



Private Sector Consultative
Group

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15-16 October 2007
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Brussels, .

REPORT

PRIVATE SECTOR CONSULTATIVE GROUP MEETING

Brussels, 15-16 October 2007

Opening

The Private Sector Consultative Group (PSCG) to the Policy Commission held its Fall meeting on October 15-16, 2007 in Brussels.

1. The meeting started with a statement from Michael Schmitz, Director, Compliance and Facilitation, in which he focused on the Mutual Recognition efforts by Member Administrations, the SAFE Working Group Meeting on 17 October 2007, the U.S. 100% scanning legislation and the Policy Commission meeting in Almaty, Kazakhstan. On the issue of the US-EU Mutual Recognition negotiations, Mike Schmitz reported that the EU is pushing the US on this issue. Moreover it was his view that if the US and EU can come to an agreement other countries will fall into place – he mentioned discussions Singapore is having with Japan and Australia. In addition, he was hopeful that 100% scanning has not caused parties to “step back” on mutual recognition.
2. In addition to mutual recognition, Mike Schmitz addressed a number of topics. Regarding 10 plus 2 and 100% scanning, he reported that the WCO reminded US CBP of the US commitment to the SAFE framework and has expressed concerns to the US Congress on both measures - WCO Secretary-General Danet has drafted a letter to the US on 100% scanning. In his view, these interventions have been welcomed by CPB; the letter is addressed to CBP with copies to the US Congress and DHS. The WCO will meet with US congressional committees starting in mid-December and asked for support from the PSCG. The WCO is continuing its outreach to SMEs both directly and through other groups such as BASC, ICC and US small business groups.
3. The remainder of the PSCG meeting was focused on the following topics/issues:
 - Finalization of the PSCG Roadmap
 - Mutual Recognition – US-EU

- The US 10 Plus 2 Proposal
- WCO Capacity Building Report
- Presentation on EU AEO from Suzanne Aigner, EC
- 100 % Scanning US Legislation
- PSCG report to the WCO SAFE Working Group
- PSCG attendance and membership review

Report from the Capacity Building Directorate

4. WCO Director Lars Karlsson provided the PSCG with a status report of the capacity building work of his directorate. He stated there is a need for countries to request support in order to enter the program, develop an action plan, and develop a funding plan. There are currently 107 countries in the program with 37 moving quickly. The goal is to have 7-10 geographically diverse pilots ongoing at one time. The timeline is the next 6-9 months through April 2008. In June 2008, results will be announced to the WCO Council and WCO members. On the WCO website there is a capacity building map that demonstrates the status of projects.

5. The PSCG is committed both as a group and individual trading company and associations to support the efforts of the Capacity Building Directorate. Many of the action items in our roadmap below include partnering with this Directorate.

Presentation on EU AEO from Ms. Suzanne Aigner, European Commission

6. Ms. Aigner briefed the PSCG on the status of the mutual recognition negotiations between the US and the EU. She also responded to questions by the PSCG related to the EU AEO program. Some of the issues raised by the PSCG included

- The lack of uniformity in the application process and forms within the 27 member states
- The need for training in some of the eastern countries
- The administrative burden on business to file multiple applications

PSCG Roadmap

7. In the last report to the HLSG in April, the PSCG committed to developing a Roadmap for future work of the PSCG. The report outlined general areas of concern, specific trade issues associated with each and action items.

General areas of concern include:

- Trade Systems (risk management, Single Window Concept)
- Trade Processes (best practices)
- People (training, integrity)
- Mutual Recognition (Customs controls, AEO Status, Integrated Border Management, role of the WCO, appeal process and amendment processes and SME's)
- AEO Benefits

8. The PSCG Roadmap will be presented to the Policy Commission at the June 2008 meeting.

100% Scanning

9. It is the view of the PSCG that

- 100% scanning is not practicable for customs or trade and adds little value to security and does not facilitate trade.
- Anticipated effects of 100% scanning include unreasonable delays, increase storage demands at the ports and port congestion.
- 100% scanning of the all containers exported to the US could add up to 5-6 days to the supply chain resulting in additional inventory costs.
- 100% scanning does not take into account the value of the multi-layered risk based strategy that has been adopted by a number of countries.
- **Action:** The PSCG is committed to sending a letter to the Secretary General and CBP Commissioner Basham and key members of the US Congress expressing its concerns and its opposition to the 100% scanning initiative.

10 plus 2

10. Background was provided by a few PSCG members on the development of 10 plus 2 with three main areas to focus on; 1) data elements to be added, 2) definition of elements, and 3) process on how to file (cost and IT perspective).

- The PSCG agreed that the data elements should follow the principles of predictability, uniformity and transparency.
- Advanced data along with other security layers may easily become another non tariff barrier.
- As part of the process evaluation of amending the SAFE data set, should include analysis of who will be required to provide it, when the data is to be transmitted and what risk is being mitigated. In addition, the party requesting amendment should provide a cost/benefit analysis in support of the proposal.
- Data elements should be defined consistent with the WCO Data Model. Where definitions are inconsistent with the Data Model, it should be treated as a new data element and be reviewed through the Data Model process.
- The security filing confirmation message is actually a new data set and should be reviewed under the process accordingly.
- In the case of advanced data requirements, a mode specific approach should be utilized whenever possible.

Mutual Recognition

11. The PSCG continues to support Mutual Recognition discussions. Our concerns are as follows:

- Currently, discussions are focused on customs controls (Pillar 1) with very little discussion or consideration of the private sector concerns regarding implementation or specific benefits accruing from the Mutual Recognition agreements.
- PSCG expressed strong concerns about the administrative burden and cost for both large multinational and SME's to apply for AEO status. In particular we are concerned about requirements for multiple applications and audits without appreciable benefits for applicants.
- Mutual Recognition of a country's AEO authorization is a real benefit to the trade.
- **Recommendation:** The SAFE Framework provides for a phased approach from bilateral and regional mutual recognition agreements to a global mutual recognition program. What is needed is a time table and strategy so that this goal is realized in the near future.

Draft Model AEO Appeal Procedures

12. The PSCG supports the previously drafted document as submitted to the HLSG (Annex II to Doc. LP00006E1) with the following edit.

- The following sentence should be added to the end of paragraph (e) "AEO Status will remain valid throughout the appeal process, unless there are exceptional circumstances".
- Once granted, AEO status has value to an AEO and revocation or suspension should only be done only after any appeal process has been completed.
- Supply chains are complex and diverse. Complete control is unrealistic where in most cases supply chain partner compliance with AEO requirements are governed by contractual obligations. Without an effective appeal process an AEO's investment in the program is seriously challenged.

Process for Maintenance and Review of the SAFE Framework

13. The PSCG supports the previously drafted document as submitted to the HLSG (Annex IV to Doc. LG0023E) with the following edit:

- The first sentence in the 7th paragraph should be deleted as out of cycle amendment requests are provided for in Phase 1.
- The second sentence in the 7th paragraph should be moved to follow the last sentence under Phase 1.

- The PSCG, as a group, should have the opportunity to evaluate and comment on pending proposals and provide comment and recommendations to the SWG.

14. The PSCG briefly discussed the rearrangement of data elements, which had been included in the provisional agenda for the SAFE working group. Although no specific proposals had been put forward, currently the PSCG supports keeping the data elements under Pillar I of the Framework, as it is important to make clear that the data requirements refer to all cargo shipments, and not just to those covered by the AEO program detailed in Pillar II.

Draft Terms of Reference for the WCO SAFE Working Group

14. The PSCG supports the previously drafted document as submitted to the HLSG (Annex IV to Doc. LG0023E) with the following edit:

- Under the Co-Chairperson, delete “Business Community” and insert “PSCG”

PSCG Membership Review

15. A small nominated group was created to review PSCG attendance of current members, evaluate the list of those who have expressed an interest in joining the PSCG, identify other possible candidates for membership, if necessary, and make recommendations to the PSCG on future membership

Next Meeting

Some PSCG members will travel to Kazakhstan for the meeting with the WCO Policy Commission. The next full meeting of the PSCG is likely to be in April 2008. .