings from lower level Customs personnel that they have been told security will be a component of compliance measurement examinations, but no particulars are available. Why not? Customs generally does a good job keeping the trade information. What's going on? Why all the contradictory stops and starts?

Then there is the 24-hour rule. Customs wants advance manifest information for ocean shipments at least 24 hours before loading. It is certainly logical to conclude that if Customs has information before cargo is loaded, it can minimize the likelihood of risky cargo coming to American shores. When the rule was first talked about, Customs seemed to ignore the fact that requiring advance delivery of goods causes more harm than good.

To begin with, the longer cargo sits on a dock, the more vulnerable it is to theft and damage. For some shipments, such as perishables, adding another day to the delivery cycle endangers the usefulness of the product. To Customs' credit, when the ocean advanced manifest final rule was announced on October 30, Customs made clear it wants the data; the cargo can be delivered at a later time. Some will say that separating cargo delivery from data delivery leaves room for compromise of the cargo. That statement is undoubtedly true. On the other hand, none of us is naive enough to think that Customs will ignore the potential risk.

Here is a perfect opportunity for Customs to make C-TPAT really meaningful to American companies. While always subject to verification through inspection, why not allow C-TPAT members to be placed into a lower threat level in the context of cargo delivery in light of this new rule? So far the benefits of C-TPAT are more spiritual than tangible. Here is an opportunity to make those benefits truly tangible.