

UNICE comments on maritime cargo security

Introduction

European business strongly supports efforts to increase cargo security and is ready to participate in initiatives taken to that aim. To be effective, UNICE considers that these measures should be developed on an international basis and in close cooperation with relevant international bodies such as the World Customs Organization (WCO) or the International Maritime Organization (IMO). European business firmly believes that security and trade facilitation are and should be mutually supportive.

Regarding the specific US initiatives on Container Security and advance presentation of vessel cargo declaration to customs, UNICE has the following comments:

Container Security Initiative (CSI)

The Container Security Initiative is a US Customs programme launched in January 2002 to strengthen maritime security by screening sea containers before they are shipped to the United States. Its objective is to engage the ports that send the highest volumes of container traffic into the US, as well as the governments in those countries, to facilitate detection of containers with potential terrorist risk at the earliest possible opportunity.

Partnerships have been established with customs authorities responsible for large ports around the world. Cargo originating from those ports would go through quicker customs procedures when entering the US, in exchange for increased controls and reinforced cooperation with foreign customs authorities including access of US customs officials to port facilities.

UNICE is particularly concerned about implementation of the Container Security Initiative and its effects for European business, and notably SMEs. By establishing discrimination between European ports, this initiative risks creating distortions to the EU Customs Union and the European Common Transport Policy, also disrupting competition between EU ports by concentrating cargo traffic in those in partnership with the US.

UNICE therefore fully supports European Commission action for increased cooperation with the US, in view of international discussions on a common approach for container security. This action should allow for improved maritime security through common standards to identify and control high-risk cargo and facilitate the movement of legitimate trade, providing equal treatment to all containers from the EU.

While guaranteeing similar levels of control to US demands in the CSI, the EU must ensure the reciprocity of control measures for containers shipped from US ports to the European Union.

US rule on advance presentation of vessel cargo declaration to customs¹

On 31 October 2002, following CSI's guidelines on maritime security, US Customs published a final regulation in the *Federal Register*, which requires an ocean carrier or qualified non-vessel operating common carrier (NVOCC) to transmit electronically to the agency required cargo manifest information 24 or more hours before the cargo is loaded at a foreign port onto a ship destined for the United States. The objective of this requirement is to reduce the risk of smuggling weapons of mass destruction, through sea containers, as well as to facilitate the release of legitimate cargo following its arrival in the US. While fully sharing this objective, UNICE believes it can be attained, as outlined below, through other means than those included in the US rule.

The US measures, which are not in line with international and European trade procedures and practices in the cargo transport chain, are expected to cause major difficulties for business, and particularly for shippers, freight forwarders, customs brokers, and shipowners.

The required information is not always ready 24 hours before the cargo is loaded in the port of departure, and not always available at that port. The Community Customs Code (article 161 § 5) states: "*The export declaration must be lodged at the customs office responsible for supervising the place where the exporter is established or where the goods are packed or loaded for export shipment*". In addition, the regulation is in contradiction with the simplified procedures established under the Code (article 76) based on record-keeping and monthly customs declarations, which are regularly used by EU operators.

The US initiative also risks negatively affecting port efficiency and the transport chain. Moreover, it creates problems of responsibility and related financial implications concerning the information given to Customs. For all these reasons, UNICE calls on the European Commission to draw the due attention of the US Customs Authorities to the serious practical difficulties of the rule and to explore other means to achieve the objective of improving cargo security. Consideration could be given to the creation of a status of "authorised operator", based on audit process, established jointly by the European Commission and the US Customs Service. It should be open to companies of all sizes and not discriminate against small ones.

Such status could be given to shippers, shipowners, freight forwarders and customs brokers under the supervision of customs authorities, defined in a memorandum of understanding in which the responsibilities of all the parties involved in the logistics chain must be clearly stipulated, notably regarding the liability and related financial implications of the information submitted to Customs. These operators, which will commit themselves to take measures to avoid the risk of smuggling weapons of mass destruction, could be exempt from sending the manifest 24 hours before the cargo is loaded aboard the vessel at the EU port. In exchange for that, operators could be subject to unannounced customs audits at their premises.

UNICE believes that implementation of such status, which could reduce the cost of security measures, would be in line with the risk analysis policy of customs administrations and would permit customs to focus controls on other flows.

¹ Federal Register/vol67, N° 211/Thursday, October 31, 2002/ Rules and Regulations
19CFR Parts 4, 113 and 178

Conclusion

UNICE calls on the EU to reinforce cooperation with the US Administration with a view to finding the appropriate approach / measures to improve cargo security and risk management, promoting confidence-building measures on systems for cargo control, while taking into account existing practices and avoiding extra burdens on companies over and above what is strictly necessary to achieve the objective pursued. These measures should allow equal treatment of all containers coming from the EU.

UNICE looks forward to pursuing dialogue with the European Institutions, the US Administration and other interested parties on these issues.
