



SECURING THE SUPPLY CHAIN THROUGH TRANSPORT SECTOR COOPERATION

IAN MUSCAT

INTRODUCTION

By the nature of its business, the transport sector is well placed to counter the proliferation of weapons of mass destruction (WMD): its potential for contributing to global counterproliferation efforts should not be underestimated. All parties in the international supply chain have a responsibility to ensure that a transaction complies with the numerous requirements captured under the general description of ‘export controls’ or ‘strategic trade management’. This may include the fulfilment of export, transit and trans-shipment licence requirements; and end-use, dual-use and restricted-party screening. Complying with export control regulations can be particularly complex for the transport sector since transactions involve multiple jurisdictions and, in some situations, have extraterritorial implications.

The SIPRI Good Practice Guides on the transport sector as counterproliferation partner have been developed to support partnerships between the transport sector and government authorities to counter proliferation and to implement proliferation-related United Nations Security Council resolutions. The series identifies and explores various aspects of the transport sector as a counterproliferation partner, with the aim of strengthening the sector’s contribution in this area.

This guide pays specific attention to cooperation between the transport sector and customs as a means of securing the supply chain in relation to counterproliferation-related activity. It is aimed at supporting good practices both within the transport sector and between the sector and the relevant government authorities.

BACKGROUND

In order to prosper, modern economies rely heavily on the facilitation of trade and the expediting of passenger flows. In order to flourish, the trading environment needs to be secure. However, the developments in trade and the trade environment associated with globalization and various free trade agreements have also provided opportunities for would-be proliferators to circumvent international controls. Developments that could be exploited by proliferators include (a) the increase in the number and quality of international suppliers of dual-use goods; (b) the increase in consolidation and competition in the arms industry; (c) the generation of armament technologies by civilian research sectors; (d) the ease of transfer of intangible technology;

SERIES SUMMARY

● The SIPRI series of good practice guides on the transport sector as counterproliferation partner is the culmination of a MacArthur-funded research project that recognizes the importance of the transport sector to counterproliferation efforts and seeks to encourage the sector’s enhanced activity and partnerships with government authorities.

Throughout 2015 the project team engaged with a broad range of transport sector stakeholders in Asia, Europe, the Middle East and the United States to better understand their compliance challenges; to explore risks and obligations; and to identify, share and test good practice. In doing so, the team also hosted regional good practice workshops that brought together government officials, experts and transport sector representatives and provided a rare opportunity for a spectrum of stakeholders to engage directly on counterproliferation issues.

The guides reflect the main findings of the project’s research, engagement and workshops. They explore an array of counterproliferation activities and can be used individually or combined to support training, awareness raising or the development of internal compliance programmes. The format and focus have been developed in consultation with the transport sector.



(e) the acceleration in recent years of the pace of technological advances; and (f) the availability of sophisticated dual-use technology not subject to any control regime.

Successful counterproliferation efforts depend on a range of commitments at the international, regional and national levels. A key component of the efforts to prevent the supply of materials and technology for the development of weapons of mass destruction and their delivery systems is an effective export control enforcement programme. Such an export control enforcement programme presents a challenge for both customs agencies, legitimate traders and the transport sector worldwide. In addition, many authorities are in the position of addressing proliferation-related issues in parallel with a programme of radical change—that is, increasing an additional element of control while continuously transforming themselves into trade-facilitation partners.

It is worth noting though, that those who seek to proliferate weapons of mass destruction are constantly improvising new methods to evade export control regulations and processes. As a result, export controls are continually revised in order to maintain their efficacy.

These developments in the international situation—the continuing changes in the worldwide business environment and to states' related obligations and commitments within it—have altered the frame of reference of customs officials. While revenue collection and safeguarding remain the main pillars of most border control agencies, customs work must be seen from a wider perspective. Customs agencies are part of a global network, working in conjunction with other law enforcement and government agencies to ensure the security and safety of all. Thus, their actions may affect countries that are not necessarily in their immediate neighbourhood.

The intervening role of customs authorities in trade flows lies at the heart of the international supply chain. Customs intervention makes a unique and effective contribution to creating a secure trade environment by preventing the proliferation of weapons of mass destruction and detecting any violations of rules, regulations and sanctions. While attempting to prevent illicit activity, customs authorities also conduct investigations for possible prosecutions. They cannot succeed alone: cooperation with other relevant stakeholders is vital. Potential partners in the counterproliferation network include licensing authorities, foreign customs authorities, other law enforcement agencies, other ministries, technical experts and industry. Proliferation and sanctions circumvention cases tend to be complicated, which makes such cooperation essential.

Customs authorities have to balance their responsibility to facilitate legitimate trade as much as possible against a host of challenging factors. For example, customs authorities must also deal with reductions in their human resources, and while it would be desirable to check each document and consignment, it is understood that this is impossible. Customs authorities must therefore concentrate their human resources and equipment on the areas of highest risk. However, the overriding challenge remains to detect and intercept the one consignment that really matters. In such a scenario, effectiveness depends on the accuracy of the information available.



THE ENFORCEMENT OF STRATEGIC TRADE CONTROLS AT THE BORDER

Strategic trade controls are usually enforced at the border for two reasons: (a) export control offences usually only occur when the goods are either brought to, or cross, a border; and (b) the border-crossing point acts as a bottleneck and is therefore the optimal point at which to enforce controls. Enforcement activities seek to ensure the border is not being abused by proliferators and that prohibited goods are not being shipped to sanctioned countries, companies and individuals.¹ However, enforcing strategic trade controls at the border is complementary to, and an extension of, the export licensing process. While the licensing process is usually based on documentation and research, the border control aspect is generally more operational and can support the licensing process through the physical verification of the goods being transported.

THE PRIVATE SECTOR AS A KEY PARTNER IN COUNTERPROLIFERATION

Customs authorities consider stakeholders within the private sector as key partners in their work to identify illicit consignments. Such stakeholders include industry in general, trade associations, shipping agents and freight forwarders. It is generally a question of building rapport through awareness-raising and engagement initiatives. These might take the form of industry outreach activities, during which the main provisions of the export control regulations and those of sanctions and restrictive measures would be explained, along with their associated obligations. The main objectives would be to develop and improve cooperation and cultivate a better appreciation of each other's obligations to their respective stakeholders and clients, as well as to create channels of communication and agree the implementation of working practices and procedures. The overriding aim would be to ensure compliance as much as possible in a win-win working alliance that would ultimately manifest itself in faster legitimate freight movement through a safer and more secure supply chain.

FROM WHERE SHOULD SHIPMENT INFORMATION BE SOURCED?

To analyse a shipment, customs authorities will use information from an array of sources, including declarations; transport-related documentation such as invoices, cargo manifests, bills of lading, air waybills, hazardous cargo certification and packing lists; and import and export authorizations (licences). This documentation can then be risk-assessed to shed light on the genuine contents or true destination of a particular consignment. The aim is to identify indicators of possible illicit or unusual activity.²

¹ Palmer, M., 'Restricted parties and the transport sector', SIPRI Good Practice Guide: The Transport Sector as Counterproliferation Partner no. 2, Sep. 2016, <www.sipri.org/publications/2016/restricted-parties-good-practice-guide>.

² Palmer, M., 'Proliferation red flags and the transport sector', SIPRI Good Practice Guide: The Transport Sector as Counterproliferation Partner no. 3, Sep. 2016, <www.sipri.org/publications/2016/red-flags-good-practice-guide>.



HOW ACCURATE IS THE SHIPMENT INFORMATION?

Customs authorities constantly assess the accuracy of shipment information. At face value, all transactions might appear to be normal business transactions, but the information available may not give the whole picture. This may be a deliberate act, but not necessarily a malicious one. More often than not, it is the result of commercial pressure to protect interests. Shipping data may be generic, vague and even lack important details. Shipping documentation might be presented as a ‘freight forwarder-to-freight forwarder’ transaction. Freight forwarders and shipping agents are likely to be handling the cargo on behalf of valued clients, and would not want to risk losing them to their competitors by revealing names or addresses.³ In addition, it is quite likely that contracts and other relevant transaction-related documentation would be held in other countries, and this may sometimes prove difficult to obtain.

Customs authorities are continuously trying to go beyond what is printed on the documentation provided and connect all the relevant parts together in order to determine elements that may highlight risks in particular consignments. Probing the unknown is a challenge, but it can provide the key to identifying that one important illicit consignment.

WHAT CAN BE VERIFIED FROM THE DOCUMENTATION AVAILABLE?

When assembled, the explicit and implicit information derived from the available documentation will present a collage of the transaction’s history that can be used to determine the level of risk. Risk indicators include the compliance history of the consignor, consignee, notifying party or transporter; the origin, routing and destination of the goods; discrepancies in the paperwork; and the nature of the goods.

It is likely that a risk will be identified through a combination of the above indicators. In some cases further information may be required to confirm the risk.

WHAT CAN BE DETERMINED FROM CARGO INSPECTION?

Certain unanswered questions at the document verification stage can be addressed by a physical inspection of the consignment. Attention to particular details can fill important gaps. The identification of possible abnormalities or irregularities is useful as these may prompt further verification, in practice. However, the more specific issues set out below are most important when inspecting cargo of counterproliferation concern and possible dual-use commodities, in particular.

First, compare the items under review with any export authorization issued. This will mean verifying that the items specified in the export authorizations issued are really the ones being exported. There may be instances where an application is made for an export authorization for a par-

³ Jones, S., ‘Counterproliferation good practice for freight forwarders’, SIPRI Good Practice Guide: The Transport Sector as Counterproliferation Partner no. 4, Sep. 2016, <www.sipri.org/publications/2016/freight-forwarders-good-practice-guide>.



particular item with the intention of exporting a more sensitive one that would otherwise be denied.

Second, look for technical specifications and model numbers. Technical specifications are crucial for determining whether certain commodities are to be classified as strategic commodities. In some cases, the identification of a model number can lead to technical specifications.

Sometimes an analysis of components or metals may be required. Certain materials may need to be analysed to determine whether the commodity requires an export authorization for eventual export. In such cases, the use of an X-ray fluorescence analyser may prove useful and effective.

There may be instances where measurements need to be taken. Certain commodities are controlled by their size, so the taking of simple measurements can prove useful.

Even after a physical inspection, gaps may still exist. It is not uncommon to be unable to determine what the goods are or whether they are subject to export authorization. This may require expert advice or analysis. Sometimes, expert advice is the only solution to determining the real specifications of a product, as in the case of software or certain dismantled items. In addition, certain goods may require the handling and assistance of specialist teams, such as hazardous material experts when dealing with biological or infectious substances or toxic chemicals.

ARE THERE TOOLS AVAILABLE FOR USE DURING CARGO INSPECTIONS?

There is no one perfect tool for identifying strategic goods, but a 'tool kit' can be put together to assist in the identification and inspection of dubious consignments. Such a tool kit may comprise, among other things, institutional memory and other human resources, reference manuals, export control lists and related publications, an X-ray fluorescence analyser (metal analyser), a fibre-optic scope, radiation monitors, scanners and traditional tools such as hammers, screwdrivers, measuring tapes and so on.

The sole reliance on equipment and automated systems can, nevertheless, be risky. Being aware of their limitations, however, enables inspectors to use them to strengthen their identification and inspection capabilities as well as to support a more comprehensive assessment. The human element remains vital, and dedicated human resources are important for leveraging expertise and additional sources of information. One can never overstress the importance of training, especially in risk management and commodity identification. Juggling the tools, expertise and experience available helps to identify what is hidden.

It is important to ensure the personal safety of staff and others. The use of appropriate personal protective equipment and clothing is paramount. All inspections must be carried out with a sound knowledge of safety warnings and procedures, especially those emanating from material safety data sheets (MSDSs) and warnings affixed to cargoes.



THE INTERNET AS A TOOL

The Internet can be used at all stages of the verification and inspection processes. It can be used to carry out preliminary verification of the consignee and consignor as well as to investigate parties and goods. Internet searches may reveal links to known operators, companies, subsidiaries or trading partners. This will help to better target dubious consignments for inspection while expediting the clearance of legitimate ones.

Like other resources, the Internet has its limitations. It is important to ensure appropriate and sound ways of searching names or commodities. Not everything can be found on the Internet, and an element of caution must be exercised. Information on certain sites cannot be corroborated, and conflicting information can often be found. Ideally, a list of the searched sites and the dates accessed should be kept, and any findings should be printed as these may not be available online when needed for future reference.

CARGO CLEARED: WHAT NEXT?

A post-inspection assessment of the consignment and its transit is important, irrespective of the outcome. Consignments which are inspected and found to be compliant are still a good source of knowledge gathering as these can be useful to increase institutional memory and refine future risk analysis, targeting and inspections. The analysis should include an assessment of every outcome, profile accuracy, any mismatches found in the documentation provided and the safety procedures carried out. Such an exercise is also important for providing feedback to other interested stakeholders and is likely to include learning points and the identification of possible new trends and risks.

FINALLY

This guide is written from a border control perspective. However, certain controls and some verification can be implemented by the private sector transport industry. Securing and safeguarding the supply chain is becoming more and more dependent on the mutual appreciation of work carried out by the border control authorities and the immediate private sector (namely, the transport industry). This will help to take the appropriate action in time and to pre-empt any action on dubious consignments that would need to be taken at the border. A joint approach to the identification of illicit shipments strengthens the security of the supply chain, while at the same time improving general cargo flows.

SIPRI is an independent international institute dedicated to research into conflict, armaments, arms control and disarmament. Established in 1966, SIPRI provides data, analysis and recommendations, based on open sources, to policymakers, researchers, media and the interested public.

GOVERNING BOARD

Sven-Olof Petersson, Chairman
(Sweden)

Dr Dewi Fortuna Anwar
(Indonesia)

Dr Vladimir Baranovsky
(Russia)

Ambassador Lakhdar Brahimi
(Algeria)

Ambassador Wolfgang
Ischinger (Germany)

Professor Mary Kaldor
(United Kingdom)

Dr Radha Kumar (India)
The Director

DIRECTOR

Dan Smith (United Kingdom)



**STOCKHOLM INTERNATIONAL
PEACE RESEARCH INSTITUTE**

Signalistgatan 9
SE-169 70 Solna, Sweden
Telephone: +46 8 655 97 00
Email: sipri@sipri.org
Internet: www.sipri.org

ABOUT THE AUTHOR

Ian Muscat (Malta) is a European Union Programme Expert and the Director responsible for International Affairs and Policy at Malta Customs. He was formerly the Head of the Department's Non-Proliferation Unit.

The information given in these guides is believed to be correct. The authors and SIPRI (the publisher) have taken every reasonable care in the preparation of the content, but cannot accept liability for any errors or omissions therein.

The information in the guides is intended for use as guidance and should not be considered as legal advice. If you have a concern about any of the issues covered in the guides, you should contact a legal professional or government for appropriate advice.

Throughout these guides, the publisher has provided external links to other information, but cannot accept responsibility for their content or guarantee their availability. These links are provided to improve access to information and exist only for the convenience of those who use the guides. The publisher does not monitor the content of third party websites.

MacArthur
Foundation

**THIS PROJECT FUNDED BY THE JOHN D. AND
CATHERINE T. MACARTHUR FOUNDATION.**