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Why C-TPAT?

No one except a terrorist would want another "terrorist event," and certainly not one that might have been preventable.

The U.S. Customs-Trade Partnership Against Terrorism (C-TPAT) was and is a well-intentioned effort to discourage terrorism in the supply chain. It is a voluntary program as far as CBP is concerned, but for many importers, it is a condition to doing business with some of their biggest customers in the U.S.

Once in the program, that's where the "voluntary" part ends with CBP. When the program began just after 9/11/2001, membership was granted, for some importers, essentially on the strength of a letter to CBP that contained a "promise to be good." Over time, it has evolved into a complex set of rules and requirements that are interpreted by CBP supply chain security specialists who range from the cooperative to the dogmatic. Largely in their hands are the keys to continued membership in C-TPAT, and either a pleasant or an excruciating experience when the C-TPAT member is subjected to a validation of its membership.

The C-TPAT process requires that the applicants and trade members conduct a risk assessment of the supply chains in which they participate, and their own security systems. Even if there weren't a C-TPAT, this exercise is one which raises the awareness of the partners in the trade of virtually every element of their supply chains. It requires that the trade partner be cognizant of the risk levels assigned to various countries, and, overall, the formula should succeed in tightening the business processes of participants in the U.S. trade community, resulting in fewer insurance claims and increased profitability.

Does C-TPAT work? How can you measure success in terms of events that didn't transpire. C-TPAT is a reaction to the events of 9/11 and other acts of terror around the world. It is not the only CBP-administered initiative in that vein. The Importer Security Filings and the vessel manifest 24-Hour Rule serve that purpose on a shipment by shipment basis every day.

C-TPAT is part of an increased awareness of the terrorist threat, that has law enforcement agencies operating with heightened vigilance, and the public is already engaged in the "See Something, Say Something" campaign. Let us hope that C-TPAT and all of the other efforts deter terrorists.

The benefits of the program are tangible commercially--as a prerequisite to doing business with many large customers in the U.S.

But as far as the promised benefits from CBP, the reduced numbers of trade and security exams are difficult to quantify. No one that I know has ever received a call from CBP saying, "We were going to inspect your container today, but we didn't because you are a C-TPAT member."

As for establishing a "green lane" priority release of imported goods in the event of a terrorist event, that would be nearly impossible to enforce. Containership operators do not segregate cargo by C-TPAT/non-C-TPAT member shippers or consignees. And if the "green lane" were to open, can anyone imagine Vessel No. 1 being allowed to offload two "C-TPAT containers" and then be asked to go back on a line of vessels stretching from Hong Kong to Los Angeles/Long Beach?

As crazy as it seems, the act of one would be terrorist who tried to light his shoelaces on a passenger jet has had millions of travelers removing their shoes as they pass through airport security. What was the alternative? Not to institute barefoot screening and have would be terrorist No. 2 succeed in using footwear as his *modus operandi*?

For all of its possible shortcomings and inability to demonstrate its benefits, C-TPAT has many pluses going for it. I can't help but think whoever designed the program originally said with that inner voice, or in a room full of people, "Man, we have to do SOMETHING!!! Heaven help us if we do NOTHING!!!"

SIMON GLUCK & KANE LLP

A handwritten signature in black ink, appearing to read "Christopher M. Kane". The signature is fluid and cursive, with a large initial 'C'.

Christopher M. Kane