



18th OSCE ECONOMIC AND ENVIRONMENTAL FORUM

1-2 February 2010
Vienna - Austria

Implementation of the SAFE Framework of Standards and the Revised Kyoto
Convention to Improve Trade Security and Trade Facilitation

Remarks by
Michael Schmitz
Director Compliance & Facilitation
World Customs Organization
Brussels, Belgium

The WCO and the OSCE have, over the years, worked as partners to improve both trade facilitation and trade security. The WCO is very pleased to be part of the 8th Economic and Environmental Forum.

The World Customs Organization (WCO) is an independent, international intergovernmental, organization established by the Customs Cooperation Council Convention of 1952 and is currently made up of 176 Member states. Unlike most international intergovernmental organizations, the private sector and observer organizations actively participate at the WCO in the discussions and debates surrounding Customs trade facilitation and trade security activities.

The primary goal of the WCO prior to 9/11 was to facilitate the global supply chain, after 9-11, the primary goal of the WCO was to secure and facilitate the global supply chain.

Although the pendulum has recently begun to swing back toward trade facilitation. The WCO does not view trade security and trade facilitation as mutually exclusive propositions. We view security and facilitation of the global supply chain as opposite sides of the same coin. The WCO believes that properly focused and adequately layered risk managed approaches to supply chain security will actually facilitate global trade by permitting Customs to focus its limited resources on cargo that is moving in supply chains that have not been secured. Antidotal evidence since 9/11, indicates that increased Customs security measures have actually increased trade facilitation. The World Bank's Annual Doing Business Report stated that : "the interesting and rather surprising result was that improved security in many cases made trading across borders faster, not slower." One reason for this apparent increase in facilitation may be, at least in the opinion of the WCO, Customs new focus on exportation and the receipt of manifest and other appropriate trade and transport information earlier in the movement of goods within the global supply chain.

Customs administrations worldwide face a trade facilitation trade security dilemma, on one hand there was, at least until recently, the continuing growth in legitimate international trade, while on the other hand there is the illicit cross border movement of weapons of mass effect, drugs, counterfeit merchandise, dual use chemicals, small arms, nuclear material, undeclared merchandise, currency, cultural property, endangered species, pornography, trafficked human beings, hazardous waste, unsafe foodstuffs and dangerous consumer products.

In light of these concerns, Nations seek from their Customs administration's economic and physical security, while international traders look for uniformity, predictability, transparency and efficiency in their dealings with Customs. The WCO finds itself in the business of globalizing and to the extent possible standardizing Customs control efforts to improve both the security and facilitation of the global supply chain. Our most visible efforts to this end are the Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures and the SAFE Framework, a global supply chain initiative developed at the WCO by the international trade community and WCO Member states to secure and facilitate the global supply chain. The standards set forth in both the RKC and SAFE apply to all modes of transport in international trade.

In the 15 to 20 years prior to 9/11, many Customs administrations began focusing more on trade facilitation rather than continuing to support unnecessary Customs controls. At the WCO, this trade facilitation focus lead to the negotiation of the RKC between 1995 and 1999. The international trade community was an active and valuable participant in the negotiation of the RKC. Today, **66** WCO Member states, including almost all of the world's major trading nations, are signatories to the RKC and well over 85% of world trade is currently managed under RKC procedures. 95% of the trade facilitation proposals submitted to the WTO in the Doha Round are consistent with the RKC. However, 9/11 caused the world to refocus on Customs control and recognize a simple truth : every nation has an absolute right to determine who and what crosses its national borders. The instrument of this exercise of sovereign control is, and always has been, Customs.

Between 2002 and 2005, the WCO Member states and the international trade community worked together to produce what us now called the SAFE Framework of Standards to Secure and Facilitate Global Trade. The SAFE Framework is based on and consistent with the RKC. Why did the WCO Member states work so closely with the private sector in the development of both the RKC and SAFE ? While Customs interacts with the global supply chain at importation and possibly at exportation, or in transit or in a free zone,

the private sector controls and manages the global supply chain from end to end. The private sector is also the custodian of large amounts of commercial and transportation information that is critical to effective risk analysis and targeting.

The tools subsequently formulated under SAFE, like the use of advance electronic information, the application of risk assessment, Customs to Customs co-operation, Customs to Business partnerships, coordination, cooperation and collaboration among all border control agencies (Coordinated Border Management) and the use of modern non-intrusive search technology, were developed to provide enhanced security and at the same time facilitate legitimate trade. Because trade facilitation and trade security are inextricably intertwined, the theory underlying SAFE is that appropriate, risk managed, focused and layered trade security measures should actually facilitate the movement of legitimate trade across national borders and thereby protect the global economy. To date 159 of the 176 WCO Member states have signed a "letter of Intent" to implement the SAFE Framework. The SAFE Framework is cited in recent US security legislation and the principles of SAFE are found in the new EU Customs Code.

One of the key elements of both the RKC and the SAFE Framework is the establishment of a risk management system to identify potentially high risk shipments. The use of non-intrusive inspection equipment is also strongly advocated in SAFE, but in accordance with risk management techniques. The WCO is heavily involved in assisting Member states in their efforts to implement the RKC and the SAFE Framework and a large and important focus of this WCO capacity building programme is related to the enhancement of risk management techniques and efficient border control procedures.

In addressing the global supply chain security/facilitation dilemma, the WCO has engaged other regional and international governmental organizations such as United Nations (UN), World Trade Organization (WTO), International Maritime Organization (IMO), International Civil Aviation Organization (ICAO), International Organization for Standardization (ISO), International Labour Organization (ILO), United Nations Economic Commission for Europe (UNECE), Asia-Pacific Economic Cooperation (APEC), the Organization for Security and Co-operation in Europe (OSCE) and the European Union (EU) to assure that the SAFE Framework is compatible with other security and facilitation guidelines being developed by those organizations and does not unduly burden the private sector with conflicting security standards. We work closely with the United Nations Security Council, (UN 1540 Committee Expert Group and 1267 Monitoring Group), the United Nations Counter Terrorism Committee (UNCTC), the International Atomic Energy Agency (IAEA), the United Nations Office on Drugs and Crime (UNODC), the G8, the G20, the World Health Organization (WHO), Interpol, the Organization for the Prohibition of Chemical Weapons (OPCW) and other international organizations on security matters that can impact the global supply chain. We also work with all of these international organizations, as well as, the World Bank, the Regional Development Banks, regional and sub regional organizations and the private sector on training and sustainable capacity.

The WCO believes in collaboration, cooperation and coordination of border control activities at the international, regional and national levels as we seek to secure the global supply chain. Our collaboration and cooperation efforts include both government agencies with border control responsibilities and the private sector organizations such as the IRU, IATA, GEA, WSC and UIC, that deal with the global supply chain in order to find viable solutions to the trade facilitation trade security dilemma.

The WCO and the world's Customs administrations understand the need to work with all private sector participants in the global supply chain. As I said at the beginning of this presentation : unlike most international intergovernmental organizations, the private sector and observer organizations actively participate at the WCO in the discussions and debates surrounding Customs trade facilitation and trade security activities.

At the WCO, we have the Private Sector Consultative Group (PSCG) and a number of NGO Observers who actively participate in the debate and discussions concerning both the trade facilitation and trade security activities of our 176 Member states. For example, UPS, Deutsche Post World, FedEx, International Air Transport Association (IATA), International Chamber of Shipping (ICS), International Chamber of Commerce (ICC), World Shipping Council (WSC), International Federation of Customs Brokers Association (IFCBA), American Association of Exporters and Importers (AAEI) and the Global Express Association (GEA) are members of our Private Sector Consultative Group as well as, over a dozen multinational companies..

Arrangements with WHO and Red Cross on medicine movements to deal with disasters and pandemics. Many of our WCO Member states have Customs/Business Partnership arrangements whereby participants in the global supply chain can constructively engage a Customs administration to review actual or potential problems with Customs clearance, transit and warehousing problems. The WCO has well recognized tools like the Time Release Study (TRS) that can identify where border delays are actually located.

Authorized Economic Operator (AEO) or Trusted Trader Programmers are another avenue to engage national Customs administrations. Today 39 Customs administrations have AEO programmes and 15 Customs administrations are developing them. AEO means that *“To the extent that Customs can rely on its partners in the trade community to evaluate and address threats to their own supply chain, the risk confronting Customs is reduced. Therefore, companies that demonstrate a verifiable willingness to enhance supply chain security will benefit. Minimizing risk in this way helps Customs in performing their security functions, and in facilitating legitimate trade.”* To achieve the ultimate security and facilitation goals of the SAFE Framework, Customs administrations must adopt a transparent and forthcoming attitude in the area of Customs operations that can be further modernized, adjusted and improved to the benefit of the international trade community. In this sense, Customs should proactively consider ways in which they can, based on their current or projected resources, assist the trade in completing their business in the most effective way possible. The international trade and transport communities have experience and knowledge that can benefit Customs administrations in the management of their facilitation and security responsibilities. The private sector should take advantage of this opportunity to forge new and appropriate alliances with Customs, to assist Customs administrations with their security-related mandates while retaining appropriate trade facilitation standards. In order to garner and keep private sector support, it is necessary that there be a clear statement concerning what is entailed in being an AEO. There must be a common understanding of the conditions and requirements of AEO status, which should be specifically enumerated in detail in national AEO programmes. Even more fundamentally, as a first step, there must be clear presentation of the tangible benefits to be realized by participation in the SAFE Framework programme. An appreciation by the private sector of the benefits which may be provided by WCO Member Customs administrations, as well as, the benefits of active participation in efforts to strengthen global supply chain security, is a critical element in the private sector being able to justify the additional costs incurred in the process of enhancing existing security measures. Clear and tangible benefits will help

provide a needed incentive to business. It is best to engage a Customs administration before you begin entry, transit or warehousing activity so that both parties know what to expect.

Implementation of the SAFE Framework of Standards to Secure and Facilitate Global Trade

Background

After the tragic events of 9/11 and the increasing threats posed by transnational crime, including terrorism, there was a need for a new international instrument which would enable Customs administrations to co-operate more closely, using common and accepted standards, so as to enhance control and security in the international movement of goods, whilst also ensuring the required level of trade facilitation for business, in a new, partnership approach. This eventually gave rise to the *SAFE Framework of Standards (FoS) to Secure and Facilitate Global Trade* and its global adoption by Customs administrations.

As we approached five years on from the adoption of the SAFE Framework, the World Customs Organization (WCO) wished to 'take stock' and establish the progress made by Members in the implementation of SAFE. The WCO decided to undertake a specific survey on the subject, focusing on the core elements of Customs-to-Customs cooperation (Pillar 1) which includes the harmonisation of advance electronic cargo information requirements; risk management in relation to security threats; and inspections of outbound cargo.

Crown Agents was commissioned by the WCO to undertake this survey, involving an indicative sample of 30 WCO Member Customs administrations. The survey, based on a questionnaire produced in collaboration with, and approved by, the WCO, was conducted through the month of August 2009.

30 Customs administrations from all the regions were surveyed. We have expanded the survey to all Members via our Members website.

Findings

The findings of this snapshot survey clearly show that WCO members remain engaged with the SAFE Framework. The findings also appear to indicate that those Customs administrations that responded are mobilised towards SAFE Framework implementation and, in most cases, seem to have a strong level of commitment to meeting their obligations. Most administrations have a SAFE implementation (Pillar 1) plan in place and even the few without indicate that they have commenced implementation of SAFE. Two Customs administrations feel that they have completed Pillar 1 implementation whilst another 13 (45%) feel that their implementation is nearing completion.

Security, in the management of inbound, outbound and transit cargo traffic, is a priority for three quarters of those Customs administrations that responded to the survey. Most administrations also indicate that significant investment in a range of inspection and detection technologies to support this new Customs focus has been made.

Nevertheless, indications are that completion of SAFE Pillar 1 implementation will continue to be at each Customs administration's own pace. Some Customs administrations identify capacity strengthening support as a prerequisite for them to achieve implementation. Of those administrations that responded to the survey, most are working towards completion

of Pillar 1 implementation with 41% indicating that completion will take more than two years whereas 21% feel that more than five years will be necessary.

Advance Electronic Cargo Information Requirements

The ability of Customs administrations to acquire timely advance information on cargo, electronically, and their ability to co-operate with their counterparts in its timely provision, for risk management purposes, is central to the successful implementation of the SAFE Framework's Pillar 1 standards.

The survey shows that 79% of the 29 Customs administrations that responded obtain this information for inbound shipments, the traditional focus of Customs activity, however 72% obtain this information for transit shipments. Most importantly, 55% of respondents obtain such information for outbound shipments, with 51% doing so regardless of destination.

This trend, together with the finding that 65% of the responding Customs administrations feel that their cargo information requirements are aligned with those of the SAFE Framework, seems to be a positive indication that post SAFE, Customs administrations have begun to pay more attention to outbound shipments and are becoming better placed to share data with one another.

However, the proportion of responding Customs administrations requiring such cargo information to be supplied electronically in advance for inbound shipments prior to a shipment being exported from another country, is 41%, whilst the proportion for those responding Customs administrations able to supply such information concerning outbound shipments, is 38%. This suggests that while progress has been made in Customs administrations' capabilities to co-operate in identifying high risk cargo at or before the port of departure, in keeping with the SAFE Framework, more remains to be achieved.

Risk Management

The survey indicates a significant level of attention to security as part of border management, focusing on inbound, outbound and transit shipments.

Most of the Customs administrations that responded to the survey indicate that they have an *automated risk management system* and an *automated targeting system* in place to enable effective use to be made of the cargo information they acquire. The majority indicate that they can use their risk management system for both *threat assessment* and *targeting* purposes, with 'security' a *priority* of the system for 76% of the Customs administrations that responded.

The majority of Customs administrations that responded to the survey indicate that they can target inbound, outbound and transit shipments, with more than half (55%) indicating that this activity was supported by a *national intelligence function*. Importantly, all responding Customs administrations indicate that arrangements are in place to exchange information and / or intelligence with other Customs administrations and 83% indicate that they regularly do so.

Moreover, most of the Customs administrations concerned indicate that they have taken several positive, risk management related steps since making their formal commitment to implement the SAFE Framework .

Going forward, more would seem to remain to be achieved in underpinning risk management and targeting systems with a national intelligence function.

Outbound Security Inspections

Outbound security inspections are conducted by 86% of the Customs administrations that responded to the survey, most (76%) undertaken at the behest and request of other Customs administrations.

This seems to indicate that post SAFE, resources are being deployed towards securing international supply-chains at point of departure as required under SAFE, and that co-operation between Customs administrations in the area of security inspections is progressing in the right direction.

The small minority of administrations responding not carrying out such inspections indicate that they require some form of capacity strengthening support in one or other of the following areas: institutional reform, infrastructure development, appropriate technical equipment and/or staff training.

Use of Inspection Technology

Most of the Customs administrations that responded to the survey indicate that they have significant inspection technology at their disposal to support their implementation of SAFE.

Widespread use of Non Intrusive Inspection (NII) equipment is made among the Customs administrations sampled, with 93% of those responding utilising such equipment and 76% utilising radiation detection equipment (RDE), to inspect inbound, outbound and transit shipments. As regards the former, 93% of the responding Customs administrations can deploy their equipment at their countries' major ports whilst the figure for deployment of RDE in this respect was 76%. Most indicate that such equipment is deployed using a risk management approach. Importantly, 52% of responding Customs administrations, indicate that their NII and RDE resources can be deployed to wherever a risk arises. To improve upon this proportion is one of the challenges going forward.

When NII-equipment and RDE are not available, most Customs administrations indicate that their response to any perceived security threat is a document check and / or a physical examination of the shipment.

In addition to the investment in the detection technologies mentioned above the Customs administrations responding to the survey seem to have invested widely in a number of additional security measures including use of customs seals, 'detector dogs', use of mobile teams; closed-circuit television; 'track and trace' and number plate recognition technology. This may suggest an improving capability to operate around the clock.

Although much remains to be achieved in certain key areas, overall the survey indicates that the WCO members surveyed are mobilised towards implementation of SAFE Pillar 1 across each of the core areas concerned, and significant progress has been made with many close to completion.

Security is seen as a priority for 3/4 of the Customs administrations concerned and significant capital investment has been made in supporting technologies and new security measures to underpin SAFE implementation, thereby enabling security and control to be enhanced without inhibiting trade flows.

There remains a requirement to provide capacity strengthening support to members and through its *Columbus Programme* the WCO continues to offer its assistance in this area, together with the support provided by other international organisations, in what is a process of continuous improvement.
