



customs update: homeland security a reality

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President Bush, in establishing the new Department of Homeland Security, submitted a reorganization plan to Congress this past November. The plan itself is a summary, but the contents make for interesting reading and beg the question: are we really any safer?

For traders, one possible scenario was illustrated in an article in the Dec. 4 Wall Street Journal. The newspaper reported on war games conducted under the aegis of The Conference Board and consultant Booz Allen Hamilton that attempted to gauge the economic consequences of terror attacks on the U.S. supply chain.

The games envisioned a series of attacks by road, rail and sea that would force the eventual closure of all U.S. ports of entry. Full recovery, the gamers estimated, would take 66 days and cost the economy \$60 billion in lost revenue!

The main questions facing the participants were:

1. Who is in charge, and
2. What steps are necessary to ensure the economy keeps running?

Shutting the ports was easy, but figuring out who made the decision or identifying the process to reopen them was clear as mud. Bush expects that Homeland Security will answer both questions. However, the initial summary submitted to Congress leaves much to be desired. Participants in the war games consisted of private and public sector representatives, from carriers, border operations, federal policymakers and supply chain/business, to the Ports of Los Angeles and Savannah, and a control group. The war gamers quickly concluded:

1. Public-private partnerships are essential

practice areas

international trade
regulatory



2. Port security begins at origin
3. Security must be a part of the process, not something added on
4. There is no one size fits all approach which works for the entire system
5. The federal government needs to coordinate and unify its efforts

Key players in Homeland Security

The Department of Homeland Security opened for business Jan. 24. Of particular interest to international traders is Under Secretary for Border and Transportation Security, Asa Hutchinson, and Customs Commissioner Robert Bonner. By March 1, Customs, the Coast Guard, the import/export functions of the Department of Agriculture, and the Transportation Security Administration will be transferred to the new department. By Sept. 30, 2003, transfer of all the personnel, assets, and liabilities of the various entities and agencies is to be completed.

A to-be-named Assistant Secretary for Information Analysis will identify and assess the nature and scope of terrorist threats; integrate relevant information, analyses and vulnerability assessments, and review, analyze and recommend improvements in the policies and procedures of sharing law enforcement intelligence. This individual is also required to solicit information from the private sector regarding terrorism. Unfortunately, there is no mandate to share information with the private sector, only collect it.

There will also be an Assistant Secretary of Infrastructure Protection whose job it will be to assess the vulnerabilities of key resources and critical infrastructure; identify priorities for protective and support measures; and develop a comprehensive plan to secure and recommend measures to protect these assets. Here again, there is an obligation to the private sector, this time to warn. Again, there is no obligation to consult or work with the private sector.

The Under Secretary of Science and Technology has jurisdiction to assess and test homeland security vulnerabilities and possible threats and also, to establish priorities for directing, funding, and conducting national research, development, testing and evaluation and procurement of technology and systems to prevent the importation of chemical, biological, radiological, nuclear and related weapons and material and for detecting, preventing, protecting against and responding to, terrorist attacks.

The Undersecretary for Border and Transportation Security is responsible for preventing the entry of terrorists and instruments of terrorism; to secure the borders and ports of entry, plus the ports, terminals, waterways, air, land and sea transportation systems; administer the customs laws except as otherwise provided (again raising the unanswered question of just where Customs agents and inspectors fit into Homeland Security, and to whom they report), and ensure the speedy, orderly and efficient flow of lawful traffic and commerce.

Stakeholders' interests key to success



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The major problem confronting the war gamers was that critical government functions were splintered between various agencies. We can all agree that with the formation of Homeland Security, it is now more likely that government will be in a position to better coordinate its efforts and, down the road, may actually be able to speak with one voice. Most also agree that security begins at origin, but in the absence of a vehicle through which industry can actively participate with government in a two-way exchange of information, the experiment is doomed to failure. The new department will not succeed unless the interests of all its stakeholders are considered from the outset.

One good example of an experiment which could well be doomed to failure is the Customs-Trade Partnership Against Terrorism (C-TPAT). While it is true Customs has agreed to allow a certain amount of private sector input, it is equally true that the agency wants to limit the number of participants, despite the private sector making clear that if the program is truly designed to provide national security, that means it needs to be expanded, not contracted. The European Union has the right idea: unless everyone can play in the same game, Customs has erected a trade barrier.

If the Bush Administration truly believes what it says, that economic security means national security, then all security-related programs must be available to all who want to participate. A strong public-private partnership always works better than one side dictating to the other. Just look at the mess Customs got itself into with the 24-hour advance manifest rule. Carriers and consolidators are mandated to use the process but few of the basic operational questions were worked out in advance. Why? Because Customs insisted the program be put in place right away, and in so doing, failed to coordinate with the private sector. Hopefully Homeland Security will learn from these mistakes and consult before, rather than after, imposing new rules and/or regulations.