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C-TPAT and the GreenLane

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The Customs-Trade Partnership Against Terrorism (C-TPAT) is a voluntary program developed by the US Customs and Border Protection (CBP) to provide a framework for supply chain security enhancement. At its most basic level, it envisions participants in the international supply chain (e.g., manufacturers, shippers, carriers, and importers) working collaboratively to tighten the steps and processes of international commerce so as to reduce the risk of terrorism. In exchange for the commercial sector undertaking these efforts, the CBP would provide various benefits, including a reduced number of inspections (resulting in reduced border times) and an emphasis by CBP on self-policing (rather than agency inspections and verifications).

CBP views the program as a great success, but with room for improvement. Various members of Congress view C-TPAT as a good first step, but in need of more uniformity, more defined benefits, and systematic verification. Entities in the supply chain have a mixed perspective. Some see it as an excellent framework on which to erect a sophisticated security system and they participate whole-heartedly. Some others see it as a necessary condition of doing business in the United States and they participate reluctantly. A few see it as a means to receive trade benefits at minimal cost and they participate on paper only. Most participants would concede that tangible benefits received from the government are minimal and difficult to quantify. Some security experts argue that C-TPAT has created a Trojan horse that creative terrorists could utilize to infiltrate and wreak havoc with the US trade system.

What is C-TPAT?

Commercial participants in C-TPAT must sign an agreement with CBP that commits them to undertake various actions. The participant must conduct a comprehensive self-assessment of its supply chain security utilizing as a reference the C-TPAT security guidelines. These guidelines address procedural security, physical security, personnel security, education and training, access controls, manifest procedures, and conveyance security. The participant must submit a completed supply chain profile questionnaire to CBP. The participant must develop and implement a program to enhance security throughout its supply chain in accordance with C-TPAT guidelines. Finally, the participant must communicate the C-TPAT guidelines to other businesses in its supply chain and work toward building those guidelines into its relationships with those companies.

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The problem from the beginning has been verification and policing. As revealed in a recent report by the Government Accountability Office (GAO), CBP devoted few resources to C-TPAT and performed few examinations to determine whether companies were actually doing what had been promised. Companies that did little or nothing were receiving the same benefits as companies that were devoting significant resources to the program.

Changes instituted March 1, 2006

Bowing to some of the criticism, the CBP instituted various changes effective March 1, 2006, with particular emphasis on sea carriers. A sea carrier wishing to join C-TPAT on or after that date must have written and verifiable procedures for screening its agents and service providers contracted to provide transportation services for the carrier. Taking a page from the aviation community's "known customer" program, the sea carrier must also have screening procedures for new customers, including indicators of whether the customer appears to be a legitimate business or whether it poses a security risk. The sea carrier must periodically assess its supply chain partners to ensure that they are adhering to the C-TPAT requirements. The sea carrier must exercise prudent oversight for all cargo loaded on its vessel, pursuant to applicable law and regulation.

Emphasis on container security

Sea carriers and/or their marine terminal operators must have processes in place to comply with seal verification rules and seal anomaly reporting requirements once promulgated and mandated by the US government. Importers participating in C-TPAT are required to have all containers inspected prior to stuffing. Sea carriers must visually inspect all US-bound empty containers, inside and out, at the foreign port of lading. Written procedures must stipulate how seals in the sea carrier's possession are to be controlled. Procedures should also exist for recognizing and reporting compromised seals and containers to the appropriate authorities consistent with the seal anomaly reporting requirements once promulgated and mandated by the US government. The sea carrier must store containers in its custody in a secure area to prevent unauthorized access and/or manipulation. Procedures must be in place for reporting detected, unauthorized entry into containers or container storage areas to appropriate local law enforcement officials.

Transition

Sea carriers that are already enrolled in C-TPAT have been afforded ninety (90) days to meet or exceed these new requirements, which are only summarized and highlighted above. Verification examinations by CBP will be increased to ensure that C-TPAT participants are actively undertaking all required measures.

Congress still not satisfied

Influential members of Congress are well aware of the efforts of CBP to enhance C-TPAT. While supportive, they do not view these efforts as sufficient. Legislation has been introduced in both the Senate and the House of Representatives that will, if enacted, ratchet the process up even further.

In the Senate, the GreenLane Maritime Cargo Security Act (S. 2459) has been introduced by Senators Collins (R-ME) and Murray (D-WA). This bill would convert C-TPAT to a statutory program, with three levels of participation. The lowest (or tier one) level, with minimal requirements and self-certification, would provide minimal benefits. The tier two level, requiring CBP verification, would provide defined benefits, including reduced searches, priority processing for searches when undertaken, and reduced scores in the CBP Automated Targeting System. The third tier – denominated as the GreenLane – would provide additional benefits to validated C-TPAT participants that demonstrate a sustained commitment beyond the minimum requirements. GreenLane participants would be entitled to: (1) expedited release of GreenLane cargo into destination ports within the US during all threat levels; (2) reduced or eliminated bonding requirements for GreenLane cargo; (3) preference to GreenLane vessels; (4) a further reduction in CBP searches; (5) priority processing for searches; (6) further reduced scores in the Automated Targeting System; and (7) streamlined billing of any customs duties or fees.

In the House of Representatives, the Security and Accountability for Every Port Act or SAFE Port Act (H.R. 4954) has been introduced by Representatives Lungren (R-CA) and Harman (D-CA). This bill is largely similar to its Senate counterpart. While the House bill is not as detailed as the Senate bill with regard to the C-TPAT program, its overall goal of enhancing and regularizing the program by directing establishment of clear standards and defined benefits is the same.

The Senate and House bills are long overdue, but now appear to be on the fast-track to adoption. The missing elements, which these bills can not fill, are funding and regulatory standards for secure containers and container seals. The Department of Homeland Security and numerous others have been working to develop and implement container and container seal standards, but hurdles still remain. Funding will continue to be a problem until the appropriators recognize that the cost of prevention is far, far less than the cost of reconstruction following a terrorist incident.