CLECAT

european association for forwarding, transport, logistic and customs services

CLECAT's SUPPLY-CHAIN SECURITY COMPLIANCE HANDBOOK

2nd edition
30th November 2010

The CLECAT Handbook on existing Supply Chain Security Initiatives as seen from an EU perspective

INTRODUCTION

CLECAT members have always acknowledged the importance and necessity of a functioning security programme, which besides protecting infrastructure, assets and different interests, has the protection of citizens its main objective. This is not only essential to counter possible acts of terrorism, but also to benefit from the additional advantages that a security programme may bring to day-to-day business: theft prevention, decreasing insurance costs, advantages granted by Customs (faster clearance of goods, less/no screening, less documentation, smaller financial guarantees), etc.

Whilst fortunately all-cargo operations have not been the target of terrorist actions so far, there is no certainty that the cargo supply chain may not be used to perpetrate such actions. It has recently been reported that some areas of the express parcel delivery industry had been infiltrated with potentially dangerous packages. Fortunately no major damage or disruption entailed. This is in our view the result of the work done in all aspects of supply chain security and it proves that everyone needs to continue improving, even if we know that 100% security is not achievable.

The reason why this document was created was to provide some guidance to CLECAT Members in an area where it is increasingly difficult to avoid losing orientation and where it becomes increasingly easy to embark in time consuming (and often very costly) endeavours for little or no avail. We shall try to keep a practical style and we shall be pleased to prepare new versions of it in future, by inserting our Members' observations as well by disposing of information which has become obsolete.

Often the national implementation of EU rules is more important for a freight forwarder when operating in its home country, because the details of the national implementation are sometimes – alas – not the same all over the Union. Our advice is therefore to accurately check that the national legislations perfectly reflects those European regulations quoted. CLECAT cannot provide detailed information on national legislation in the implementation of EU regulations and directives, however there is always the possibility to contact the relevant national CLECAT member, which may provide the necessary additional information, this is a service the Secretariat will be happy to provide for its Members. In case of problems created by directly applicable EU law, do not hesitate to contact the CLECAT Secretariat, which will then enquire with the Commission (and possibly with other CLECAT members), whether similar situations have been registered in other EU countries.

Security has become the driving factor behind many recent initiatives in the transport sector. Together with environmental challenges, security remains the hot topic of the day. It has heavy implications for our sector and for any sort of cross-border business. Governments and authorities are asking more and more information, sometimes without sufficient trade-off for the private sector. However, it is undeniable that increased security measures create additional burdens, which in the end leads to higher costs for service providers and customers. It is not always clear which benefits are given in return to the private sector in general, and specifically to freight forwarders and Customs service providers in particular. Whilst there is much talk about

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faster Customs clearance, fewer inspections, less frequent scanning and generally better cooperation with Customs, one still has no real intimation that the benefits will justify the investments in the end.

By and large governments have adopted regulations aiming at improving cargo and supply chain security with two different (and sometimes opposing) principles: scanning of all cargo at relevant points (e.g. 100% scanning US rule) or a system based approach aiming at reducing the number of cases where threat is expected or probable (e.g. C-TPAT and AEO programmes).

CLECAT's Security Institute had originally examined the Swedish compilation of worldwide Security Initiatives with keen interest. After this exercise the SI decided to formulate a comprehensive CLECAT document on the various security initiatives and their implications for the forwarding business, which led to the publication of last year's edition.

This paper will be structured by highlighting first and foremost mandatory requirements in the EU, then as a second step will show voluntary initiatives and programmes in the EU and lastly the main international mandatory and voluntary security initiatives. At the end of each description we shall provide links – if available – which will lead you to websites that contain further information.

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I. EU Mandatory Programmes

1. EU's Customs Security Programme – Advance Notification

The EU introduced a proposal to improve security in the supply chain, which was eventually adopted as a regulation amending Council Regulation 2913/92 (the so called "security amendment"). As a result the concept of AEO (Authorized Economic Operator) was introduced (see more details on AEO further down) and rules for the advance notification of imports and exports were set. These rules have been known as the EU's Customs Security Programme (CSP). CLECAT has been actively involved in the whole process from the beginning and updated its members accordingly over the years via the circulars and reports of the Customs and Indirect Taxation Institute (CITI).

Whilst the AEO programme (see following paragraph) is voluntary and depends essentially on the business decision of the companies whether they should or should not enrol, the advance notification is instead mandatory and traders should make sure they submit advance information or make sure their trading partners do so timely.

If you are an importer or exporter of goods it is absolutely essential to be familiar and to comply with the advance notification rules. Based on Commission Regulations (EC) No 1875/2006, 312/2009, 414/2009 and 430/2010 companies are liable, if they provide incorrect information in advance on both goods which are brought in and taken out of the Community. The submission has to be in an electronic format, as paper submissions will only be allowed in exceptional cases as an extreme fall-back procedure. Export declarations will have to contain some additional data-elements for security risk analysis purposes. In cases where goods are taken out of the Community and a (re)export declaration is not required, a stand-alone security exit summary declaration must be lodged. At entry a security entry summary declaration must be lodged.

While the security summary declaration has to be provided on a regular basis by all traders, there are also some exceptions to the rule, further specified in article 181c of the Regulation.

The summary declaration has to be transmitted in time to the Customs office of entry/exit:

- Entry summary declaration:
  - Maritime traffic: 24 h before loading at the port of departure; (break) bulk cargo at least 4 h prior to arrival at the first port in the Community Customs territory. For other specific transports (through specified countries[1], former colonies (if travel time is less than 24 h)[2], certain inland seas[3]) the transmission has to come at least 2 h before arrival.
  - Air traffic: for short haul flights[4] it is sufficient to lodge the declaration by the time of the actual take-off. For long haul flights, the declaration has to arrive at least 4 h before arrival at the first EU airport.
  - Rail traffic/Inland waterways: to be lodged at least 2 h prior to arrival at the Customs office of entry.
  - Road traffic: at least 1 h before arrival.
- Export declaration / Exit summary declaration:

[1] Greenland, Faeroe Islands, Ceuta, Melilla, Norway, Iceland and Morocco
[2] Azores, Madeira, Canary Islands
[3] Move from ports in the North Sea, Baltic Sea, Black Sea or Mediterranean to the Community
[4] Less than 4 hours from departure in a non-EU country until arrival in a Community airport

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- Maritime traffic: The same time limits apply as for the entry summary declaration
- Air traffic: 30 minutes before departing from a Community airport
- Rail traffic/Inland waterways: 2 h prior to departure from the Customs office of exit
- Road traffic: 1 h prior to departure from the Customs office of exit

Which information needs to be submitted?[5]
Overall there is an extensive amount of information that needs to be submitted in the declarations. Not only information on the consignor and consignee, but also information in respect of the country/countries codes in route order and Customs offices of exit, place of loading and unloading, commodity codes, description of goods, identification number of container and seal, method of payment, etc. The information required is contained in the so called annex 30a[6].

If your company is an AEO, as well as the company on behalf of which you are acting, the number of information elements is decreased from 29 elements down to 20. The rules on the lodgement of pre-departure declarations by means of an export or other customs declaration apply since July 1st 2009. The lodgement of pre-arrival security entry summary declarations and 'stand alone' security exit summary declarations is mandatory from the 1st of January 2011.

Links:
- Commission Regulation (EC) No 1875/2006
- Commission Regulation (EC) No 312/2009
- Commission Regulation (EC) No 414/2009
- Commission Regulation (EC) No 430/2010
- DG TAXUD relevant website

The territory of Switzerland has been included in the EU security programme by means of a bilateral agreement that provides a general waiver from security advance information requirements for cargo arriving from or being destined to Switzerland.

2. *Specific rules for each mode of transport*

a) Air Freight

Air freight was evidently the most immediately affected sector by the attacks on Sep 11th 2001. ICAO reacted promptly by adopting the so called annex 17, which is the base of most national and international aviation related rules.

If a company is active in the field of air transport Regulation 300/2008, which replaced Regulation 2320/2002 and shall be applied latest by the 29th of April 2010, is an essential piece of legislation with which you need to comply with. This legislation, which was introduced shortly after the 9/11 incident, codifies strict rules not only for passengers, but also for cargo. Its aim is to establish a secure supply chain for cargo that is supposed to be flown. The general underlying rule is that "all parcels shall be physically checked, screened by x-ray equipment, and subjected to stimulation chamber or detection equipment for explosive substances", unless one is

[5] Kommerskollegium Study on Supply Chain Security, p.54
[6] http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_360/l_36020061219en00640125.pdf; http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:098:0003:0023:EN:PDF

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exempted from screening. The detailed exceptions to the rule constitute the body of the regulation.[7]

To avoid the necessity of screening a secure supply chain must be created, starting from a Known Consignor[8], on to a Regulated Agent[9] until the cargo reaches the airport where it is taken over by the airline and flown. Regulated Agents are accredited by competent civil aviation authorities in the EU Member States. Known consignors[10] used to be accredited by Regulated Agents or air carriers, but the rule has now been modified and only independent validation will grant the status in future.[11] Regulated Agents are obliged to establish and register the identity of the consignors and the agents they use. Consignors are required to certify that consignments do not contain prohibited articles and to accept security examination. Further explanations can be found in Regulation (EC) 820/2008 (which revised and replaced Regulation 622/2003), especially chapter 6 on cargo in the annex (page 12 of the above mentioned Regulation).

In March 2010 Regulation (EU) 185/2010 was adopted and published in the Official Journal of the EU. Regulation 185/2010 contains the non-confidential implementing legislation for Regulation 300/2008. The annex of the regulation contains the detailed measures needed for the implementation of Regulation 300. The most relevant chapters for freight forwarders are the chapters on cargo (chapter 6 in the annex) and training (chapter 11). Chapter 6 contains the rules Regulated Agents and Known Consignors have to comply with.

In addition the European Commission has sent a secret Decision (Decision 774/2010) to the appropriate authorities of the EU Member States. The Decision contains additional, sensitive information for the area of aviation security (e.g. methods of screening and a Known Consignor template) The national authorities are in principle obliged to forward the information contained in the Decision to parties in the supply chain on a need-to-know basis.

According to Art.10 of Reg. 300/2008 every Member State shall draw up, apply and maintain a national civil aviation security programme. For freight forwarders this means that according to Art.14 every entity, which is operating in an air cargo environment, is required to comply with this national civil aviation security programme (Art.10) by drawing up its own security programme, which is required to become (or remain) a Regulated Agent.

The security programme of a company shall describe the methods and procedures which are to be followed by the forwarder in order to comply with the national civil aviation security programme of a given Member State in respect of its operations in that Member State (Art.14 (1) 2). The programme shall also include internal quality control provisions that must be describing

[7] Kommerskollegium Study on Supply Chain Security, p.55: e.g. "when the cargo comes from a known consignor, is trans-shipment cargo, or can be guaranteed secure in some other way."
[8] Reg (EC) 300/2008, Art. 3 Nr. 27: means a consignor who originates cargo or mail for its own account and whose procedures meet common security rules and standards sufficient to allow carriage of cargo or mail on any aircraft;
[9] Reg (EC) 300/2008, Art. 3 Nr. 26: means an air carrier, agent, freight forwarder or any other entity who ensures security controls in respect of cargo or mail
[10] Kommerskollegium Study on Supply Chain Security, p.55: "Requirements in respect of a known consignor is that he prepares consignments in source premises, uses reliable personnel, and protects the consignments against unauthorised interference during preparation, storage and transportation."
[11] While the new database is now in force, the Member States have managed to reach an agreement with the Commission on a transitional period, during which Known Consignors, accredited by Regulated Agents, can still be listed in a separate database on national level. After the transitional period the database will only include Known Consignors, accredited by competent authorities. Unfortunately some MS are expected to use the whole transitional period of three years before embarking on independent validation. At the time of the publication of this study the following MS have independent validation: UK, FR, MT, IE, NL and ES.

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how compliance with these methods and procedures is to be monitored by the entity itself (Art.14 (1) 3).

Regulated Agents and Known Consignors will be included in an EU-wide database, where their status can be tracked. The database went live on the 1st of June and now has to be used to establish the Regulated Agent or Known Consignor status of an entity working in a secure supply chain. The Member States, where the Regulated Agent or the Known Consignor is accredited, will include the agent's/consignor's data in the database, where it will be uploaded not later than 24 hours after being accepted. At the moment of the publication of this document all EU Member States plus Iceland, Switzerland and Norway have uploaded data for their Regulated Agents.

The implementation of security programmes and the accreditation of Regulated Agents/Known Consignors are the responsibility of the Member States. CLECAT members need to be aware that the relevant Member State can withdraw Regulated Agent status, if an entity is not compliant with the national security programme. This may reflect on the operation all over Europe. For the exact requirements and especially the procedure how to become a Regulated Agent or a Known Consignor in your Member State, please contact the national authority responsible for air security in your country.[12]

Freight forwarders, who are active in aviation logistics, should also keep in mind that the relevant European legislation has been adopted in the form of EU Regulations, i.e. they are directly applicable in every EU Member State and do not need to be implemented into national legislation first. For any aviation operation, at least for the 'security manager'[13] of a company, it is therefore absolutely essential to have knowledge of the EU Regulations mentioned earlier, as well as the National Aviation Security Plans, which are now in the process of being amended across the EU. We expect that the relevant content of the Commission Decision will also be communicated to Regulated Agents and Known Consignors, but it is ultimately up to the national authorities to inform their industry.

Links:

- European Regulated Agent / Known Consignor Database (since the 1st of June)
- Relevant European Commission website: DG MOVE – Aviation Security
- Summary of all relevant legislation in the field of aviation security (with hyperlinks to the legal texts)
- ICAO annex 17

b) Maritime Transport

In case a forwarder is active in the field of maritime transport, there are again additional mandatory security restrictions, which one needs to be aware of, namely the EU implementation of the ISPS code[14]. The ISPS code establishes minimum requirements for enhancing ship and port facility security. It was transformed into EU law with Regulation (EC) 725/2004. While the

[12] Examples of competent authorities: the German Luftfahrtbundesamt, the UK Department of Transport, the Italian ENAC, the French DGAC, the Dutch Register Luchtvrachtagent, or the Swedish Transport Styrelsen.
[13] Please note that the term security manager is at the moment subject to debate at European level. It is expected that the term will be deleted in future.
[14] More information on the International Ship and Port Facility Security Code can be found on the IMO website.

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original ISPS code is divided into Part A[15] (Annex II of Reg. 725/08) and Part B[16] (Annex III of Reg. 725/08), the EU regulation has not only made Part A mandatory, but also some of the provisions of Part B. The Regulation is however limited to security measures on ships and in ports, and to enhanced cooperation between both parties. An additional Directive on enhancing port security was therefore adopted shortly after (Directive 2005/65/EC).

The aim is to protect ships and ports from terrorism. Focus lies on preventive measures, e.g. "limiting access to port facilities and preventing weapons and dangerous substances being taken aboard ships or into port facilities"[17]. The purpose can be further narrowed down: to detect security threats and implement security measures; to establish roles and responsibilities concerning maritime security for governments, local administrations, ship and port industries at the national and international level; to collate and promulgate security-related information; and to provide a methodology for security assessments so as to have in place plans and procedures to react to changing security level.

This risk management concept will be embodied in the ISPS Code through a number of minimum functional security requirements for ships and port facilities. For ships, these requirements will include:

- ship security plans
- ship security officers
- company security officers
- certain onboard equipment

However, if a ship does not have a valid certificate it may be detained in port until it gets a certificate, but the competent authorities also have various other options available at their disposal. Important for assessing which measures need to be implemented by ships and ports is a security system based on 3 levels:

- Level 1 is the level for which minimum protective security measures shall be maintained at all times.
- Level 2 is the level at which additional protective security measures shall be introduced at times of a heightened risk of a security incident.
- Level 3 is the level at which further specific security measures shall be maintained at times when a security incident is expected or imminent.[18]

In Annex I of Regulation 725/2004 the special measures have been listed. Cargo ships including high-speed craft of 500 gross tonnage and upwards (see Regulation 2, 1.1.2.) also fall under this annex. For more information about the detailed requirements, please see the relevant annex and contact the appropriate authority in your home country.

Additionally to the already prescribed regulations, the International Maritime Dangerous Goods Code (IMDG-Code) specifies certain security provision for the transport of dangerous goods (DG). These mandatory provisions also apply for those parties whose activities are not necessarily covered by the ISPS-Code and Directive 2005/65/EC like shippers and freight forwarders. Provisions of chapter 1.4 IMDG-Code are subdivided into two levels of security which are a general level and provisions for the carriage of dangerous goods with high risk potential in terms of security. Key element of the latter is a security plan to be compiled and implemented by companies involved in DG transport by sea.

[15] Part A provides mandatory requirements
[16] Part B provides guidance for implementation
[17] Kommerskollegium Study on Supply Chain Security, p.55
[18] See also Kommerskollegium Study on Supply Chain Security, p.56

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Links:

- Relevant EU Commission (DG TAXUD) website with more information
- Information on the website of the European Maritime Safety Agency (EMSA)
- FAQ on ISPS Code and maritime security on the IMO website
- IMO website on IMDG-Code
- List of countries, which implemented ISPS (global)
- EU legislation on Maritime Security (from the EU Commission (DG MOVE) website)

c) Road Transport

No specific rules for general cargo apply.

Specific security rules in the area of road transport are predominantly relating to dangerous goods. The legislation is based on the "UN agreement: European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR)", developed by the United Nations ECE, Geneva, and ratified by 46 countries. Here specifically chapter 1.10 (security provisions), which has been introduced and entered into force on the 1st of January 2005, deals with mandatory aspects regarding security awareness, security training and, like Chapter 1.4 of the IMDG-Code, with special provisions for high consequence dangerous goods, especially security plans. This international regulatory framework has been implemented in the EU through Council Directive2008/68/EC for intra-European and domestic transport.

Links:

- Commission website (DG MOVE) on Dangerous Goods
- Industry Guidelines for the Security of the Transport of Dangerous Goods by Road (developed by INDA[19] in collaboration with FIATA, IRU and CEFIC)
- UK website (Business Link) with practical advice for transporting dangerous goods by road or rail
- UNECE website on Dangerous Goods
- IRU Security Guidelines (available for free in English, French, German, Russian)

d) Rail Transport

No specific rules for general cargo apply.

Like the ADR Convention the Regulation Concerning the International Carriage of Dangerous Goods by Rail (RID) has introduced security provisions in its chapter 1.10 with a similar set of obligations to be fulfilled by parties involved.

This international regulatory framework has been implemented in the EU through Council Directive 2008/68/EC for intra-European and domestic transport.

Links:

- Commission website (DG MOVE) on Dangerous Goods
- UK website (Business Link) with practical advice for transporting dangerous goods by road or rail

[19] Alliance of European Industry Sectors Involved in the Transport of Dangerous Goods

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- UNECE website on Dangerous Goods ➔ see also OTIF (Intergovernmental Organisation for International Carriage by Rail)

e) Inland Waterways Transport

As was previously mentioned in the chapter on Maritime Transport, the EU Regulation on enhancing ship and port facility security (Regulation 725/2004) is the EU implementation of the ISPS code. The Regulation applies to all Community ports, which can be entered by sea-going vessels, and thus also to ports along inland waterways. For more details, please see the relevant section on Maritime Transport above.

Like the ADR and RID Conventions the European Agreement on the International Carriage of Dangerous Goods on Inland Waterways (ADN) covers security aspects in its chapter 1.10 with a similar set of obligations to be fulfilled by parties involved.

This international regulatory framework has also been implemented in the EU through Council Directive 2008/68/EC for intra-European and domestic transport.

To get more information, please see the relevant websites.

Links:

- UNECE website on Dangerous Goods
- ADN - European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways

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II. EU Voluntary Programmes

1. AEO in the EU (Authorized Economic Operator)

The AEO is a concept, which has become very popular in the discussion on how to create a secure supply chain. The WCO[20] has introduced the AEO concept in their SAFE Framework of Standards, a comprehensive and ambitious document published in June 2007, compiling standards for Customs-to-Customs (C2C) and Customs-to-business (C2B) relationships. The interesting part for a freight forwarder is included in the C2B partnership pillar. Standard 2 says: "Authorized Economic Operators will incorporate pre-determined security best practices into their existing business practices."

The WCO has also added "AEO Implementation Guidance", "Compendium of Authorized Economic Operator Programme", "Model AEO Appeal Procedures" and an FAQ on "The Authorized Economic Operator and the Small and Medium Enterprise" to its SAFE Package which accompanies the SAFE Framework[21]. The Private Sector Consultative Group (PSCG), a group representing the private sector at the WCO, of which FIATA is a member, have also been looking to add a standard for "Draft Globally Harmonized AEO Application and Self-Assessment Criteria" to be added to the SAFE Framework or Safe Package.

The EU adopted this approach with the security amendment of the Community Customs Code (Regulation (EC) 648/2005 and Commission Regulation (EC) No 1875/2006, and built their own AEO programme on the foundation of the SAFE Framework. We need to stress that becoming an AEO is not and will not become mandatory. The AEO concept was never meant to be acquired by all or even by a majority of traders and entities, however business may find in this programme a certain number of advantages, which will facilitate its penetration in current business practices. This is a kind of certificate of excellence, which on the one hand leads to increased investments in security, in the form of additional security equipment and staff training; on the other hand it also allows for benefits, which were briefly described above. It should also be noted that at this point in time it is not absolutely clear which benefits the AEO status will provide in the end. This is very much the beginning of a process and benefits will develop or be clearer once the process has been going on for a while in practice. Also, CLECAT has been involved from the beginning in the AEO process and extensive information is available in the Members' section of our website.

There are three different kinds of AEO in the EU[22], but this paper will only look at one of them: the AEO (security). We advise you to visit the Commission's website, which has several practical tips, if you want to apply to become an AEO. We abstain from repeating the extensive information, which is given on the Commission's website (and in greater detail in CLECAT circulars), but we encourage you to contact the CLECAT Secretariat in case of further questions. In principle all the necessary information can be found (in 20 Community languages) at the links that we have provided at the end of this article.

In this respect it is necessary to briefly mention the US C-TPAT system (see also further down in the document for more details). The C-TPAT is an initiative drawn up by US CBP[23]. The aim of the private sector in the EU and the US, and also an important policy target of CLECAT's security

[20] World Customs Organisation: http://www.wcoomd.org
[21] Available here on the WCO website http://www.wcoomd.org/home_pfoverviewboxes_safepackage.htm
[22] AEO-C (Customs simplifications), AEO-S (security), and the combination of the two, called AEO-F . Holders of an AEO-C or an AEO-F certificate are exempted from demonstrating compliance with practically all conditions for obtaining customs simplifications. Most freight forwarders, therefore, apply for AEO-F status.
[23] United States Customs and Border Protection

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policy, is to achieve mutual recognition between AEO and C-TPAT as soon as possible. According to our latest information the US and EU authorities have recently made significant progress in the field of possible mutual recognition. It is now envisioned that mutual recognition of EU Member States will be rolled out over the course of 2011. As a result a company, which has AEO status in the EU, would not need to apply for C-TPAT in the US. The US Customs authorities would then grant the AEO the same privileges as the C-TPAT certified company would receive (and vice versa). Similar efforts to achieve mutual recognition are being pursued with other countries, like Canada or Australia. Mutual recognition with Japan has been reached in June 2010.

CLECAT regularly attends the European meetings of the EU-US TSCG[24] meetings, in which the EU and the US discuss the most important issues with regard to inland, aviation and maritime transport. The issue of mutual recognition of these programmes has been repeatedly presented at these meetings.

Links:

- Commission website (DG TAXUD) on AEO with more information
  - AEO Guidelines: Very helpful and comprehensive brochure to identify your needs and which requirements you need to fulfil
  - AEO Compact Model: Step-by-Step instruction how to become an AEO
  - Where do send your application to? ➔ list of competent Customs authorities
  - Recommended AEO self-assessment
  - "The European Union and Japan sign mutual recognition of Authorised Economic Operators" (Press Release DG MOVE)

2. *Swedish Stairway and StairSec programmes*

The Swedish Customs (www.tullverket.se) introduced their Stairway and subsequently the StairSec system (the latter focussing especially on security of the supply chain). This was in a way a pioneering initiative in the field of security in the EU. While Stairway grouped all Swedish traders automatically into 5 different categories (done by Customs), StairSec could only be achieved by companies which were grouped in categories 3-5 (the so-called Accredited Companies).

According to Swedish Customs the Stairway together with StairSec is identical to the EU AEO certification system. It will thus be phased out over the next years. Latest by the end of 2010 the Swedish system will be completely replaced by the EU AEO scheme.

Links:

- White Paper on Accreditation of Operators and the Supply Chain Security (StairSec)
- Information that StairSec will be phased out by Swedish Customs (in Swedish)

3. *Dutch Client System and PROTECT*

[24] EU US Transport Security Cooperation Group

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This system, like the Swedish system mentioned before, is also not a system in which freight forwarders can apply for certification, but rather mainly used as an internal tool by Dutch Customs[25]. The most important components of the Dutch programme are:[26]

- Preliminary review in which Customs will determine the most suitable arrangement for the company and whether authorisation may be granted after an examination
- For every client a specific control programme (directive) will be developed, with the ideal means and methods of control. Knowledge of the client, as well as risk analysis and tailor-made regulations will be taken into account.
- In a treatment plan those elements that will be implemented are highlighted, depending on the availability of available Customs personnel.

Very much like the Swedish system the Dutch system divides companies into 5 groups, based on the complexity of their accreditation. The accreditation work itself is done by Customs.

As of now it is unknown, whether this programme is still active. It has been possible to apply for AEO status in the Netherlands since September 2007. While it is unknown, if the programme will be adapted to the AEO programme, it is most likely that it will be replaced by it. A search on the website of the Dutch Customs has not shown any results for 'Client System' or 'PROTECT'. For these reasons we believe the above information is only valuable in terms of providing a historic background for our Members.

[25] See also Kommerskollegium Study on Supply Chain Security, p.58
[26] See also Kommerskollegium Study on Supply Chain Security, p.58

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III. Mandatory non-EU Programmes

The information on the following pages (mandatory and voluntary non-EU programmes) will briefly highlight the main aspects of various international supply chain security initiatives in countries outside of the EU. While interesting and necessary for conducting trade with these countries, it is not in the remit of CLECAT to provide detailed information on these initiatives. If a company wants to receive further information, we would advise them to follow the links at the end of each section and/or to contact the appropriate authorities in their home countries. We can also recommend contacting FIATA, which is the international organization representing freight forwarders, and which should have more information on the non-EU initiatives.

1. 100% Scanning (USA)

This law is an attempt to impose physical scanning on 100 percent of U.S.-bound maritime and air containers.[27] No later than three years after the law enters into force, i.e. in 2010, all cargo transported on passenger flights into or from the USA shall be screened. Goods have to be handled at least as securely as baggage.

a) Air

The Implementing Recommendations of the 9/11 Commission Act of 2007 is a Congressional mandate requiring 100 percent of cargo transported on a passenger aircraft to be screened, beginning August 1st 2010. Since this date all air cargo must be screened at the piece level prior to transport on a passenger aircraft for flights originating in the United States. This mandate has since been thoroughly enforced by the Transportation Security Administration (TSA), and inspectors are actively ensuring compliance.

As of August 1st 2010, cargo that is not screened is not permitted to be transported on a passenger aircraft for flights originating in the US. Some airlines have indicated that cargo which they receive that is not screened in the CCSP program may be subject to delay, or earlier acceptance cut-off times, primarily at the major gateway airports.

According to TSA the implementation of the mandate in August 2010 has not led to any significant problems, however foreign inbound cargo has seen some delays and a 100% rate has not been achieved yet. It is envisioned by TSA that for foreign inbound cargo 100% scanning will be reached by 2013.[28] For more information on how this system is implemented at the moment we advise you to contact the US TSA or follow the links that are provided at the end of the text..

b) Maritime

The Department of Homeland Security was supposed to draw up a plan on how it is possible to scan 100% of all goods containers in foreign ports on route to the USA in order to detect radioactive material. Accepted technologies are radioactive scanning and scanning with gamma ray technology to detect unknown objects. The plan shall be implemented by 2012 at the latest and contain annual indicators on the degree of progress that has been made towards the goal. Based on the experience from a first trial phase, the US CBP (Customs and Border Protection) has drawn the conclusion that 100% scanning of all containers cannot be achieved by the envisioned date of 2012. We have been informed of several discussions between CBP and TSA on this programme, information exists that there is growing concern about its implementation.

[27] Kommerskollegium Study on Supply Chain Security, p.42

[28] Flying Typers Vol. 9 No. 119, Wednesday November 3, 2010: http://www.aircargonews.com/1110/FT101103.html

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The latest information CLECAT received through various channels, but mainly within the scope of the Maritime Industry stakeholder Forum (MIF), has indicated that 100% scanning may be significantly weakened in the near future. From an operator's point of view this means that no significant investments should be made at the moment to accommodate 100% scanning (this is more a problem for ports and airports).

In December 2009 State Secretary Janet Napolitano confirmed that the U.S. Department of Homeland Security is proposing to push back by two years the deadline for scanning all U.S.-bound ocean-shipping containers at foreign ports. The new deadline for full implementation would thus be 2014. However influential Congressmen have urged the State Secretary to comply with the congressional mandate and implement the legislation by 2012. Other bodies in the US have on the other hand proposed to replace the 100% scanning requirement with a stringent risk analysis approach. As there are many diverging opinions on the matter it is difficult to assess what will happen in the near future. Forwarders should however be aware that 100 % scanning is based on US legislation and will therefore not go away, unless it is repealed or modified with another law.

CLECAT has, in unison with many other stakeholders and institutions (EU Commission, Fiata, WCO, etc.) repeatedly voiced their concern about this legislation. Now the US Congress finally seems to acknowledge the problems arising from this legislation. It is most likely that on the one hand a few high risk corridors will be identified where 100% scanning could be applied, while the 10+2 security filing (see for more details below item 3) could take over by implementing a system based, risk assessment approach in the US.

The European Commission has at the beginning of 2010 published three different studies, commissioned by three different DG's. The studies came to the conclusion that the legislation is disruptive to the supply chain, very expensive with only little or no benefits for the security of the supply chain. However, while the US TSA came to similar conclusions, i.e. that there are a lot of problems with lack of technology, the costs, acceptance in industry and partners, it is still a US law, which needs to be implemented. This has also been underlined by US politicians that have publicly demanded the swift implementation of the legislation. Other US bodies like the US GAO, have on the other hand warned that implementation in its current form is not feasible.

The process is still in flow and under heavy discussion in the USA as well as internationally. We advise any freight forwarder to keep close eye on this issue. However the item will become more relevant in 2012, where it will be seen whether the legislation can be implemented in time or not. CLECAT will keep you informed about any new developments in that respect.

Links:

- Latest statement by Acting Commissioner Jayson P. Ahern, U.S. Customs and Border Protection (April 2009)
- GAO report on feasibility of container scanning by 2012
- Speech by Secretary of Homeland Security (DHS) Janet Napolitano given to the Senate Commerce Committee (December 2009)
- European Commission studies on 100% scanning by the Directorates-General for
  - Taxation and Customs Union
  - Transport and
  - Trade
- TSA website on Air Cargo Security Programmes

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- Lufthansa Cargo information sheet: "100% Air Cargo Screening: Remaining Steps to Secure Passenger Aircraft"

2. US Advance Manifest Regulation ("24-hour rule")[29]

Another security related rule, with which one needs to be familiar when dealing with US Customs, is the Advance Manifest Regulation (AMR). This regulation is fully implemented at this point in time. It affects goods to be shipped by container to the US, for which now a notification has to be sent 24 hours before the goods are loaded on a ship. US Customs is now able to make advance examinations of high risk consignments. In case a company does not abide by the rule the result may be legal action. As ultimate measure the permission to discharge the entire ship may be refused. To process the data and apply a risk-based approach US CBP uses the Automated Targeting System (ATS), which applies hundreds of pre-programmed selection criteria to determine the containers that shall be extracted for inspection and each consignment is given a factor based on terrorist risk.

The following information has to be provided on the advance manifest:

- Foreign port of departure
- Carrier's Standard Carrier Alpha Code (SCAC)
- Voyage number
- Date of scheduled arrival
- Numbers and quantities from the carrier's bills of lading
- The first port of receipt of the goods
- Precise description of the goods and/or the Harmonized Tariff Schedule (HTS) code
- Shipper's complete name and address or identity number
- The consignee's name and address or identification number
- Vessel name, national flag, and vessel number
- Foreign port where the cargo was laden on board
- Hazardous material indicator, if cargo of this type is to be shipped
- Container number
- Seal number affixed to the container

The legislation applies also to air transport, where the information shall be submitted to CBP directly after the departure of the flight. This makes it possible for the CBP to identify high risk goods through their ATS.

Links:

- US CBP: Website with information on Advance Electronic Information
- US Bureau of Customs and Border Protection Regulations Concerning Automatic Manifest Filing (summary document by Chalos, O'Connor & Duffy, LLP)

3. US SAFE Port Act[30] (also known as 10+2 importer security filing)[31]

The US government decided, again in the wake of 9/11, to introduce the SAFE Port Act, with which they aim at getting additional information for cargo transport to US ports. This Importer

[29] Kommerskollegium Study on Supply Chain Security, p.38-39
[30] General information: http://en.wikipedia.org/wiki/SAFE_Port_Act ; text of the SAFE Port Act: http://thomas.loc.gov/cgi-bin/bdquery/z?d109:H.R.4954:
[31] Kommerskollegium Study on Supply Chain Security, p.38 ff

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Security Filing and Additional Carrier Requirements ("10+2 rule") is a more recent extension of the "24 h rule". This new rule applies only to import cargo arriving to the United States by vessel. It does not apply to cargo arriving by other modes of transportation.

Under the new rule, before merchandise arriving by vessel can be imported into the United States, the "Importer Security Filing (ISF) Importer," or their agent (e.g., licensed customs broker), must electronically submit certain advance cargo information to US Customs and Border Protection (CBP) in the form of an Importer Security Filing. The ISF Importer is required to submit the Importer Security Filing. The ISF Importer is the party causing the goods to arrive within the limits of a port in the United States by vessel. Typically, the ISF Importer is the goods' owner, purchaser, consignee, or agent such as a licensed customs broker. However, for Foreign cargo Remaining On Board (FROB), the ISF Importer is the carrier.
For immediate exportation (IE) and transportation and exportation (T&E) in-bond shipments, and goods to be delivered to a foreign trade zone (FTZ), the ISF Importer is the party filing the IE, T&E, or FTZ documentation.

In respect of shipments consisting of goods intended to be entered into the United States and goods intended to be delivered to a Foreign Trade Zone ISF Importers, or their agent, must provide eight data elements, no later than 24 hours before the cargo is laden aboard a vessel destined to the United States. Those data elements include:

- Seller
- Buyer
- Importer of record number / FTZ applicant identification number
- Consignee number(s)
- Manufacturer (or supplier)
- Ship to party
- Country of origin
- Commodity Harmonized Tariff Schedule of the United States (HTSUS) number

(ISF Importers have flexibility with respect to the submission of the latter four data elements.)

Next to this two additional data elements must be submitted as early as possible, but no later than 24 hours prior to the ship's arrival at a U.S. port. These data elements are:

- Container stuffing location; and
- Consolidator

In respect of FROB, IE shipments, and T&E shipments for shipments consisting entirely of FROB and shipments consisting entirely of goods intended to be transported in-bond as an IE or T&E, the Importer Security Filing must consist of five elements. Importer Security Filings for IE and T&E shipments must be submitted no later than 24 hours before the cargo is laden aboard a vessel destined to the United States and Importer Security
Filings for FROB must be submitted any time prior to lading. The following five data elements must be submitted for FROB, IE and T&E shipments:

- Booking party
- Foreign port of unlading
- Place of delivery
- Ship to party
- Commodity HTSUS number

According to the Kommerskollegium study the importer and carrier are the parties that will primarily be obliged to provide the information and they will be able to do it through the

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computer systems which they normally use to communicate with CBP and, at a later stage, in the Automated Commercial Environment (ACE).[32]

Links:

- US CBP 10+2 security filing information page
- Importer Security Filing "10+2" Program - FAQ (Last update July 2010)
- US CBP information on ACE (with further links)
- GAO report "Supply Chain Security: CBP Has Made Progress in Assisting the Trade Industry in Implementing the New Importer Security Filing Requirements, but Some Challenges Remain" (September 2010)

4. Canadian Advance Commercial Information (ACI)[33]

This programme introduced more effective risk management processes and tools to identify threats to health, safety and security before cargo arrives in Canada. There are requirements for maritime cargo and for air cargo. EDIFACT messages are used for transmitting the air cargo and conveyance reporting, while EDIFACT and ANSI can be used for air supplementary reporting.

- Air
  Here the ACI programme requires all air carriers and freight forwarders, where applicable, to electronically transmit conveyance, cargo and supplementary cargo data to the CBSA four hours prior to arrival in Canada. If the flight is less than four hours in duration, conveyance, cargo and supplementary cargo data must be reported at the time of departure from the foreign airport.
- Maritime
  The ACI programme requires carriers to electronically transmit marine cargo data to the CBSA 24 hours prior to loading cargo at a foreign port (including the U.S.). If the voyage is less than 24 hours in duration, the cargo and conveyance data must be reported at the time of departure from the foreign port.

While ACI phases 1 and 2 require air and marine carriers to submit pre-arrival cargo and conveyance information electronically (see above), phase 3, which is the eManifest initiative, will increase the responsibility on the Carrier to provide trade data before goods arrive at the border. Following the implementation period there will be six months of informed compliance where penalties will be waived. After this grace period expires the CBSA will assess through the Administrative Monetary Penalty System (AMPS), if the goods arrive at the border without a prior ACI security filing.

Once ACI is fully implemented the CBSA will focus on the importer filing requirements called "Advanced Trade Data" (ATD). This is Canada's equivalent to the U.S. Importer Security Filing (10+2) programme (see above for more information on the US programme).

Links:

- Canada Border Services Agency
  - Advance Commercial Information
  - ACI requirements for air transport
  - ACI requirements for maritime transport
  - Information about eManifest and its implementation timeline

[32] Kommerskollegium Study on Supply Chain Security, p.40
[33] See also Kommerskollegium Study on Supply Chain Security, p.46

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5. *Japanese Regulated Agent regime*

There is a regulated agent regime in place in Japan, which we will briefly highlight in the following paragraphs.

Similar to the EU security regime of Regulated Agents, also Japan has a RA scheme in place, based on ICAO Annex 17 and the security manual (restricted). Since April 2006 the regime is fully implemented. Smooth loading of secure air cargo is allowed, while air cargo not identified as secure needs to be screened by regulated agents or air carriers. The Japanese Civil Aviation Bureau published guidelines for regulated agent approval standards.

Screening of cargo needs to be conducted before cargo can be loaded on a passenger aircraft. Financial support can be given to involved parties, i.e. also freight forwarders, for bearing the necessary costs.

Inspections are conducted by the Civil Aviation Bureau, especially checking the security measures for air cargo, confirmation of known shippers, specific methods of safety confirmation, education and training in aviation security and the state of implementation of self-inspection.

For more information on the regulated agent in Japan, we advise to check the presentation on Japanese air cargo security, which has been added to the Links.

Links:

- Japanese Civil Aviation Bureau on Aviation Security
- PowerPoint Presentation on Japanese aviation security regimes

6. *Mexican 24-hour rule*

Since 1st of November 2007 and similar to the Canadian and US Customs cargo security filing rules, the Mexico 24-hour Rule requires all transporters of maritime cargoes to Mexico to electronically file cargo manifests into Mexican Customs 24 hours prior to loading Mexico-bound shipments at foreign ports of loading.

Ocean carriers, freight forwarders and NVOCCs, who issue bills of lading to transport cargo to Mexico, must comply with these rules. However, ocean carriers cannot file on behalf of their freight forwarder/NVOCC customers.

The information can be conveyed electronically in two ways: through the website of AMANAC (Asociación Mexicana de Agentes Navieros, A.C.), which is an association of Mexican maritime agents, or through the website of AMACARGA (Asociación Mexicana de Agentes de Carga, A.C), which is an association of Mexican freight forwarders. Both will charge for the use of their websites. You can find their websites in the Links section below.

In order to make the security filing a carrier/freight forwarder must have a Harmonized Alphanumeric Carrier Code (CAAT), which can be obtained from the Mexico Customs' General Customs Administration (AGA). Please be aware that this code is only given to Mexican companies, i.e. any carrier or freight forwarder who is not a Mexican corporation must request its Mexican agent to allow the use of its CAAT on a shipment-by-shipment basis.

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The information that needs to be submitted is very similar to the US and Canadian information requirements. For more details, which information exactly is needed, please check the FAQ, to which you will also find a link in the Links section below.

Links:

- Mexico 24-hour rule: Frequently Asked Questions (by tradetech.net) (last update 15th July 2010)
- AMANAC (Spanish only)
- AMACARGA (Spanish only)
- AGA (Administracion General de Aduanas) ➔ Mexican Customs Administration (Spanish only); request for CAAT needs to be sent to AGA
- Information from CSAV Agency North America on Mexico 24-hour rule

7. *Chinese Customs Advanced Manifest regulation*

The Chinese Customs has introduced an Advanced Manifest regulation[34], which was supposed to enter into force January 2009, with a transitional period of three months. However the date for compliance was pushed back to the end of 2009, which meant that no penalties for non-compliance with the regulation were to be expected from China Customs. However since the 1st of January 2010 the legislation is in place and according to Chinese Customs strict enforcement of the regulation will be implemented.

The measures require all ocean carriers to submit a complete cargo manifest of shipments to be loaded to/from China at least 24 hours prior to cargo loading. The measures are applicable to all import, export and transhipment cargo via any China mainland port. Upon screening of manifest data received, the China Customs will advise back to the carrier whether or not the cargo can be allowed into China. Only if the Custom feedback/response is positive, cargo will be accepted on board. Under no circumstance will the carrier be allowed to load cargo on board if the manifest filing is rejected by Chinese Customs. The measures apply to vessels, aircrafts, railway trains and highway vehicles, transporting goods, articles or passengers.

China Customs is implementing this regulation in a decentralized manner, i.e. each local customs office has the authority to define their own procedure and/or tool to process the required data thus creating various different local situations, be it related to the implementation status (filing yes/no) or the method to comply with the requirements.

The following documents shall be presented by manifest transmission parties to Customs for the registration:

- Application Form for Registration,
- a sample of bill of lading (or waybill) and a sample of shipping order,
- prints of the corporate seal and relevant business stamps of the parties,
- photocopy of license document or certificate of qualifications issued by competent administrative authorities, and
- other documents as required by Customs

The following deadlines for transmission of the manifest apply:

[34] Measures of the General Administration of Customs of the people's Republic of China for the Administration of Manifest of Inbound and Outbound Means of Transport: Decree No. 172 of the General Administration of Customs

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- 24 h before loading onto container vessels, and 24 h before arrival at the first port of call within the Customs territory for non-container vessels;
- Before the time of takeoff for aircrafts with flight time below 4 h; and 4 h before arrival at the first port of call within the Customs territory for aircrafts with flight time above 4 h;
- 2 h before arrival at the first station of call within the Customs territory for railway trains; or 1 h before arrival at the first station of call within the Customs territory for road vehicles.

Links:

- Transmission of data is possible to:
  - China E-port Information Data Centre
  - National Customs Information Centre
  - Local Information Centre (no link)
- China Customs ➔ English website with more information
- Decree No. 172 of the General Administration of Customs ➔ contains all of the above information, as well as more detailed information on how to comply with the regulation.

8. African Cargo Tracking Note System (example case: Nigeria)

A number of African countries adopt at present new safety regulations for imports and exports, called Cargo Tracking Note System (CTN) to improve the safety of their ports. The implementations are based on the ISPS (International Ship and Port Facility Security Code), in line with security implementations in the U.S., Europe and Asia. Among the African countries that have implemented the rules are Nigeria, Benin, Togo, Ivory Coast, Cameroon, Senegal, Burkina Faso, Madagascar, Niger, Gabon, Mali, Niger, Guinea and others. We will examine Nigeria as an exemplary case. Other African states might differ in details, but are supposed to apply similar rules.

The Nigerian Federal Executive Council at its meeting held on 9th of December, 2009 approved the implementation of the Cargo Tracking Note System as part of procedure for cargo security and safety. Consequently from 11th of January 2010 every commodity loaded or unloaded (Import/Export), at or with Nigeria as the final destination has, prior of shipment, to obtain a Cargo Tracking Note or International Cargo Tracking document from a Nigerian Ports Authority representative at all ports around the world.

A shipping company intending to bring cargo into a Nigerian sea port has to clear the ship by obtaining Ship Entry Notice (SEN) two months in advance from the Operations Department of Nigerian Ports Authority. The customer, in the alternative, could obtain clearance through a registered and licensed agent based in Nigeria. This is without prejudice to all other regulations guiding the operations of other relevant government agencies and international laws regulating maritime operations. Requirement of Shipper: a Cargo Tracking Note is with effect from 11th of January 2010, part of the documentation required for cargo clearance, consequently, each bill of lading must correspond to a Cargo Tracking Note issued by authorised representative.

The Company "Transport and Ports Management System (TPMS) Ltd (TPMS Antaser Afrique)", which is designated by the Federal Government of Nigeria, acts as the sole representative of Nigerian Ports Authority and the only authorised agent to issue a Cargo Tracking Note.

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Therefore, all cargo destined for or out of Nigeria (Import/ Export) need to be accompanied by a Cargo Tracking Note (CTN) and every bill of lading has to be accompanied by a corresponding CTN number.

Links:

- TPMS-ANTASER Ltd.
- Nigerian Ports Authority Clearing Procedure – information sheet

9. *Indian Advance Import General Manifest (IGM)*

India introduced the Advance Import General Manifest (IGM) under section 30 of the Customs Act, 1962. - F.No.450/53/2000-CusIV. The following rules should be followed when importing goods to India.

Heading	Trans-port Mode	Explanation	Respon-sibility	Documents Required	Manifest Filing Time Frames
For Short Haul Flights	Air	Less than 4 hours flights			Import manifest is required to be filed before the arrival of the aircraft.
Domestic sector flights carrying transhipped imported goods from one Indian airport to another airport in India	Air	Would be considered as Short Haul Flights		IEC Code from the Importer / PAN Number of the Carrier / Agent	Import manifest is required to be filed before the arrival of the aircraft.
Normal Import Shipments	Air		Carrier / Delivery Agent	IEC Code from the Importer / PAN Number of the Carrier / Agent	Import manifest is required to be filed 24 hours before the arrival of the aircraft.
Short haul voyages	Sea	Where the voyage from the last port of call is less than 4 days	Carrier / Delivery Agent	IEC Code from the Importer / PAN Number of the Carrier / Agent	Import manifest is required to be filed 10 hours before entry inward of the vessel.
Normal Import Shipments / Transhipments	Sea		Carrier / Delivery Agent	IEC Code from the Importer / PAN Number of the Carrier / Agent	Import manifest is required to be filed 24 hours prior to arrival
Import/transhipment of imported goods through vehicles	Road	Other than vessel or aircraft			IGM shall be filed up to 12 hours after the arrival

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					of the loaded vehicle at the Customs station

IEC = Import Export Code; PAN= Permanent Account Number

Links:

- Indian government's Circular No.30/2004-Cus on Filing of Import Manifest
- Procedure for filing import general manifest

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IV. Overview over Mandatory Programmes

Name/Abbrev./ Year implemented.	Originated Country/Institute	Regul. Body	Route Covered	Modes	Participation /Status	Category	Goal
24 Hour Rule (US), (2003)	US	Customs	From any Country to US Import	Sea	US ports	Govt.- Mandatory	Advanced information
ISPS, (2004)	IMO	IMO	World-wide	Ships and Ports	167 member states	International/ mandatory	Stand. & consist. framework for evaluating risk
Pre-arrival & Pre-departure EU(2009-11)	EC	Member state Customs	Within EU,and any country to EU	Sea	All EU member states	EU-will become Mandatory on 1-1-2011	Advanced information
Japan ACI, (2007)	Japan	Customs	From any country to Japan(imp.)	Sea and air	Japan ports and airports	Govt.- mandatory	Advanced information
Mexico 24 hour Rule (2007)	Mexico	Customs	From any country to Mexico (Import)	Sea	Mexico ports	Govt.- mandatory	Advanced information
10+2 (2009) US	US	CBP	From any country to US (Import)	All	US ports	Govt. mandatory	Advanced information
China24hour Advanced Manifest Rule, (2009)	China	Customs	From any country to China (Import)	Sea	China ports, except for Hong Kong and Macau	Govt.- mandatory	Advanced Information
100 % scanning, (2012)	US	CBS	Global (to US)	Ships & Ports	Pilot phase, 5 ports operating	International mandatory in 2012	Comprehensive SCS

Source: Supply Chain Security Guide, by the World Bank (2009)

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V. Voluntary non-EU Programmes

1. SAFE Framework of Standards (WCO)

The SAFE Framework of standards is an instrument that covers all areas of Customs controls from revenue collection and security to trade facilitation. It is meant to complement the Revised Kyoto Convention, which is a convention on the simplification and harmonization of Customs procedures.

The main general elements of the SAFE include

1. Advance electronic manifest information
2. Risk management
3. Inspection of high high-risk cargo
4. Enhanced trade facilitation for legitimate trade

It comprises of three pillars of Customs networks; Customs to Customs; Customs to Business; and Customs to Other Governmental Agencies. The main objectives of the SAFE is to provide predictability for world trade; to allow closer cooperation between the three pillars; to enable the seamless movement of goods and to provide an integrated supply chain management for all transport modes.

As such the SAFE recommends the AEO concept and also serves as a starting point for national AEO programme implementation. It is not a *de facto* blueprint for setting up, step by step, an AEO programme[35]; it does however provide baseline technical guidance for the implementation of AEO programmes at the global level between WCO Members and the international trade community.

The WCO has also added the SAFE Package[36] incorporating a number of instruments and guidelines along with the SAFE Framework itself. The package includes;

I. The SAFE Framework of Standards
II. Customs Guidelines on Integrated Supply Chain Management
III. AEO Implementation Guidance
IV. AEO Compendium
V. Model AEO Appeal Procedures
VI. AEO Benefits: Contribution from the WCO Private Sector Consultative Group
VII. Guidelines for the Purchase and Deployment of Scanning/Imaging Equipment
VIII. SAFE Data Element Maintenance Mechanism
IX. Trade Recovery Guidelines
X. The Authorized Economic Operator and the Small and Medium Enterprise (FAQ)

The Columbus Programme is the WCO's capacity building programme, which includes getting Member States up to speed on how to apply the SAFE (and therefore the AEO). At the last SAFE Working Group meeting

- 163 Members had signed a letter of Intent to implement SAFE

[35] The WCO is currently working on a step by step blueprint for AEO implementation as well as a compendium of AEO programmes and also, crucially, a list of mutual recognition agreements.
[36] Available here http://www.wcoomd.org/home_pfoverviewboxes_safepackage.htm

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- 120 had asked for Capacity Building Support
- 114 have had Phase 1 Mission (Needs Assessment)
- 83 are in Phase 2 (Implementation)
- 3 countries in the final Phase 3 (South Africa)

The WCO Website has a list of the 163 countries that have expressed the intention to implement the SAFE, and also a map of those countries needing capacity building and their status.
.1

2. USA

a) C-TPAT (Customs-Trade Partnership Against Terrorism)[37]

It is an initiative that has the aim that companies and authorities shall work together to strengthen and improve the entire international supply chain. Please note that C-TPAT only applies to imports to the USA. C-TPAT primarily includes companies with operations in the USA and certain specially invited foreign manufacturers.

Importers need to show compliance on various issues: business partner requirements; container security; physical access controls; personnel security; procedural security; security training; physical security; IT security.

As the C-TPAT mainly applies to US companies, we have abstained from further commenting on it in this paper. However there is extensive information available on the US CBP website, to which we refer in case that you are interested to become a C-TPAT accredited company in the USA. As we have mentioned in the section about the AEO, C-TPAT mutual recognition with AEO is envisioned for 2011.

Links:

- US CBP
  - Overview over C-TPAT
  - C-TPAT Validation Process Fact Sheet
  - C-TPAT Validation Process FAQ

b) TSA Certified Cargo Screening Program (CCSP)

On 16th of September 2009, the Interim Final Rule was published, which enables the TSA Certified Cargo Screening Program (CCSP). The CCSP is a voluntary program designed to assist industry in achieving the 100 % screening[38] requirement. The program enables TSA vetted, validated, and certified facilities to screen air cargo prior to delivering the cargo to the air carrier. Any facility that sends cargo directly to an air carrier (AC) or indirect air carrier (IAC) may apply to become a CCSP.

Facilities that successfully complete the TSA certification process will be designated as a Certified Cargo Screening Facility (CCSF). CCSF's must maintain TSA mandated security standards, most importantly the implementation of methods to establish and maintain the security of screened cargo throughout the supply chain. Through the certification process TSA will certify those

[37] Kommerskollegium Study on Supply Chain Security, p.30 ff
[38] For more details, please see the relevant section further up

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facilities that comply with these requirements. TSA is able to fully enforce these rules. Their options for enforcement of CCSP security standards range from counselling to civil penalties, already in place with fully regulated parties such as an IAC or AC.

CCSF's are required to follow specific procedures when tendering screened cargo to an IAC or AC. Chain of custody standards must be applied, documented, and authenticated from the point of screening through to the point where the cargo is loaded onto a passenger aircraft. Acceptable methods include: vehicle escorts, tamper-evident technologies (e.g. seals, tapes, labels), GPS tracking, or other methods. Additionally CCSF cargo must be tendered with a certification identifying this cargo as screened and coming from a CCSF. A CCSF is responsible for screened cargo until the cargo is tendered and accepted by a currently regulated IAC or AC.

TSA's agreements, one with the European Commission signed on 30th of September 2008, the other with Canada, Australia and European Union member states signed on 2nd of December 2008, are supposed to facilitate common and practical solutions to air cargo screening.

The rule has been applicable since the 16th of November 2009.

Links:

- US Transportation Security Administration (TSA)
- Certified Cargo Screening Program
- The Interim Final Rule as published in the Federal register on 16th of September 2009
- TSA Presentation on "100 cargo Screening on Passenger Aircraft"

3. ISO/PAS[39] 28000:2005[40]

ISO has developed a standard for a specification for security management systems for the supply chain, which was adopted in 2005. It is a standard to enhance security in the supply chain. By complying with this standard it is possible to better control the flows of transport, and to create a secure management of the international supply chain. ISO/PAS 28000:2005 has now been revised by ISO 28000:2007.

The purpose of the standard is to reduce risks to assets, people, cargo, and facilities within the supply chain with regard to crime and terror, thereby increasing the level of reliability

ISO/PAS 28000 is a security standard based on the so-called Plan-Do-Check-Act[41] method:

- Plan: to specify necessary goals and procedures to achieve results, in line with the organisation's security policy.
- Do: to introduce the routines in question.
- Check: to check and measure procedures on the basis of the security policy, goals and objectives.
- Act: to continuously improve security management systems.

ISO 28000 can be used by companies or organizations of all sizes. It will help companies in establishing, implementing, maintaining and improving a security management system; assuring compliance with stated security management policy; demonstrating such compliance to third parties; seeking certification/registration of one's own security management system by an

[39] International Standardization Office / Publicly Available Specifications
[40] See also Kommerskollegium Study on Supply Chain Security, p.27 ff
[41] For more information: http://en.wikipedia.org/wiki/PDCA

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accredited third party certification body; or making a self-determination and self-declaration in compliance with ISO/PAS 28000.

It is necessary to be certified by a competent company/authority. Typical steps for a certification process would be[42]:

1. Project discussion
2. Pre-audit (optional)
3. STAGE 1 Certification audit
4. STAGE 2 Certification audit
5. Issue of certificate
6. Surveillance audits
7. Certification renewal (after three years)

Links:

- ISO/PAS 28000:2005 (withdrawn)
- ISO 28000:2007 (revised version, now payment necessary)

4. Australian Programmes

a) Frontline

Australia established this programme already in 1991. It is based on cooperation with companies to enhance supply chain security. Frontline members sign a Memorandum of Understanding with Customs, which formalises the cooperation. It is a programme based on trust and the dissemination of information. Companies that are conducting international trade can become Frontline members.

While the commitments of the companies are not very extensive (inform Customs of suspicious incidents, enhance cooperation, check and improve internal security arrangements), the benefits of membership are rather limited as well: members are acknowledged by Customs as partners, which establishes a good reputation for the industry. This again is supposed to benefit members, business clients and the community.

Link:

- More information on Frontline (with further contact details)

b) AEO

Australia introduced a pilot project for an AEO scheme in 2006, based on the WCO Safe Framework of Standards. Australian customs stressed that it should be compatible not only with SAFE, but also with C-TPAT and New Zealand's Secure Exports Scheme.

The AEO scheme was originally a pilot project (with only 5 parties participating in it) and was then envisioned to be implemented in the future, once the pilot project had been successfully conducted.

[42] Example taken from TÜV Rheinland: http://www.tuv.com/jp/en/iso28000_step.html

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However, in a final report Australian Customs came to the conclusion that most exporters did not consider participation in a formal supply chain security program as a priority at this time given current levels of facilitation and the limited tangible benefits evident from investment in an AEO scheme. They will remain alert to the possibility that any growing international network of Authorised Economic Operator programmes may develop into a form of trade barrier for Australian traders. For the moment, however, they see further exploration on improving risk management through identification of low risk traders and transactions without the high costs of a formal AEO accreditation regime as a more immediate priority.

Link:

- Summary report on the Pilot Project and the conclusions drawn from it (June 2009)

5. Canadian Programmes

a) FAST – Free and Secure Trade

The Free and Secure Trade (FAST) Programme is only interesting for forwarders that operate between Canada and the USA or Mexico, i.e. has probably only limited value for forwarders based in the EU. However for the sake of globally operating forwarders and to achieve completeness we have included this initiative in the CLECAT handbook.

The FAST programme is a joint initiative between the Canada Border Services Agency (CBSA) and U.S. Customs and Border Protection (CBP) that is supposed to enhance border and supply chain security while making cross-border commercial shipments simpler and subject to fewer delays. It is a voluntary program that enables the CBSA to work closely with the private sector to enhance border security, combat organized crime and terrorism, and prevent contraband smuggling.

All FAST program participants (drivers, carriers and importers) must undergo a risk assessment. FAST-approved participants are identified as low risk, which enables the CBSA to focus its resources and security efforts on travellers of high or unknown risk. When a FAST-approved driver arrives at the border, he or she presents three bar-coded documents to the border services officer (one for each of the participating parties: the driver, the carrier and the importer). The officer can quickly scan the bar codes while all trade data declarations and verifications are done at a later time, away from the border.

Under FAST, eligible goods arriving for approved companies and transported by approved carriers using registered drivers are supposed to be cleared into Canada or the United States with greater speed and certainty, which reduces costs for FAST participants.

Benefits

- You gain access to dedicated lanes (where available) for faster and more efficient border clearance;
- In all highway lanes, including the regular, non-dedicated lanes, you can use your FAST membership card as proof of identity;
- FAST is a streamlined process that reduces delivery times and landed costs of imports;
- There is no need to transmit transactional data for every transaction;
- Minimal documentation required to clear the border;
- FAST provides increased certainty at the border resulting in fewer delays.

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In order to qualify for the streamlined FAST process, goods imported into Canada must meet these conditions:

- They must not be prohibited, controlled or regulated importations as set out in any act of Parliament or provincial legislation;
- They must not be subject to the release requirements of any other government department; and
- They must be shipped directly to Canada from the continental United States or Mexico.

Link:

- CBSA website on FAST
- US CBP website on FAST

b) Canada's PIP (Partnership in Protection)

PIP is a Canada Border Services Agency (CBSA) program that enlists the cooperation of private industry to enhance border and trade chain security, combat organized crime and terrorism and help detect and prevent contraband smuggling. It is a voluntary program with no membership fee that aims to secure the trade chain, one partnership at a time.

To enhance cross-border security, the CBSA has signed Mutual Recognition Arrangements recognizing the compatibility of its PIP program with the following foreign programs:

- June 2008 – U.S. Customs and Border Protection – Customs-Trade Partnership Against Terrorism (C-TPAT) program
- June 2010 – Japan Customs and Tariff Bureau – Authorized Economic Operator (AEO) program
- June 2010 – Korea Customs Service – Authorized Economic Operator (AEO) program
- June 2010 – Singapore Customs – Secure Trade Partnership (STP) program

There are two categories in PIP, members and associates, the member can take advantages of the programme benefits and receiving information and may participate in programme consultations. Freight forwarders are eligible to become a PIP member.

These are the requirements to become a PIP member:

- Security Profile
- CBSA security review and assessment
- Memorandum of understanding

Link:

- Canada Border Services Agency: PIP website with further information

6. New Zealand's Secure Exports Scheme (SES)

This is the New Zealand programme for ensuring supply chain security. The Secure Exports Scheme is voluntary and open to all exporters, by all modes of transport, to all destinations. If a company becomes a member they make a firm commitment to have measures in place to protect their goods against tampering, sabotage or smuggling, from the point of packing containers, to delivery at a site for export loading. There will be a standard process for all businesses that participate in supply chain security. Every business that applies to join the Secure Exports Scheme will be required to make a commitment to security measures with

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Government, represented by Customs. As a benefit the government will seek to minimise red tape and compliance costs wherever possible.

Links:

- Presentation by New Zealand Customs on the SES
- New Zealand Customs Service Secure Exports Scheme
- Close cooperation and coordination between C-TPAT and SES (US CBP Press Release)

7. Singapore's Secure Trade Partnership (STP)

Launched on 25th of May 2007, the Secure Trade Partnership (STP) is a voluntary certification programme administered by Singapore Customs that encourages companies to adopt robust security measures in their trading operations, thereby contributing to the improvement in the security of the global supply chain.
Benefits are:

- Cargo is less likely to be inspected;
- Recognition as a low risk company i.e. enhanced branding;
- Reduced inspection or expedited clearance should certified status be also recognised by overseas countries;
- Designated account managers;
- Other trade facilitative benefits such as BG reduction; and
- STP companies will automatically be recognised as a known consignor (KC) under the Regulated Cargo Agent Regime (RCAR).

Links:

- Singapore Customs: About STP
- How to apply for STP

8. Japanese AEO Programme

Japan has introduced and further developed their AEO programme since 2006. Eligibility and requirements to be an AEO are consistent with the standards included in the WCO SAFE Framework of Standards (see above for more details). Any operator who wants to become authorized shall apply to the Director-General of regional Customs. The eligibility consists of four core elements:

- Appropriate compliance records
- Capability to use e-system for Customs procedures
- Capability to conduct related operations properly and
- Establishment of a Compliance Programme (CP)

The points to be included in the CP are as follows:

- Organizational Set-up: includes establishment of a centre office to manage CP and CP units in each department and ensuring the proper operation at each department.
- Contracting Parties (Business Partners) Requirements: includes ensuring the adequacy of business partners in relation to the performance of the CP including security aspects and establishment of a framework to ensure proper operations by business partners.
- Cargo/Conveyance/Premises Security: includes appropriate management of the cargoes and establishment of a framework to check the route and the mode of transportation, as

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well as proper track of the movement of the cargoes. Use of appropriate locking devices, fencing and lighting, setup of video surveillance cameras, and periodic patrolling are also included in this category.

- Due Customs Procedures: includes making a list of cargoes (including description, mark, tariff classification, tariff rate, applicability of trade control laws and regulations) and timely updates of such list.
- Consultation/Cooperation/Communication with Customs: includes establishment of a route of report to Customs on any accident or misconduct in implementing the CP.
- Crisis Management: includes establishment of a framework to ensure route of report in case of emergency and to take remedial and preventative measures.
- Education/Training: includes establishment of a framework to plan education and training programs and to implement those programs on a periodic and continuing bases.
- Internal Audit: includes establishment of a framework for internal audit to ensure proper implementation of the CP. In other words, self-audit is the obligation for an AEO in Japan.

Please note that the EU and Japan have reached mutual recognition of their respective AEO systems in June 2010.

Details of the application procedure and more detailed information in general can be found in the links provided at the end of this section.

Links:

- Japan's AEO Programme (presentation April 2008, pdf)
- Japan's AEO Programme (May 2008, PowerPoint presentation)
- Website Japan Customs (English)
- AEO (Authorized Economic Operator) Challenges of Japan Customs (Pamphlet)
- Laws and Regulations on Japan's AEO
  - Structure of Laws and Regulations
  - (Attachment) Laws and Regulations on Importers
  - (Attachment) Laws and Regulations on Exporters
- Check Sheet for the Compliance Program for Importers/Exporters
- "The European Union and Japan sign mutual recognition of Authorised Economic Operators" (Press Release DG MOVE)

9. Transported Asset Protection Association (TAPA)

This is a voluntary, private sector association that sets freight security requirements in the global supply chain. Its membership is voluntary and requires a fee. The original programme was extremely asset based, but it has since expanded into other areas of the SC.

The aim is to protect the assets of the high tech industry in the supply chain by:

- Exchanging information on a global basis
- Co-operating on preventive security
- Increasing support from the logistics and freight industry and where appropriate, from law enforcement and governments
- Work as a parallel organization with TAPA US/ APAC.

Link:

- Benefits and further details can be found on the TAPA website

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10. BASC[43]

BASC is a Latin American voluntary security initiative. BASC was introduced in 1996 and has developed into an organisation that secures the integrity of the supply chain and covers a large number of security issues. Currently the programme includes a list of some 100 security measures. The vast majority of BASC participants are Latin American companies.

Requirements to become BASC certified:

- A company needs to be actively involved in logistics, production or service activities related to foreign trade.
- The company must be legally established and have commercial activities in the country, as well as overseas, that will permit the validation of the company and its partners and directors. A company must have a clean criminal record and cannot be suspected of crime either by national or foreign authorities.
- The company must comply with the approved registration process, in accordance with the BASC procedures.

Links:

- BASC website (World BASC Organisation, WBO)
- Admission and requirements to become BASC certified
- Document on audit and certification procedure for organizations in non-BASC countries

[43] A detailed analysis can be found in Kommerskollegium Study on Supply Chain Security, p.45 ff

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VI. Overview over Voluntary Programmes

Name/. Year started	Originated Country/ Institute	Regul. Body	Covered route	Mode	Participation/ Status	Category	Goal
TAPA, 1997	US	BoD	Only truck transport routes in US, ME, AF, and Asia	Truck	207 members	Private voluntary	Crime incident reporting/ identify solutions/share information
C-TPAT, 2001	US	CBP	From any country to US (import)	All	6375 certified and 3916 validated companies	Govt. voluntary	SCS
CSI, 2002	US	CBP	Applied to Imports to US	Sea	58 ports	Govt. Voluntary	SCS
WCO SAFE FoS, 2005	WCO	WCO	Worldwide	All	156 Members States	Intl. Voluntary	Standards for SCS and trade facilitation
ISO28000 Series, 2005	ISO Technical Committee	ISO	All	All	157 member countries	Intl. voluntary	Improve SCS
EU-AEO, 2008	European Commission	DG Taxation and Customs	Any country to EU import, export	All	192 companies	Govt. voluntary	Trade facilitation and SCS

Source: Supply Chain Security Guide, by the World Bank (2009)[44]

PLEASE NOTE: The hyperlinks that are provided at the end of each section are only useable in the electronic format. To obtain more information, please get in touch with the CLECAT Secretariat (info@clecat.org).

[44] Please note that the Japanese AEO Programme is missing in this table.

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VII. CONCLUSIONS

After this long, and probably not exhaustive list of requirements, one cannot fail to feel that one aspect has not been dealt with in any of the above rules: the operators' liability. This is a source of concern for our companies and it will certainly be one of the chapters that will come to the fore as the main element for political debate in future. Many commentators have observed that no additional liability other than those already existing should be attracted by complying with existing regulations, but the debate is open on which additional liabilities exist, if any, for those who decide to comply with voluntary schemes.

This document is intentionally not exhaustive, as it aims primarily at addressing the concerns of EU based logistics service providers in their efforts to enhance the security of their supply chain. As we stated above it is to be considered as work in progress. For this reason all additional relevant information can be added by submitting your information or your request of amendments to the Secretariat of CLECAT, by e-mail to info@clecat.org.

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