

POSITION PAPER

CLECAT comments on the Commission Staff Working Document on Transport Security (SWD (2012) 143)

CLECAT is the leading voice on freight forwarding and logistics at the EU level in Brussels. We represent, and are supported by around 25 member organisations working to promote a sound approach to transport and logistics across Europe, in support of the competitiveness of our industry.

Summary

- CLECAT welcomes the Commission Staff Working Document (CSWD) on Transport Security. It addresses the most relevant threats to land-based security, and identifies areas where the Commission can take action to support security within the supply chain. The objectives are to
 - achieve a higher level of security
 - decrease the number of cargo crimes
 - to achieve harmonisation and simplification of common security requirements and
 - develop a stronger voice in international fora.
- Supply Chain Security is a major issue for freight forwarding and logistics. Therefore CLECAT has a clear interest in initiatives that aim to optimise security in the supply chain and to fight effectively against crime and terrorism without hampering the free flow of goods.
- Securing transport of cargo, like every horizontal policy topic, should be subject to a holistic approach with clear roles for policy makers (in particular those in charge of transport security, customs and intelligence services) and a constant dialogue with industry. CLECAT therefore supports the establishment of an Advisory Committee on Land Transport Security (Commission Decision 2012/286/EU), with a corresponding industry body to feed into the discussions. As an active member in SAGAS and SAGMAS we would welcome participation in this group and seek to contribute with a holistic view on supply chain security that encompasses the whole supply chain and all modes of transport.
- The CSWD recognises that “European companies are still the world leaders in logistics and it is in the EU’s interest to maintain this competitive advantage, whilst simultaneously improving security.” As such we believe that the EU should take full account of possible implications of legislative proposals by applying a risk-based approach and seek to propose actions having the best cost/efficiency ratio in order to secure the less negative impact on industry and society. A balance between security requirements and flexible time-sensitive logistics operations must be found. If not, unnecessary new security measures at European and national levels will make logistics operations more difficult, create delays and, ultimately, harm European competitiveness. As is the practice in quality management, for excellent supply chain processes the security aspect is built directly into the process and is not covered by means of purely physical security checks. This process approach must be applied when considering supply chain security in light of physical inspections stopping operations.



Introduction

CLECAT welcomes the focus on the need to prevent criminal activities along the supply chain and the suggested means and policy areas which would reduce them. The biggest threat is crime which is costing the European economy billions of Euros every year through direct losses, delays, and damage to reputation. By contrast, the driver for supply chain security standards and regulations over the past 10 years has been the prevention of terrorism – the exploitation of supply chain systems to deliver weapons to a target destination, and/or to attack the supply chain system itself.

The CSWD recognises that “perfect” security cannot be guaranteed in land transport. Compared to the maritime and aviation sectors where the markets are dominated by big carriers, land transport (and mostly road transport) is characterized by many, often smaller companies that operate in a wide geographical area with nascent security measures. Based on several variables, such as types of goods being transported, security levels can vary.

CLECAT is fully aware of the responsibilities connected to enhancing supply chain security. On the one hand this growing awareness is due to an increase in prescriptive measures because of European and international legislation. This is also in response to the demand from customers. Industry has over the last 10 years increasingly looked to reduce its exposure to risk: risk management has become a major discipline for many companies. It involves identifying threat and risk and taking appropriate action to safeguard the business. Therefore freight forwarders and logistics service providers have been investing heavily in security measures, which has helped protect their assets and those of their customers, whilst also contributing to protection of those citizens dealing with the transportation of goods. Those industry standards and measures should be taken into account when assessing the necessity to create any supply chain security measures.

CLECAT is reluctant to accept legislation on asset protection. In asset protection a distinction should be made between those areas that may have a public order concern (e.g. proliferation of arms or prohibited articles), and other areas. Unless it becomes of such a nature as to threaten the life of citizens or their collective interests by affecting the public good (e.g. strategic infrastructure, cultural heritage, etc.), the protection of assets should be perceived as a commercial issue that does not require the adoption of targeted legislative measures. In general the industry takes the view that it is not wise to create a costly mechanism to tackle a problem that can be successfully addressed by an insurance cover. Companies have developed their own solutions and best practices to defend themselves against criminal activities, as well as started an intense dialogue with their appropriate national authorities in their respective countries.

2 Issues Hindering Transport Security

The optimal administration, control and management of logistics and supply chain security is a major challenge – both for regulators and for business. Governments are commonly perceived as requiring “too much” security requirements and controls, leading to relatively high direct and indirect costs for businesses. This has been rightly identified by the Commission when it notes that “security can

be perceived by some transport operators to be a negative cost.’ (2) Business tends to focus on security measures and security management which is required to protect their goods, operations and assets against risks. Because of this challenge, it is of great importance that the Commission provides for impact assessments prior to defining and enforcing security standards and regulations.

Especially in the field of dangerous goods there are many existing rules that are constantly updated and that should not be duplicated. In addition, we like to stress that the rules on dangerous goods have been deemed to be sufficient for all land based transport modes in the past. The creation of new regulation should be avoided at all costs.

We would also like to stress that industry is likely to find it very hard to accept yet another security standard. Land transport, and especially road transport, is an open system where security controls are difficult to introduce and to enforce within the territory of the EU Customs Area.

In case there is a defined need to fill some gaps in supply chain security we would prefer to build on existing standards (like AEO or the Regulated Agent) and to include more tangible benefits for those standards, or to come up with voluntary commitments or best practices to address these gaps.

3 The added value of action at the EU level

CLECAT agrees that there is added value for action at EU level. In that respect we see most value in enhanced cooperation at EU level, the harmonisation and standardisation of training standards, and the exchange of best practices. We strongly encourage the Commission and the Member States to use the new Advisory Board on Land Transport Security to make a thorough analysis for each of the problems that have been identified, including a full impact assessment. Before mandatory rules are considered less stringent measures should be examined: best practices, European standards, better use of existing regulations. In that respect we would remind the Commission to cooperate closely with the European standardisation body CEN, which has already examined the need for a European standard for supply chain security (CEN/TC 379).

4. EU land transport security – potential areas for development

4.1 Land Transport Security: Specific weaknesses at EU level

The issues pertaining to land transport security are many and complex. Therefore we fully support the creation of an Advisory Committee on Land Transport Security (Commission Decision 2012/286/EU), with a corresponding industry body to feed into the discussions.

4.1.2 Rail security

CLECAT welcomes the idea to look at baseline security standards for the high-speed rail network to avoid duplication and incompatibility of rules. Harmonisation will ensure a higher security standard, but will not be easy to achieve. However legislation should only be considered where necessary and existing rules for dangerous goods should be taken into account in the relevant impact assessment.

4.1.3 Training of Staff

CLECAT fully supports efforts to raise the overall awareness and knowledge of crime and security threats in the supply chain, thus influencing the attitudes of private and public sector towards a more secure supply chain. We agree that staff should have security awareness training, but would not make the standard for such training too stringent. The security awareness should rather be connected to a risk analysis and follow a risk management approach. More important is that training methods are recognised across the 27 EU MS to allow a free market of workers, consistency and harmonisation across the EU and ensure competitive equality.

The training of staff is in particular important when it comes to the security of freight handovers to ensure the integrity of cargo. There is a lot of best practice in this area such as theft protection measures, checking of product labels and quantities, documentation, seals etc.

CLECAT would again recommend a full impact assessment, before considering mandatory security training.

4.1.4 Contingency planning

Contingency planning is an important factor in order to have a quick re-launch of supply chain activities shortly after an incident. Land transport, as an open system, needs to be given the freedom to continue with their activities as early as possible following an incident.

Different levels of security for different operations should be evaluated according to a risk analysis process. Contingency plans should therefore concentrate on those areas that pose a major risk. We would also encourage using the services of DG HOME and the EEAS for the necessary risk analysis.

CLECAT strongly welcomes the intention to involve transport operators in the contingency planning. Forwarders have always been the frontrunners in respect of contingency planning. It is the principal task of the forwarder to be prepared and to re-organise the supply chain when obstacles emerge. Forwarders have a structural overview over their logistics network and can decide in a short amount of time if and how cargo can be re-routed. A good example for the ability to react swiftly in times of crisis was the Icelandic ash cloud incident. But an important prerequisite to make it possible is the existence of alternative routes. It is therefore crucial that the European and national authorities try not to seal off the complete network, but only those parts that have been affected by an incident.

CLECAT would not support new legislation in order to force companies into having contingency planning. Companies can be supported in their activities with best practices, guidelines and training courses, but we should avoid mandatory rules for the sector. This is an area where industry is taking its own measures. In our opinion events, like the ash cloud incident, have proven the readiness of the forwarding and logistics sector.

Trusted trader partnerships like the AEO and Regulated Agent are well introduced in Europe. CLECAT is of the strong opinion that operators which voluntarily comply with certain requirements which are security related and which have been vetted should also benefit from certain facilitations. In case of an incident, the AEO's as well as Regulated Agents should be the ones that are allowed to move their goods shortly after an incident, and sooner than non-AEO companies.

4.1.5 Technology

As regards technology CLECAT would like to stress that forwarders are always interested to invest in new security technology and have indeed often been the front-runners in using new technology. However there is an inherent danger that technology gets quickly outdated and that big investments become obsolete before their investment has paid off. Another barrier to swift technology transfer comes in when the regulators change existing legislation on a regular basis. It is therefore important that the Commission and the Member States support research in new technology, but at the same time create and maintain stable conditions and work closely with international partners to establish internationally accepted standards. CLECAT also notes the lack of predefined standards for acceptable security equipment and would like to see better coordination and clearer, harmonised rules on acceptable equipment.

4.1.6 Research

CLECAT welcomes research on transport security and has itself been part of the LOGSEC project (project number 241676) co-funded under the FP7 Security Programme. We would like to encourage a common approach toward a coordinated system of research. Research should address gaps in supply chain security and be more focused on how it can impact on the fight against crime and directly on the practical processes of the logistics industry. Research has to be attached to the real needs of the industry. Research should not re-invent solutions that may have been developed already by private companies. Therefore closer cooperation should be sought with the industry to understand the real needs of security users.

An area for research recommended by LOGSEC was for example a project on securing IT layers which are integrated with logistics and/or supply chain systems (i.e. fleet management systems, inventory forecasting tools, supply chain planners etc.). This would consist of the development of a new set of IT security solutions that are integrated in existing logistics, transportation and supply chain software. The integration should lead to more cost-efficient tools that can be easily learned and applied by companies (and in particular SME's). CLECAT would also support further initiatives and research that would support the development of tools and methods to identify forged documents in the supply chain and to take action to minimize their ability to compromise the supply chain. This should also help to ensure that manufacturing, trade, logistics, reverse logistics, and other service companies in the supply chain are authentic, and in possession of required licences.

4.1.7 Better communication

Organised crime is an international business with operations running across countries, without stopping at (EU) borders. The sharing of information between the private and the public sector actors at European level is crucial. In parallel to the physical security measures and policies, intelligence gathering and selectively sharing live intelligence updates to vetted individuals should be developed in the EU as it is the most efficient tool to detect and intervene with regard to shipments posing terrorist threat. As stated by the European Commission and of the Council, *"better intelligence and threat information sharing is vital to ensure a prompt, effective and harmonised response to arising threats"*.¹

¹ European Commission's Press Release of 29 November 2010 on the EU action plan air cargo security, Memo/10/625

A lot of incidents are not properly reported and therefore information gets lost. Today many industry operators lack access to a robust and comprehensive European database where information about cargo crime modus operandi and trend statistics could potentially be used to enhance awareness and thereafter identify proper countermeasures. In order to gain knowledge on past incidents and modes of operation, CLECAT would support the development of processes and data sharing platforms for crime incident reporting and statistics. This would help all parties to better perform risk assessments.

Police forces need to collaborate across borders, overcome language barriers and have more leeway for cross-border cooperation. We would strongly support the establishment of special police units in Member States that deal specifically with cargo crime. This would help to increase awareness of the dimensions of cargo crime and allow better risk assessment. There is a need for increased focus on authentication of companies and of documents, and risk management processes and tools. These efforts should seek to prevent the introduction of false documents in the supply chain including personnel credentials, trade and logistics documents etc.

4.1.8 Security of the Supply Chain

CLECAT fully supports the principle of end-to-end supply chain security, covering all entities in the supply chain, while focusing on each party's capabilities and responsibility of their respective operations. Each party should contribute to the security of the cargo according to their capabilities. However, we also agree with the Commission's assessment that for an open system like road transport it is not possible and not feasible to advocate end-to-end security. Therefore, security requirements should be proportional to the risks. For dangerous goods, for example, the rules are already in place, well established and sufficient. For valuable goods, it is in general sufficient to get insurance coverage. If the Commission wants to discuss a regulatory approach, then this should be taken into account.

CLECAT members would also like to point out that it is in their own economic interest to secure cargo to the highest quality standards and cover themselves with an insurance against criminal activities. If the Commission sees value in a supply chain security standard, we would like to remind the Commission that it should then be a voluntary rather than a mandatory standard. Also, we draw attention to CEN/TC 379, which already examined the need for a European standard on supply chain security and came in the end to the result that there is no need for it. We recommend the work done by CEN, where a "Supply chain security (SCS) - Good practice guide for small and medium sized operators" was developed, and a crime incident reporting form is pending approval.

Lastly, we would again encourage the Commission to look into improving existing standards like the AEO, before considering a new, additional security standard.

4.1.9 Secure parking

Secure parking is one of the most important and pressing issues regarding cargo crime today. A growing number of trucks are being attacked on insecure parking areas and roads all over Europe. Criminals are often very well informed about the route and even the content of HGV's, made possible, for example, by insider knowledge. Secure truck parking is therefore an important way to

counter the increase in this specific crime activity. In that respect CLECAT notes that the number of secure parking places is insufficient.

CLECAT supports the proposal to address the lack of secure parking through the new TEN-T guidelines. Secure parking places should become available at frequent intervals along TEN-T road networks, complemented by a requirement making available to lorry drivers 'real time' information about availability and quality of parking places in order to maximise their use. CLECAT has commented on the Directive on the framework for deploying Intelligent Transport Systems which provides for standards and decisions on information and booking systems.

4.1.10 Cybercrime

Logistics is not only about transporting goods but also about transmitting data to all the actors of the supply chain such as shippers, carriers, consignees, other freight forwarders and authorities. In CLECAT's opinion data security has therefore become a crucial issue, one that is too often neglected when thinking about the advantages of cyber technology (Internet, cloud computing, smart phones, RFID tags, etc.). We would advocate for clear and robust European, or better international guidelines on how to store data and prevent the abuse of data taking into account the business and regulatory requirements. These standards which can support the authentication and verification of data coming from one source would alleviate the breakthrough of the technology at least in the logistics sector and enable stronger protection against criminal activities.

CLECAT reminds the Commission to take into account that many freight forwarding companies will have internal backup procedures as a best practice or part of their internal security programme. CLECAT observes that Internet technology is currently the most crucial factor in facilitating the activities of organised crime. EU borders allow for the free movement of goods, services, capital and labour. However it also enables the freer operation of organized crime, which has already previously been extremely flexible. Stronger cooperation between police forces and judicial systems is needed to confront these trends.

4.1.11 Inland Waterway Transport

CLECAT encourages the Commission to look at the security level of Inland Waterway Transport in a holistic way. However CLECAT would like to stress that also in the area of Inland Waterway Transport sufficient legislation is already in place concerning the transport of dangerous goods.

4.1.12 International activity

CLECAT fully supports the observation that 'given the international dimension of transport, it is important that transport can function as seamlessly as possible when crossing frontiers. Differing national requirements for security hinders this (4.1.12)'.

CLECAT would like to encourage the Commission to use the opportunity for cooperation with all relevant parties at and beyond EU level. Crime has developed into an international business and therefore international cooperation is extremely important, e.g. through the exchange of information and transnational cooperation of law enforcement agencies. CLECAT recommends looking at the simplification of cross-border criminal investigations and enhanced cooperation of law enforcement agencies and criminal prosecutors. This cooperation should include all relevant Commission services, including among others DG MOVE, DG Home Affairs, DG Justice and DG OLAF, but also Europol, Interpol, and the logistics industry where appropriate. We would also like to



recommend Member States to create special units in the national police, specialised on cargo crime. This has already been done by a few countries like the Netherlands. As a result the police was able to compile better data and create awareness for cargo crime. Expertise and experience are major factors that can help addressing the challenge of organised crime, and we recommend looking into ways to facilitate this.

CLECAT strongly supports action at international level, although we note that there is no equivalent body like the IMO or ICAO for land transport. However other fora like the OECD's ITF or the UNECE ITC are organisations at international level that can act as a stage to coordinate and discuss initiatives on land transport security.

In that respect we fully support the Commission's plan to develop bilateral agreements with countries that have equivalent levels of transport security. As a first step and considering we are talking about land transport mainly, we think it is advisable to look at the neighbouring EU countries first and foremost, with a view to improve the cross-border law enforcement cooperation.

4.2 Where other modes can help

CLECAT supports the Commission statement in the CSWD that security of goods should best be considered at origin. Freight forwarders are in a position to send information early in the supply chain and share the information with Customs or the relevant risk assessment office. If this is to be initialised the transmission of data should be done electronically and through a single window if possible.

Freight forwarders and customs agents often bear responsibility for important trade data acting as the principal connection between the manufacturing industry and the customs authorities. As such we would like to advocate the system of dual filing, where information is being submitted by the appropriate party in the supply chain. This has distinctive advantages, which we outlined in previous papers, and which we would be happy to share with the Commission and the Member States if necessary.

CLECAT has closely and continuously followed the developments in aviation and maritime security. Of course for both maritime and aviation the international cooperation component is much more important. In addition the possibility to monitor and target movements of both transport types, as well as the monetary (for criminals) and symbolic (for terrorists) value pose a significant difference to the land based transport modes.

In respect to the proposals in the paper for air cargo security, we concur with the statements from the Commission, but would stress that these issues are already under thorough discussion with EU Member States and industry in a different unit of the Commission. However there is certainly some overlap, if you for example look at the secure supply chain concept in aviation security, where all parties in the supply chain create a secure supply chain, including the land-based modes of transport (delivery of cargo to the aircraft). However we would like to stress again that land-based transport is an open system, where especially route planning and monitoring will be nearly impossible.



Despite many security shortcomings and a degree of risk and the unfortunate presence of crime, still the vast majority of the supply chains are carried by compliant logistics processes that successfully manage to keep things moving. Most of the secure supply chains are designed to keep the supply chain working and as efficient and low cost as possible.

CLECAT is looking forward to discussing the issues outlined in this paper with the European Commission. An event on Supply Chain Security is organised by CLECAT on the 29th November in Brussels. More information can be found on our website: www.clecat.org