



May 17, 2011

The Honorable Alan Bersin
Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Avenue, NW
Washington, DC 20229

RE: NEXT GENERATION C-TPAT

Dear Commissioner Bersin:

We are writing as members of the trade to urge that the core benefit of C-TPAT and the supporting effort need to focus on the pre-trade and post-trade events of the supply chain. These elements are surrounded in the perspective of a trade account that focuses on execution of the supply via a secure network. Foundational in that network, is the value of operational velocity of the product in route with advance confidential data (both account based and minimum data for the shipment) to confidential government receptors which provides the critical underpinning support for commercial entities to achieve secure cargo.

Further, the delineation of the trade between subject tiers is often only necessary when the capacity of the government does not exist and prioritization of limited resources is necessary to manage congestion. The preference for the trade is to have secure commerce infrastructures that utilize efficient, predictable account structures to execute supply chains without the need to triage the secure trade from unplanned capacity restraints.

Key Benefits for Tier 2 and Tier 3 C-TPAT Participants

1. **Utilize account structure.** Utilize the account structure for minimizing transactional data needs and data comparisons to improve pre-trade flow parameters and minimize expensive data collection/transmission/retention.
2. **Base cargo release on 10+2.** Base cargo release on the 10+2 acumen inside a valid trade account and permit monthly entry of cargo aligned with periodic monthly statement.
3. **Paperless customs entries.** Pure paperless entries for all customs entries, except for hardcopy documents required by other agencies with jurisdiction over admissibility. All agencies should go paperless upon functionality of ITDS.
4. **Zero inspections.** Zero inspections for purposes of enforcing compliance with trade laws.
5. **Expedited response to ruling requests.** Expedited response, or first-in-line priority, to requests for rulings so that importers are notified of a decision within 10 days versus the normal 30 days.

6. **Penalty Mitigation.** Penalty mitigation for customs violations, except in cases of fraud. Recognize the due diligence that generates prior disclosures is more reflective of compliance research than current practices. In a specific penalty case, implement a formal penalty discounting for C-TPAT tier 2 and 3 members.
7. **Combine multiple suffixes in single statement.** Allow multiple suffixes to the same nine-digit IRS number to be combined in a single statement for the periodic monthly statement. Tier 2 and Tier 3 importers would be allowed to combine multiple two-digit suffixes to the same nine-digit root IRS numbers. This is a change from the current Periodic Monthly Statement requirement that all entries on statements must be for the same 11-digit IRS number.
8. **Elimination of CF-28.** Sharply reduce, or eliminate, the use of the CF-28 form to request information from importers and their brokers. Questions about classification of a product or other commercial issues should only be handled by the company's designated CBP account manager and the importer could submit its response electronically.
9. **Prior disclosure benefit.** Allow importers the opportunity to implement corrective action plans or make a prior disclosure before seizure of shipments or the issuance of fines and penalties. An importer would be allowed a reasonable period of time, perhaps 30 days, to address and cure the situation that led to the seizure of penalty. The prior disclosure benefit is similar to the disclosure process allowed under the Importer Self-Assessment audit program.
10. **Inland processing in bonded warehouse for C-TPAT carriers.** Allow C-TPAT carriers to move shipments inland to their bonded warehouse for processing before the entries are submitted to CBP. The shipments would remain in complete control of the carrier, who would sort out the small volume that require CBP inspections (non-security) and move them back to the border if necessary.
11. **Expedite movement of cargo.** Creation of a plan by CBP to expedite C-TPAT tier 2 and 3 members' cargo following a shutdown/lockdown at the port. C-TPAT members have been told they will receive expedited treatment to move their goods following a shutdown/lockdown yet to our knowledge there is not a plan to carry out this benefit. Therefore, we request for Congress to require for CBP to provide a report on how they will expedite cargo at the land border and sea port following a port shutdown/lockdown.
12. **Expedite background checks.** The requirements for discretionary background checks for Tier 2 and 3 participants should be waived (e.g. approved Foreign-Trade Zones, prior to activation, but not waived without cause or within a 3 year time frame from activation). In cases where Tier 2 and 3 importers are required to have Background Checks, the Port Director will request expedited servicing of the request by ICE. Also, once required, Tier 2 and 3 firms will receive expedited service for and program that requires background checks for Tier 2 and 3 employees/contractors (such as TWIC or similar worker identification cards). CBP should also report back to the Congress on the implementation of this benefit.
13. **Only hold container being examined—not entire shipment.** Allow tier 2 and 3 members to break the seals on the containers not under examination. Currently an entire shipment is held while CBP examines one container.
14. **Lower bond liability.** C-TPAT Tier 2 and 3 and ISA importers should have their bond liability (the value upon which they are required to post CBP Bonds) on a lower bond calculation for single transaction and continuous entry bond formulas to allow a lower limit of liability. Proposal is that single transaction entry bonds will always be set at value plus estimated duty; continuous entry bonds will be

set at 5% of duty, fees and taxes paid in previous year, or 5% of value if the merchandise is duty free, and FTZ bonds will be at 5% of on-hand foreign inventory value.

15. **Tax incentives and safety enhancements.** Tax incentives for supply chain security and safety enhancements related to the supply chain's secure commerce investments.
16. **Reduce merchandise processing fee.** Reduce the merchandise processing fee by 50% for C-TPAT tier 2 and 3 members. The fee is used to process entries forms. C-TPAT members require fewer resources and effort by CBP to process their entries. Therefore they should pay a lower fee.
17. **Provide clearer role for account managers.** Define what role they play and don't play. Are they supposed to serve as an advocate or single point of entry for the company to Customs? Do they have the ability to communicate with ports? Can there be a two-way exchange? What about cases of "absentee" account managers?
18. **Mutual Recognition.** Work to achieve mutual recognition between C-TPAT, PIP and AEO.

We firmly believe that the implementation of the enumerated benefits will increase the number of businesses participating in C-TPAT, in line with your goal to quadruple C-TPAT membership in the next five to seven years.

Respectfully,

United States Council for International Business (USCIB)
American Association of Exporters and Importers (AAEI)