C-TPAT Security Conference Overview

By Karen A. Lobdell

U.S. Customs and Border Protection (CBP) held its annual C-TPAT Security Conference April 1-3, 2009, titled “Managing Risk in the Global Supply Chain.” The conference is only open to members of the C-TPAT program and is offered as a benefit to participants, providing two days of customized workshops and presentations by CBP leaders designed to provide training and insight to assist participants in maintaining effective supply chain security controls.

This memorandum provides an overview of the key security topics covered at this year’s conference and a glimpse of what CBP’s vision of the program is for the coming year.

State of the Program

The C-TPAT program continues to grow in numbers and currently stands at 9,128 certified members, with roughly 45 percent being importers. There are 300 new members so far in 2009 as companies continue to show interest in entering the program. Validations and revalidations continue at an accelerated pace with 10,994 validations completed to date – 2,598 of those being revalidations. Tier III status in the program has been achieved by 292 members. Conversely, CBP has suspended or removed 801 companies from the program to date as a result of security breaches or failed validations.

During 2008, CBP focused its efforts on meeting the recommendations of the U.S. Government Accountability Office (GAO) report that indicated the program needed to be enhanced to provide more robust requirements and accountability. Some of the recommendations from the GAO included requiring CBP to consider third-party risk assessments conducted by members during the course of the validation process, better documentation of follow up on recommendations resulting from (re)validations, and enhancing CBP’s ability to measure performance.

1 Tier III status is the highest level an importer can achieve in C-TPAT, providing the highest level of benefits. Companies obtaining Tier III status must have a solid record of implementing “best practices” with respect to supply chain security practices.

2 Approximately 50 percent of companies suspended or removed from the program were highway carriers – with a large percentage on the southern border.
CBP took steps to address the GAO recommendations in 2008 and, as a result, the trade can note some improvements. For example, the turnaround time on validation reports has dropped from an average of 120 days to 50 days (with CBP looking to reduce that number further to an average of 27 days).

Although the trade was previously required to respond to (re)validation recommendations and action items within 90 days, this deadline was not traditionally monitored by CBP. The C-TPAT portal system will now generate electronic notices on due dates as a reminder.

The CBP Supply Chain Security Specialists (SCSS) are also incorporating third-party audits/assessments into (re)validations. Organizations such as the Business Alliance for Secure Commerce (BASC), the Transported Asset Protection Association (TAPA) and the Fair Factories Clearinghouse (FFC) are routinely used by C-TPAT members for various security audits and have been accepted by CBP as viable support programs to supplement a member’s own efforts.

Finally, when looking at measurements, CBP has further analyzed the benefit of being a C-TPAT member with respect to CBP exams. In 2008, 83 percent of CBP exams (all types) were conducted on non-C-TPAT importers. Of the 17 percent that were conducted on C-TPAT members, 8.5 percent were Tier I members, 4.9 percent were Tier II members, and 3.6 percent were Tier III members.

What Does the Future Hold?

CBP is making the program more stringent and expects members to be held accountable to the program requirements. Specifically, in 2009, Brad Skinner, Director, C-TPAT/Industry Partnership Programs for CBP, stated the following as goals:

> Conduct unannounced visits to C-TPAT members previously involved in an incident to verify that security practices have been updated to meet requirements.

> Based on the complexity of some supply chains, consider conducting multiple visits for evaluation of an importer’s supply chain prior to providing the member with validation and associated benefits. Traditionally, an initial validation will include a visit to one U.S. site and one foreign site. Under the new approach, CBP could elect to visit more than two sites (e.g., the initial validation could contain action items that would result in a “revisit” prior to Tier II status and benefits being granted).

> Provide members with an updated Best Practices Catalog to provide guidance for achieving Tier III status. A new Best Practices brochure was provided to attendees at the conference and, additionally, a 25-page addendum to the 2006 Best Practices Catalog has been posted on the C-TPAT portal. Both the addendum and brochure identify updated information on what is deemed a best practice based on input from (re)validations conducted over the past few years.³

³ It should be noted that CBP still feels that the original Best Practices Catalog is a useful tool; however, the agency also indicated that some practices in the 2006 version would no longer be best practices, but sufficient for meeting minimum requirements as the bar is continually being raised.
> Develop an international strategy with a vision of which countries CBP will proactively work with for mutual recognition of partnership programs (e.g., Canada’s Partners-in-Protection program).

> Provide more focused outreach to trade with respect to program requirements. An example would be posting CBP videotapes of this year’s workshops at the conference on the C-TPAT portal for members to review and use for ongoing training purposes.

> Refine the C-TPAT Portal functionality. Although CBP did redesign the secure portal over the past year to incorporate changes suggested by the GAO, the agency is looking for input from members on how the portal can be improved. An entire workshop at the conference was dedicated to the portal and suggestions were readily accepted. Going forward, CBP would like the portal to provide automated reports, a supply chain security workflow, on-line tutorials, and revised company and security profiles. Although there are no timelines established, it is clear that CBP is looking for improvements in this area.

### Additional Points of Interest

In addition to providing an in-depth update on the current status and future of the program, CBP provided additional insight into the following areas:

> Congress continues to be very supportive of CBP’s efforts with respect to security initiatives. This is reflected in the fact that in the past four years, Congress has doubled budget appropriations for the agency.

> Validations in China are still problematic and, although 18 joint validations were conducted last year, there is no timeline currently as to when further joint validations will be permitted.

> Security concerns at the southern border have escalated tremendously over the last year, and CBP is asking C-TPAT members to assist with this challenge by ensuring that supply chain security controls are applied on exports to Mexico as well as imports.

> CBP has been conducting a small pilot over the past year with 10 Tier III members with respect to a C-TPAT export component. Participants were primarily in the aerospace and technology industries. Findings of the pilot indicated that criteria geared toward exports would be feasible; however, there is currently no timeline for moving forward on this.

> Mutual Recognition with trading partners continues to move forward. It is expected that Memoranda of Understanding (MOU) will be signed with Japan and Singapore by June 2009, and CBP continues to move forward with both the EU and S. Korea MOUs as well.

> CBP will be sponsoring an additional C-TPAT Survey in the second quarter of 2009, as well as hosting a Northern Border Highway Conference in August 2009. The conference will take place in Buffalo.
The next C-TPAT Security Conference will be held in Los Angeles in March 2010.

**Bonus Security Updates (10+2)**

Beyond discussion on the specific topic of C-TPAT, CBP reinforced the importance of other initiatives that support its layered approach to security — specifically “10+2” and the 100 percent scanning initiative.

Consistent with past communication from CBP, this year’s conference reinforced that a more robust C-TPAT program, along with additional advance data (10+2), will assist with the risk-based approach that CBP prefers versus the 100 percent scanning approach that has in the past been preferred by Congress.

Richard Di Nucci, CBP Director, Secure Freight Initiative Office, provided the following update with respect to the implementation status of the Importer Security Filing (ISF/10+2):

- Between Jan. 26, 2009, and March 25, 2009, over 300,000 ISFs have been filed by over 31,000 entities. By volume, some of the largest filings are being done by large importers; however, CBP has received filings by many small and midsized entities as well.

- During the first week, CBP received an average of 1,200 ISF filings per day. The agency is now receiving 9,500-10,000 filings per day (the total average number of entries filed per day is typically 30,000).

- CBP is receiving primarily complete data; however, the timeliness of the filings appears to be an issue. For all filers, there is currently a 30 percent accuracy rate on timeliness.

- The long-awaited Report Cards – to be called “Progress Reports” in the future – are expected by the end of the month. It is anticipated that the reports will be issued every 30-60 days. CBP is currently compiling data for these Progress Reports.

- The biggest data element errors between Jan. 26, 2009, and March 25, 2009, (by volume) were duplicate ISF filing errors, invalid HTS, invalid ISF transactions (a different filer already used that ISF number or the ISF number had been previously filed or deleted), and invalid IOR numbers.

- Surprisingly, only 1 percent of the filings to date have taken advantage of the flexible options for interpretation of data and timing.4

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4 The Interim Final Rules allow for flexibility on six data elements. Flexibility of interpretation is allowed for Manufacturer (or Supplier), Ship to Party, Country of Origin and HTSUS number. Flexibility of timing is allowed for the Stuffing Location and Consolidator Data Elements.
Most importantly, Mr. DiNucci confirmed that there are still many importers that are not filing ISFs. Those companies need to start filing now. Companies that fail to file prior to Jan. 26, 2010, and subsequently have problems or errors will find that CBP will not be sympathetic. As Mr. Di Nucci clearly stated to the conference attendees, “if you come to me on Jan. 25, 2010, and if you have made no attempt to file by then, there’s nothing for us to talk about.”

**Conclusion**

Overall, the annual C-TPAT Conference provided a wealth of information for participants with respect to supply chain security. Although the benefits of the program are always subject to debate, it is clear that the program continues to grow and is an important part of CBP’s layered approach to securing our borders.

Drinker Biddle offers a full range of international customs and trade services, including assistance with application, (re)validation and training for C-TPAT. Should you require further assistance with regard to the information set forth in this memorandum, please contact Karen A. Lobdell, Director, Trade Security & Supply Chain Services at (312) 569-1066 or Karen.Lobdell@dbr.com.
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