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Prepared by



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Executive Summary

These were the most salient points of the meeting

- The PSCG Chair presented the PSCG's 'List of AEO Benefits'; 'AEO Application and Self Assessment criteria'; and 'Time frames for advance reporting of export data'. The AEO Benefits list was added to the SAFE Package, while the others are currently at the draft stage
- The PSCG also underlined their opposition to the charging of a fee for WCO instruments and standards, in particular the Data Model Version 3. This opinion will be taken to the Council in June
- The SAFE Data Element Maintenance Mechanism was added to the SAFE Package which will be given to all at the Council session this June
- The secretariat updated the group on the latest with the 100% scanning issue. Although security is important, particularly after the 'Underwear Bomber', and that the tide seems to be turning away from 100% scanning, it seems that the issue is difficult to get onto the current administrations agenda as they are concentrating on one single issue at a time
- The remaining '10+2' Importer Security Filing data elements that were not yet in the SAFE received broad support from the Group to be added to the SAFE, though the EU needed more time to examine the issue
- The SAFE Implementation Survey was presented and it was announced that it would be released at the Council sessions
- Rather than setting up a new Technology group it was decided that the currently existing Scientific sub-Committee would take on a broader range of technological issues
- There was a presentation on the EU-China SSTL Project explaining that the project had completed its first phase and would be examined before being applied to more complex supply chains
- Mr Hesselink was re-appointed as Chair of the SAFE Working Group

Report of the 6th SAFE Working Group

1) PSCG Update

Ms Carol West, the Chair of the Private Sector Consultative Group, presented the outcomes of the PSCG over the previous two days. Ms West pointed out that there were now AEO Supply Chain Security Programmes being implemented in more than 35 countries including Japan, the EU, and the US. She said that the PSCG would like to congratulate the WCO for its work on AEO Implementation Guidance and the AEO Compendium, and she also said that they supported the WCO's SAFE Package. With this in mind the PSCG have prepared

- List of AEO Benefits¹
- AEO Application and Self Assessment criteria²
- Time frames for Advance Reporting of export data³

The list of AEO benefits was a completed list which it was hoped could be included in the SAFE Framework, while the other two are at the draft stage. The AEO Benefits list had been presented to the SAFE Working Group in October but there were one or two problems with the wording. It was worked on at the PSCG meeting and is due to be presented later in the meeting in order to have it added to the SAFE package. The AEO Application and Self Assessment criteria and the Time frames for Advance Reporting had also been worked on but were at the draft stage and would be presented only for comment to the Group. These issues were taken up later in the meeting.

Also dealt with at the PSCG meeting was the work of the WCO's Publications department. Ms West said that the PSCG could not support the paying for documents, they are essential to trade compliance (such as the Harmonised System) and in particular the implementation of harmonized processes to manage trade data worldwide such as the WCO Data Model. Ms West said that the PSCG thought that there are significant benefits to broad availability, including:

- improved compliance
- accurate and efficient automated processes
- increased awareness of standards and guidelines globally and in member administrations

Finally she mentioned that there would be three more vacancies for PSCG membership available in 2010 and nominations would be unveiled shortly.

The Chair said that as regards the Publications issue and the costing of the Data Model version 3, the PSCG opinion will be forwarded to the PTC, though they have already taken the position that it should be free and that the issue will not be delved into here. The US delegate said that he too would support the wider distribution of Version 3.

2) Contact with the US

Mike Schmitz the WCO Director of Enforcement reported on his efforts in lobbying against the US 100% scanning initiative. Mr Schmitz said that in October he had reported on a meeting with Janet Napolitano, the Secretary of Homeland Security, who had visited the WCO and was given the research and work that was done on the extent of the take-up and use of the SAFE Framework. Following on from that, she testified in Washington and said that there were many weaknesses with the legislation, and that Risk Management should be the best course of action. It was then that Mr Schmitz went back to meet with the three Senate, and one House,

¹ http://www.wcopscg.org/PSCGAEOBenefits_Apr2010_Final.doc

² <http://www.wcopscg.org/AEOtemplateDecember2009.doc>

³ http://www.wcopscg.org/TimeFramesforExportReporting_April2010.doc

Committees, and that they had all said that the legislation would be unworkable except for the House Homeland Security Committee. In fact there was even talk of amending the legislation and Mr Schmitz said he came away with a very positive feeling; this included the announcement of a possible blanket suspension of the legislation until 2014⁴. Unfortunately since then the 'Underwear Bomber'⁵ has muddied the waters considerably.

Although the focus has shifted to passengers rather than freight, the agenda is still heavily security based. Another problem is that the current administration is focussing heavily on one big issue at a time; most recently with the health bill and now with reform of the banking system and the economic crisis. So Mr Schmitz thinks that this issue will not be reissued by Congress for a while, which means that although the tide may be turning away from 100% scanning it is going to be difficult to have it make the agenda.

In questions to Mr Schmitz the delegate from the UK asked whether there was a case for working with CBP to 'get some language' that would reassure the US that their security is not going to be compromised. Israel agreed and said that although the postponement to the implementation will probably go ahead, everyone needs to work to stop the law for good. Norway asked if there are any indications from the C-TPAT or the 10+2 programmes whether there are to be any cutbacks on these or other security based controls. Mr Schmitz said that budgets were favouring passenger transport now, but was not sure how this would affect current legislation.

3) SAFE Data Elements: Proposal by US to include '10+2' Importer Security Filing data elements in SAFE

Recent studies by the WCO had shown that of the 10+2 elements all were in the WCO Data Model, but 4 of the '10' and some of the status messages of the '2' were not in the SAFE Framework. The 6 data elements are Seller, Buyer, Ship to Party, Importer of Record Number, Consignee Number and Commodity HTSUS Number. The first status message 'Vessel Stow Plan' can be split into 10 separate elements, of which 3 are missing from the SAFE. The second, the Container Status Message, has 6 individual data elements of its own of which only 2 are in the SAFE. The US have proposed that all the 10+2 ISF Data elements are added to the SAFE Framework, in fact the US have said that the "...additional data elements they are proposing would assist other Member administrations in developing and/or enhancing their own targeting and risk management programmes by increasing the transparency of key supply chain participants, cargo and events". This was to be discussed by the Group.

First the US gave a presentation looking at how the ISF was proceeding. Since the rule went into enforced compliance in January there were about 2.3 million files, of which

- Total rejected 3%
- Accepted 97%
- Filers 2,205
- Importers (Importers of record numbers) 117,000
- However there is a need to deal with those who still do not file.

The carriers have been the most prepared of all with over 15 million Container Status Messages so far sent and 5,193 stow plans. Problems have included dealing with the empty containers that are often put on at the last minute, though this was not seen as too big a problem. The US delegate said that since January there have been more than 260 containers that were regarded

⁴ Though the postponement looks probable it will not be official until 2012 when the law is due to enter into force, so an incident could jeopardise the postponement.

⁵ Umar Farouk Abdulmutallab attempted to detonate plastic explosives hidden in his underwear while on board Northwest Airlines Flight 25.

as high risk; of those, 110 would have been labelled as 'no threat' if only the manifest had been used. 25% of the containers were labelled high risk by knowing the importer, another 25% through knowing the exporting and 20% by knowing the consolidator⁶.

Canada said that they supported the inclusion of the elements as the SAFE is a 'living document' and that Canada was looking to implement a similar scheme. The EU had two questions; first what information did the US have to fuel the need for embarking on 10+2, and secondly will this be extended to other modes in the future?

BASC⁷ asked how USCBP are dealing with companies who are experiencing excessive inspection rates; often the shipper/importer does not know the reason for the inspection how can Customs help those who are getting excessive inspections? The International Chamber of Shipping (ICS) brought up an issue that has long been a bone of contention for them, namely the fact that the messages are not official regulated messages, but are rather Business to Business messages. Also they are often in the form of Word or Excel documents, and he wanted to know whether it would be mentioned that these messages would have to be accepted as they came. Carol West reiterated the PSCG concern that it is made clear that this remain within the marine mode.

The US delegate answered with the following

- Regarding whether this would remain in the marine mode, the answer was that yes this was the case
- BASC were invited to take their problem up with USCBP to try to find a resolution
- He said that he was aware of the limitations with the Business to Business messages provided but that they would work with carriers and ports as much as possible to help deal with this, and yes it would be fine to take the documents as they come

The discussion then moved to whether the elements can be moved into the SAFE Framework.

The Delegate from the ICC said that the SAFE is a standard and we have to be careful, there needs to be a convincing case for putting this into the SAFE, and asked whether this could not be limited to the US and Canada only. GEA said that it was imperative that it was made clear that this was for the maritime mode only; otherwise some administrations could see this as an 'across the board' measure. Deutsche Post DHL agreed that the 10+2 was not a standard; it was not a broadly accepted measure across administrations and did not deserve to be in the SAFE as a standard. However the Chair pointed out that this was a maximum list and members do not have to use them all, though it would be a good idea to make it clear that this would be for the maritime mode only. Togo broadly supported the inclusion as long as it was made clear that this was for the maritime mode only. China thought that there would be four points to consider

- we should get consent from all
- we hope that this can allow congress to reconsider their attitude to 100% scanning
- once included the elements will be optional
- this might bring costs to the private sector which should be evaluated

However the Chair pointed out that

- this is only the start of the debate, it has to go through the Policy Commission and the Council yet
- the elements will not be mandatory, they are part of a maximum list

⁶ Though it was not mentioned if the high risk containers actually contained anything 'high risk'

⁷ BASC -Business Alliance for Secure Commerce, is an international business alliance, created to promote secure international trade in cooperation with governments and international organizations operating mainly within South America and the Caribbean http://www.wbasco.org/english/what_is_basc.htm

- although this may increase costs it should also allow for greater risk management meaning goods will flow quicker and easier

Israel broadly supported the measure as did the UK and Australia though they thought that more information would have to be produced from the US. The EU delegate said that although they like the SAFE the way it is he can see merit in the US proposal but the EU will have to give it due consideration amongst the member states and talk with the US and then come back during the Policy Commission and Council to give their results, as such they would not like to give an answer just yet.

The Chair concluded that there was a broad support from Administrations to add the 10+2 elements, insofar as it relates to marine traffic, though the EU cannot commit just yet and will have more talks with the US on this matter.

4) SAFE Implementation Survey

The survey was carried out last June⁸ to find out the status of the uptake of the SAFE Framework. However after criticism at last October's SAFE meeting that the sample group was not big enough (only 30 administrations were chosen) the questionnaire was put on the WCO website and has managed now to take on board another 45 administrations. The current amount of 75 responses makes up approximately half of the SAFE signees. There were also 50 emerging economies covering about 80% of world trade, the list of countries will be made available in the future but no reference to the results of individual countries will be made.

According to the secretariat the results seem to confirm the results of the first survey that there is a general mobilisation towards SAFE implementation. Capacity building is an important element and that implementation takes 30% of the respondents about 2 years, with the rest less time. A selection of figures and data follow;

- 69% required advanced cargo information for inbound traffic
- 59% for transit
- 51% for outbound traffic
- 35% require information prior to exportation of inbound shipments
- 84% have a Risk Management system in place
- Security was a priority for 70%
- 85% have arrangements to exchange information with other Customs administrations
- 85% use NII inspection technology

The secretariat came to the following conclusions

- The SAFE implementation is a process of continual improvement
- Initiatives to facilitate implementation of SAFE are important
- Future monitoring should be done by the Columbus Programme
- There should be a written report to the Policy Commission and Council every year

Questions from the floor started with the US who asked whether there would be a pillar-2 Business to Customs survey any time in the near future, this was echoed by the EU. Mr Schmitz replied that there would be a pillar-2 study done but the priority for the moment must be pillar-1 because of its relationship to the lobbying of the 100% Scanning initiative. SITPRO said that the results were encouraging but was concerned as to whether the countries that said they were taking SAFE implementation measures were actually doing it and was there anyone checking this. GEA was rather surprised at the figure claiming 84% have an automated risk management

⁸ The survey can be found here though access to the members area of the WCO website is necessary http://www.wcoomd.org/members/members_safeimplementationsurveyen.htm

system, taking into account the number of developing countries in the survey that would seem to suggest that nearly 80% of developing countries have some sort of automated risk management system, his own organisations studies tended to contradict this; perhaps a move from self assessment in these questionnaires would be interesting.

The full consolidated report will be presented to the Policy Commission and Council in June later on this year.

5) Capacity Building update

Ms Heike Barczyk presented the WCO's Capacity Building progress. She began by giving the new dates for the Capacity Building, which was disrupted three weeks previous due to the Iceland volcano eruption, as being the 27th and 28th of September.

Regarding the status of the Columbus programme Ms Barczyk said that

- 160 members have signed a letter of intent to the SAFE
- 115 have asked for support
- 111 have cleared phase 1 (the diagnostic stage)
- 78 were now in phase 2 (the implementation stage)

Phase 2 consisted of

- Action planning
- Business case development
- Donor matchmaking
- Operational support
- Train the trainer support
- Management development

The delegate from the ICC asked about the possibility of obtaining advice and training from the trade. The secretariat conceded that this could be important and perhaps the PSCG could get involved.

6) SAFE Package

The Secretariat at the 5th SAFE WG proposed the development of a SAFE Package to bring together all the WCO Instruments and Guidelines that support the implementation of the SAFE Framework of Standards in one convenient place. This proposal was put to the SAFE Working Group in October 2009 who accepted the package which was subsequently approved at the 62nd Session of the Policy Commission in December 2009.

The documents included in the package are as follows:

- SAFE Framework of Standards
- Integrated Supply Chain Management Guidelines (ISCM)
- AEO Implementation Guidance (How to set up an AEO programme')
- AEO Compendium (Members' AEO programmes/Mutual Recognition)
- Model AEO Appeal Procedures
- Frequently Asked Questions for Small and Medium Enterprises
- Guidelines for the Purchase and Deployment of Scanning/Imaging Equipment
- Trade Recovery Guidelines

It was also decided during the meeting to add the SAFE Data Element Maintenance Mechanism in the package. The SAFE Package will be given to every head of administration at the June 2010 Council Sessions. The PSCG and observers will receive a CD ROM version of the package. The US proposed to add the Data Model as well but this will be discussed at the next meeting.

7) AEO Issues

AEO Compendium

The AEO Compendium will contain a list and details of AEO programmes around the world, there are currently 13 programmes in the compendium. The full compendium will be made publicly available after the Council Sessions in June.

AEO Benefits⁹ – submission by the PSCG

This was a submission from the PSCG presented by Carol West the Chair of the PSCG. She said that the document is a response to the question often levelled at the private sector from Customs as to exactly what business want from an AEO programme. This is then a list of benefits that the PSCG would like added to the SAFE package as follows

- mutual recognition of AEO status by Customs administrations
- expedited processing and release of shipments, supported by regular “time required for release” studies
- financial guarantee waivers, reductions or rebates
- notification of intention to release prior to goods’ arrival i.e. pre-clearance
- pre-qualification for simplified procedures, including possibilities for a single-step process, or a two-step process for release/clearance purposes, according to the importer’s preference
- establishment of economic operator based profiles, and audit-based controls, as opposed to transaction-based controls
- priority of inspection and use of non-intrusive inspection equipment whenever physical examination is required
- priority Customs’ processing during a period of elevated threat conditions
- priority treatment in post-incident resumptions and trade recovery programmes
- AEO status should be a significant factor in determining the administrative settlement of a Customs offence (consistent with Annex H, Chapter 1, Standard 23 and Standard 3.39 of the RKC)
- self-assessment when Customs automated systems are not functioning
- an option to provide a reduced standard data-set for security risk assessment purposes

The EU supported the inclusion of this list into the SAFE package and said that much of this was already in EU legislation, however the list of reduced data set may produce one or two elements that were not present in EU law and may mean a change of IT systems if applied. Australia also welcomed this process but suggested that perhaps the SAFE itself could be updated, with the ‘AEO Guidance in annex 2’ of the SAFE updated with those that are missing. China and Japan were worried about possible amendments to legislation, but the Chair made it clear that this was not a prescriptive list and that administrations could pick and choose from this list. Ms West concurred, saying that this was a list that was an answer to the question what is it that business want from AEO programmes, and if there were any problems with the language perhaps the objections could be accommodated.

⁹ Available here though Explorer should be used
http://www.wcopscg.org/PSCGAEOBenefits_Apr2010_Final.doc

The list was accepted into the SAFE package with one or two amendments, including making it clear that this is indeed an indicative list.

Draft Globally Harmonized AEO Application and Self Assessment Criteria¹⁰ – submission by the PSCG

At the December 2009 Policy Commission, the PSCG presented the “PSCG Globally Harmonized AEO Application and Self-Assessment Criteria for Safety and Security”. The document arose owing to some concern in the business community over a proliferation of different AEO programmes. It is a multi-country application and self assessment template which the PSCG hopes would encourage mutual recognition of AEO programmes, and to facilitate the implementation of AEO programmes in developing countries as well as the participation of SMEs. The idea was to have this added to the SAFE Package also, it was however held over for the next session to allow members to have a closer look.

8) Co-ordinated Border Management/Single Window: Developmental work

The WCO secretariat briefly introduced this section and informed the Group of the Coordinated Border Management Compendium, and also the Single Window Compendium, guidelines and initiatives on the website¹¹. The timetable for the completion of this work is June 2011.

9) SAFE and Small and Medium Sized Enterprises (SMEs) and AEO Authorisation

At the 5th meeting of the SWG, several Members mentioned that the nature of Small and Medium Sized Enterprises (SMEs) in developing countries was quite different from those in developed countries and requested that the WCO Secretariat make a study of SMEs in developing countries and AEO authorization. Three countries were chosen for the study¹² namely, Argentina, Kenya and People’s Republic of China. In addition to these three countries, the Secretariat also selected the Democratic Republic of Congo, as it was one of the Members that had raised the issue during the 5th SWG. The Secretariat also sent a set of questions to administrations of selected countries. The conclusion of the study was the following

“Reflecting the fact that SMEs are dominant or constitute a rapidly growing sector and that they are major contributors to economic growth being critical players in the supply chain of the selected developing countries, Argentina, Kenya and People’s Republic of China all have taken measures to enhance partnership with SMEs. This has been achieved by initiatives such as adapting their AEO programmes for SMEs, and greater awareness efforts to sensitize SMEs to the AEO programmes available. The situation of Democratic Republic of Congo is slightly different from the other three countries, but it is working hard on measures to build trust with SMEs, being fully aware of the effectiveness of their AEO programme to facilitate and secure the supply chain.”

The Chair asked the Group how to take this study further. The ICC delegate said that he will try to find a way of involving trade in the exercise.

¹⁰ Available here <http://www.wcopscg.org/AEOtemplateDecember2009.doc>

¹¹ Available here <http://www.wcoomd.org/sw.htm>

¹² Available here though access to the WCO members area is necessary http://www.wcoomd.org/members/meetingdocuments/hlsg/safe_committee/meeting_0006/english/LF004_1E1a.pdf

10) Technology Issues

This revolved around the discussion of whether to open up a new Technology group in the WCO. There has been a call from members to assist on issues such as scanning technology, and from this a debate arose as to whether the new group should be formed. However the Chair of the existing Scientific Sub-Committee (SSC) has said that his committee could deal with this. The SSC has usually been dealing with classification issues for the Harmonised System but it was agreed in the Group that the SSC should be allowed to see if it can broaden its remit and deal with other technology issues starting with scanning issues and eSeals.

11) EU – China Update on SSTL

The EU made a brief presentation of the Smart and Secure Trade Lanes¹³ Project between the EU and China. The current State of Play is that phase 1 of the project has been completed and that the statistics have been collected regarding its progress. If the analysis of the statistics show a good result then phase 2 will begin by looking at more complex routes; by involving non AEO companies; using more ports and more EU members; looking to use a port such as Shanghai as well as some others.

A question from the floor raised the issue of whether this would be multi-modal or just for shipping. Susanne Aigner, who was working for the Commission on this project, said that there is the intention to make this multimodal regarding trucks and trains, but as far as the air mode, that is a long way off in the future.

12) SAFE Definitions

A paper was viewed looking at two definitions of 'screening' and 'scanning' to be added to the SAFE. The two proposed definitions were as follows

"Screening - means evaluation of information and intelligence relating to goods and means of transport in a risk assessment process (manual, automated or otherwise)

Scanning - means capturing information (which may include images or radiation signatures) relating to goods and means of transport utilising nonintrusive detection equipment"

The two definitions were accepted and put into the SAFE.

13) Trade Recovery Programmes

The Group was told that APEC was still running its trade Recovery Programme and the delegates thought that it was still very relevant especially considering the latest problem with the Iceland volcano eruption. It was also reported by the PSCG that they would have this on their agenda for the forthcoming meetings.

14) Election of Chair

The Terms of Reference for the SAFE Working Group will be amended in order to incorporate some provisions regarding the Chairmanship of the Group, this was agreed. In the meantime Mr Hesselink was re-appointed as Chair of the SAFE Working Group by unanimous vote.

¹³<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/06/1206&format=HTML&aged=0&language=en&guiLanguage=en>