



FREQUENTLY ASKED QUESTIONS REGARDING MINIMUM SECURITY CRITERIA FOR IMPORTERS

03/25/2005

Q: 1. Why is CBP updating the security guidelines for C-TPAT importers? Will other enrollment sectors also be subject to new minimum-security criteria?

A: For C-TPAT to ensure its continued viability, effectiveness, and relevance, the program must continue to evolve – as the terrorist threat and the nature of global trade evolves. The impetus for strengthening the existing security guidelines is to provide more detail to the membership on the expectations of the program, and to assist CBP in defining a more consistent baseline for minimal program requirements and better-defined C-TPAT benefits. Throughout 2005, CBP will work with the trade community to develop minimum-security criteria for all enrollment sectors.

Q: 2. What basis did CBP use in developing the new security criteria?

A: The new security criteria are based on the processes, procedures and best practices collected from the thousands of security profiles that CBP has reviewed and approved, and the more than 470 validations that have been completed and documented to date. The new criteria were developed in partnership with the trade community over a 6-month period.

Q: 3. Does CBP intend to revise the security guidelines for all sectors of C-TPAT membership? If so, has CBP determined the timeframe for completion of the refined security criteria for each sector?

A: Yes. CBP will move forward with revising the current security guidelines for each sector of membership. After the new C-TPAT security criteria for importers has been announced, CBP will begin revising the sea carriers, air carriers and foreign manufacturers sectors concurrently.

Q: 4. Has the C-TPAT membership participated in developing the new security criteria?

A: Yes. The first draft of the new security criteria was disseminated in October of 2004 to a group of 18 C-TPAT importers and trade associations for review and comment. In November, the process was merged into the larger COAC C-TPAT Subcommittee where modifications to the initial draft were made based upon feedback from the trade community. Several additional drafts were then circulated and several conference calls and meetings transpired until the process was finalized in February 2005.

Q: 5. Is CBP moving towards making C-TPAT a regulatory program?

A: No. C-TPAT will continue to evolve as a voluntary, incentives based government / private sector partnership. As C-TPAT evolves, the program will continue to work in partnership with the stakeholders of the international supply chain and cooperatively develop improved systems of security and efficiency.

Q: 6. The new C-TPAT security criteria contain mandatory elements that may potentially place a greater burden of responsibility on the importer. Doesn't this constitute a major policy shift within C-TPAT – from voluntary to mandatory requirements?

A: No. C-TPAT remains a voluntary, incentive based partnership. However, once a company commits to the C-TPAT program, there are specific program requirements that must be adhered to by the

company to qualify for C-TPAT benefits, which are significant. C-TPAT importers are six times less likely to undergo a security related cargo examination, and 4 times less likely to be subject to a trade related examination, than non-C-TPAT members. These significantly fewer cargo examinations help save importers time and money, while leading to a more predictable supply chain. CBP continues to explore additional benefits, which can be afforded members who meet or exceed the minimum-security criteria.

Q: 7. Will it be possible to differentiate Supplier-Importer combinations as "green lane" or high risk since it may not be economically feasible to conduct periodic reviews of all suppliers?

A: C-TPAT member importers commit to strengthen their entire supply chains and adopt appropriate security measures based on risk, and cannot exclude a particular segment of their supply chain from this commitment based on economic feasibility. Importers must ensure business partners develop security processes and procedures consistent with the C-TPAT security criteria to enhance the integrity of the shipment at point of origin, and throughout the supply chain. Periodic reviews of business partners' processes and facilities should be conducted based on risk, and should maintain the security standards required by the importer.

Q: 8. Some security standards such as background checks are not permitted in certain foreign countries. Are these suppliers therefore not permitted to export to the United States?

A: Processes must be in place to screen prospective employees and to periodically check current employees, consistent with foreign, federal, state, and local regulations. If prohibited by law from conducting a criminal or financial background check or investigation, some types of applicant information such as employment history, employment references, etc., can still be verified as part of the screening process. Members should be certain to document what level or checks have been initiated, as well as document limitations imposed by foreign law.

Q: 9. Do the physical security standards apply to the supplier as well as the importer?

A: As outlined in the business partner requirements, appropriate security measures, as listed throughout the C-TPAT Security Criteria document, must be implemented and maintained throughout the importer's supply chains, based on risk. Foreign suppliers, manufacturers, cargo handling and storage facilities in foreign locations must have physical barriers and deterrents that guard against unauthorized access.

Q: 10. Is "indication" of participation really adequate? And what does indication mean? Shouldn't the information be available publicly, as on the CBP or WCO web site.

A: Importers must have written and verifiable processes for the selection of business partners including manufacturers, product suppliers and vendors. For those business partners eligible for C-TPAT certification (carriers, ports, terminals, brokers, consolidators, etc.) the importer must have documentation (e.g., C-TPAT certificate, SVI number, etc.) indicating whether these business partners are or are not C-TPAT certified. For those business partners not eligible for C-TPAT certification, importers must require their business partners to demonstrate that they are meeting C-TPAT security criteria via written/electronic confirmation (e.g., contractual obligations; via a letter from a senior business partner officer attesting to compliance; a written statement from the business partner demonstrating their compliance with C-TPAT security criteria or an equivalent WCO accredited security program administered by a foreign customs authority; or, by providing a completed importer security questionnaire). Periodic review should be conducted, based on risk.

Q: 11. Thousands of legitimate shipments are made each year to importers without a purchase order or contract being issued. (e.g, returned goods, samples, prototypes, unsolicited promotional, marketing or advertising material) Importers have no control over these type of shipments or the security of the party shipping them. How will these shipments be treated for C-TPAT participation purposes? What CBP ATS security rating will be given to these shipments at the time of import?

A: C-TPAT recognizes the complexity of international supply chains and endorses the application and implementation of security measures based upon risk analysis. Therefore, the program allows for flexibility and the customization of security plans based on the member's business model. Where an importer outsources or contracts elements of their supply chain, such as a foreign facility, conveyance, domestic warehouse, or other elements, the importer must work with these business partners to

ensure that pertinent security measures are in place and adhered to throughout their supply chain.

Unsolicited shipments will understandably lie outside the capability of the importer to ensure security. CBP employs a risk management approach in screening and targeting, and such shipments, as well as those from unknown or less established entities, receive higher scrutiny from CBP. The agency does not disclose ATS targeting rules.

Q: 12. *Beyond the above type of shipments nothing can prevent a terrorist anywhere in the world from addressing a shipment to a C-TPAT importer, prepaying the freight and shipping the goods. Will CBP apply a reduced ATS security rating to these shipments even though no one can prevent these shipments from being made or ensure the security of the party sending them?*

A: CBP will continue to target and examine shipments based on risk. Shipments from unknown or less established entities receive higher scrutiny from CBP.

Q: 13. *C-TPAT participation for importers appears to be an all or nothing situation. That is - either an importer guarantee every shipment to them is secure or they lose their C-TPAT membership. What is the means for an importer to exclude from their C-TPAT program shipments from suppliers who refuse or are incapable addressing supply chain security issues?*

A: While C-TPAT recognizes the complexity of international supply chains and endorses the application and implementation of security measures based upon risk analysis, C-TPAT membership does entail a commitment to strengthen entire supply chains and adopt appropriate security measures based on risk. C-TPAT importers are not expected to guarantee that every shipment is secure, but rather, importers must demonstrate an ongoing commitment towards strengthening their supply chains.

Q: 14. *Will an importer lose their C-TPAT membership when a supplier who refuses to cooperate is the only supplier in the world for a critical good, material or piece of machinery or equipment? (e.g. supplier holds the only patent, supplier has the only manufacturing capability, supplier has the only manufacturing capacity, supplier is the only cost competitive source)*

A: C-TPAT members must make every effort to leverage their business relationships to enhance the security of the supply chain from point of stuffing, through the CBP clearance process. Membership entails a demonstrated commitment towards meeting this goal, yet the program recognizes the difficulties involved in securing all aspects of the importer's entire international supply chains. If the importer continues to demonstrate this commitment, membership will be retained.

Q: 15. *The proposed C-TPAT program states that it allows for "flexibility and customization of security plans," however, the proposed criteria are drafted as "mandatory" requirements. In the event that a requirement is not met due to circumstances outside of the participating C-TPAT importer, what would be the resulting consequences for the importer? (e.g. supplier holds the only patent, supplier has the only manufacturing capability, supplier has the only manufacturing capacity, supplier is the only cost competitive source)*

A: As a voluntary, incentives based partnership program, C-TPAT member importers must demonstrate an ongoing commitment towards strengthening their supply chains and in return, CBP affords benefits such as reduced cargo inspections. Importers who continue to strive towards enhancing their supply chain security will continue to receive member benefits.

Q: 16. *At this time, CBP has chosen not to promulgate the standards for joining and maintaining participation in the program through a regulatory process. Is it envisioned that C-TPAT will evolve into a regulatory program in the future?*

A: No. C-TPAT will continue to evolve as a voluntary government/private sector partnership. As C-TPAT evolves, the program will continue to work in partnership with the stakeholders of the international supply chain and cooperatively develop improved systems of security and efficiency.

Q: 17. *Will certification and validation audits for C-TPAT participants differ under the new criteria from those already in place?*

A: As of March 25, 2005, new importers to the C-TPAT program will have their security profile certified and validated against the new minimum security criteria. Existing members will be expected to bring

their security measures into compliance with the new criteria over a phased in period, ending 180 days after the March 25, 2005, effective date of the new criteria. (See C-TPAT Security Criteria Implementation Plan for specific details). Validations of existing members will be conducted using the new criteria after the phased in implementation period has ended. Members will not be expected to resubmit their security profile, but necessary adjustments or modifications must be undertaken to ensure that the supply chain security measures meet or exceed the minimum, baseline security criteria. If a validation determines that the importer is not meeting the new minimum security criteria after the phase in period has passed, benefits may be suspended until such criteria are met.

Q: 18. What is the expected time period that it will take for an importer to become certified under the new criteria? And validated under the new criteria?

A: The length of time it will take an importer to bring their security measures into line with the security criteria depends on the degree to which changes are needed. Existing C-TPAT importer members will be afforded 180 days from the date of implementation to ensure full compliance with the security criteria. New members must meet these criteria prior to being certified. Validations will continue to be conducted based on risk.

Q: 19. Will companies who are already certified or validated be required to undergo a new evaluation to retain that status?

A: No. Existing members will not be required to re-submit their security profile. Those existing members who have previously completed a validation will not automatically be subject to additional validation, however, validations will continue to be initiated based on risk. As CBP continues to hire additional Supply Chain Specialists, validations and re-validations were become more common. See C-TPAT Security Criteria Implementation Plan for specific details.

Q: 20. Importers must evaluate the cost and risks associated with participating in C-TPAT against the benefits. To assist importers in this regard, please identify the specific benefits that an importer will receive based on its participation in C-TPAT.

A: Certified members will continue to receive fewer cargo inspections, allowed access to land border expedited processing via the FAST program, and granted participation into the Importer Self Assessment program. Additional benefits are currently being discussed within CBP and more detailed information concerning additional benefits will be provided in the near future. It should be noted that C-TPAT members are 6 times less likely to undergo a security related examination, and 4 times less likely to undergo a trade related examination, as compared to non-C-TPAT members. There are clearly financial benefits as a result of these fewer inspections.

Q: 21. What future plans are envisioned for C-TPAT? Will C-TPAT be offered to entities outside of the U.S. and North America? What types of businesses would qualify for the program?

A: At present, the C-TPAT program is open to U.S. importers, carriers, brokers, freight forwarders, consolidators, ports, terminal operators, northern and southern border truck carriers, and Mexican manufacturers. Should enrollment be expanded to additional sectors, the public will be notified via the CBP website.

Q: 22. Will participation in other security programs administered by other government agencies affect an importer's obligation to comply with the C-TPAT criteria?

A: CBP has attempted to align the C-TPAT program requirements to security programs administered by other government agencies, to reduce redundancy and ensure a logical, consistent approach. Generally, companies who participate in other government administered security related programs find it easier to meet or exceed the program requirements of C-TPAT.

Q: 23. Will the new standards apply equally to companies of all sizes (large, medium and small)? And to all kinds of commodities?

A: Yes. C-TPAT recognizes the complexity of international supply chains and endorses the application and implementation of security measures based upon risk analysis. Therefore, the program allows for flexibility and the customization of security plans based on the member's business model. Membership in this voluntary, incentives based partnership entails a commitment to strengthen the entire supply chain.

Q: 24. The preamble to C-TPAT Security Criteria for importers states that importers must assess their supply chains and take appropriate security measures based on “risk.” What factors should importers take into account to conduct a “risk analysis?”

A: Importers shall have a documented and verifiable process for determining risk throughout their supply chains based on their business model (i.e., volume, country of origin, routing, potential terrorist threat via open source information, recognized weaknesses in the supply chain, etc.)

Q: 25. Is there a specified timeline within which the importer must verify compliance with C-TPAT criteria? Also, for existing importers enrolled in C-TPAT, what is the timeframe that existing members must be compliant? (whether or not they have been validated previously)

A: See C-TPAT Security Criteria Implementation Plan for specific details.

Q: 26. Under the “Business Partner Requirement” importers must have documentation to indicate that their partners are or are not C-TPAT certified. Examples such as C-TPAT certificates and SVI number are given. Please provide other examples on how this documentation might be accomplished?

A: For those business partners eligible for C-TPAT certification the importer must have documentation indicating whether these business partners are or are not C-TPAT certified. The two readily available means to document C-TPAT certification is either the C-TPAT certificate or SVI number.

Q: 27. C-TPAT importers are provided several means to show that their business partners are meeting appropriate C-TPAT standards. How flexible will CBP be with smaller and medium size importers, and those of different commodities, who may not enjoy the leverage to conduct these examinations?

A: C-TPAT member importers commit to strengthen their entire supply chains and adopt appropriate security measures based on risk. Importers must ensure business partners develop security processes and procedures consistent with the C-TPAT security criteria to enhance the integrity of the shipment at point of origin. Periodic reviews, which does not necessarily imply an actual physical review of the foreign manufacturer/supplier, of business partners' processes and facilities should be conducted based on risk, and should maintain the security standards required by the importer. A Best Practices document under development will provide several avenues through which small to mid size importers have been successful in leveraging their business partners

Q: 28. Point of Origin section states that “Importers must ensure business partners develop security processes and procedures consistent with the C-TPAT security criteria to enhance the integrity of the shipment at point of origin.” How far back into the supply chain must a certified C-TPAT importer go to ensure and maintain proper security standards assuming that risks are equal?

A: Importers must conduct a comprehensive assessment of their international supply chains. Where an importer outsources or contracts elements of their supply chain, such as a foreign facility, conveyance, domestic warehouse, or other elements, the importer must work with these business partners to ensure that pertinent security measures are in place and adhered to throughout their supply chain. The supply chain for C-TPAT purposes is defined from point of origin manufacturer / supplier / vendor) through to point of distribution – and recognizes the diverse business models C-TPAT members employ.

Q: 29. What steps must an importer take to ensure that their business partners develop security processes and procedures consistent with the C-TPAT security criteria?

A: Importers must require their business partners to demonstrate that they are meeting C-TPAT security criteria via written/electronic confirmation (e.g., C-TPAT certificates; SVI number; contractual obligations; via a letter from a senior business partner officer attesting to compliance; a written statement from the business partner demonstrating their compliance with C-TPAT security criteria or an equivalent WCO accredited security program administered by a foreign customs authority; or, by providing a completed importer security questionnaire).

Q: 30. How frequently should an importer conduct a review of its business partner to “ensure” compliance with C-TPAT standards?

A: C-TPAT recognizes the complexity of international supply chains and endorses the application and

implementation of security measures based upon risk analysis. Therefore, the program allows for flexibility and the customization of security plans based on the member's business model. High risk supply chain components should be reviewed more frequently than low risk components.

Q: 31. *The criteria for container security state that the integrity of the container must be maintained to protect it from introduction of unauthorized materials and personnel. Under many circumstances the importer has no direct control or responsibility before it is assigned use or when the container is stuffed by (an) outside third party(ies) and is transported by a carrier. The same is also true for container inspections, seals and storage. What steps can an importer take regarding these circumstances in order to comply with this standard?*

A: C-TPAT recognizes the complexity of international supply chains and endorses the application and implementation of security measures based upon risk analysis. Therefore, the program allows for flexibility and the customization of security plans based on the member's business model. High risk supply chain components should be reviewed more frequently than low risk components.

Q: 32. *Do the proposed criteria for physical access controls, personnel security, procedural security, security training and threat awareness, physical security and information technology security apply only to facilities and operations that are under the direct control of the importer? Do they also apply to overseas parties with whom the importer does business? If yes, how should these requirements be applied when the importer uses an overseas supplier only on rare or one occasion?*

A: C-TPAT recognizes the complexity of international supply chains and endorses the application and implementation of security measures based upon risk analysis. Therefore, the program allows for flexibility and the customization of security plans based on the member's business model. Where an importer outsources or contracts elements of their supply chain, such as a foreign facility, conveyance, domestic warehouse, or other elements, the importer must work with these business partners to ensure that pertinent security measures are in place and adhered to throughout their supply chain. Through the Business Partner Requirements, importers are expected to leverage their business relationships to enhance security measures, throughout the entire supply chain, not just those parties under direct control of the importer.

Q: 33. *With regard to proper vendor ID under physical access controls, please provide examples on what constitutes proper (photo identification) ID?*

A: Proper photo identification will vary based on the foreign/domestic location of the facility. Proper vendor ID may be any government issued photo identification document, or any comparable type of documentation which establishes the identity of the bearer. The crucial aspect of this criteria is to establish who is entering the facility; members are not expected to be experts at fraudulent document detection.

Q: 34. *As for cargo discrepancies, CBP is required to be notified if "illegal or suspicious activities are detected, as appropriate." Can CBP provide examples of the kinds of discrepancies that would and would not warrant notification? Is this referring to when the cargo is received at the final destination on the bill of lading? Please Note: Full container shipments moving via an ocean carriers bill of lading are "Shippers Load, Stow & Count", so unless there is an inspection of the container requested by CBP, discrepancies - such as shortages or overages would not be identified until the cargo reaches the final destination on the bill of lading.*

A: All shortages, overages, and other significant discrepancies or anomalies must be resolved and/or investigated appropriately. Customs and/or other appropriate law enforcement agencies must be notified if illegal or suspicious activities are detected - as appropriate. Examples of illegal or suspicious activities range from the presence of contraband or stowaways/illegal migrants, significant theft or pilferage, introduction of material(s)/items after point of stuffing, and other unusual activities which may indicate criminal actions.

Q: 35. *The Business Partner Requirement section states that an importer's business partners should be C-TPAT certified or otherwise compliant with C-TPAT criteria. Can a C-TPAT importer do business with a business that is not C-TPAT certified or compliant? If so, what are the consequences of doing so?*

A: C-TPAT members are expected to demonstrate a commitment toward strengthening their entire supply

chains. One way to demonstrate this commitment is through the use of other C-TPAT certified members, or those certified through an equivalent WCO accredited security program administered by a foreign customs authority. If using non-C-TPAT business partners, the C-TPAT member must be aware of the security measures employed by their business partner, and these measures must be subject to verification of compliance with C-TPAT security criteria by the importer.

Q: 36. Will the C-TPAT program distinguish between compliant and non-compliant suppliers? How? Will shipments from nonconforming suppliers be treated differently by CBP? How would CBP know which suppliers are conforming and which are not?

A: See answer to question #7 above.

Q: 37. When compliant suppliers' cargo is mixed with non-compliant suppliers' cargo in a consolidated load, what is the consequence?

A: CBP employs a risk management approach in screening and targeting import and export shipment. Shipments from non-C-TPAT certified members, or those from unknown or less established entities receive higher scrutiny from CBP. If C-TPAT member cargo is imported in the same container as high risk cargo imported by another party, and an examination of the higher risk cargo is necessary, the entire shipment will be examined.

Q: 38. When compliant suppliers' cargo is mixed with non-compliant suppliers' cargo in a consolidated load, what is the consequence?/

A: CBP employs a risk management approach in screening and targeting import and export shipment. Shipments from non-C-TPAT certified members, or those from unknown or less established entities receive higher scrutiny from CBP. If C-TPAT member cargo is imported in the same container as high risk cargo imported by another party, and an examination of the higher risk cargo is necessary, the entire shipment will be examined.

Q: 39. Does a compliant consolidator "cleanse" noncompliant suppliers?

A: Not necessarily, though the supply chain is made more secure by this activity. This activity would not necessarily ensure that the cargo itself is not containing contraband or other items which may be a threat or terrorist weapon. Importers must still advance supply chain security enhancements throughout their business partners. One secure piece of the supply chain does not "cleanse" other, less secure components.

Q: 40. The criteria lists many "requirements". At the same time it says: "the program allows for flexibility and the customization of security plans based on the member's business model." Does this mean that the C-TPAT importer can, using its customization discretion, not apply various program "requirements"?

A: While the C-TPAT program recognizes the complexity of international supply chains and endorses the application and implementation of security measures based upon risk analysis, importers must work with their business partners to ensure that pertinent security measures are in place and adhered to throughout their supply chain. The program allows for flexibility and the customization of security plans based on the member's business model which demonstrates that the baseline, minimum security criteria are being met or exceeded.

Q: 41. Does CBP believe that importers have sufficient information to make accurate terrorist risk assessments throughout their supply chains?

A: Yes. Importers shall have a documented and verifiable process for determining risk throughout their supply chains based on their business model (i.e., volume, country of origin, routing, potential terrorist threat via open source information, etc.). Importers who employ good business practices are aware of the risks posed by foreign countries in which they operate.

Q: 42. CBP has expressly used the term "as applicable" throughout the document. Is it the intention that "as applicable" be used by the importer to modify and/or provide alternatives to these "requirements" such that a level of security within the specific parameter is met, but not necessarily exactly as indicated? This may be the same as the guidelines in TD 72-56 for bonded facilities. Is our interpretation of this term, "as applicable" correct?

A: Yes. C-TPAT recognizes the complexity of international supply chains and endorses the application

and implementation of security measures based upon risk analysis. Therefore, the program allows for flexibility and the customization of security plans based on the member's business model.

Q: 43. Do foreign entities which participate in, and are certified by, the Business Anti-Smuggling Coalition (BASC) automatically meet C-TPAT business partner security requirements?

A: BASC and C-TPAT remain separate programs, though very similar in philosophy and overall program objective, which is to enhance supply chain security to reduce vulnerabilities. Membership in BASC does help establish that the foreign business partner is meeting minimum security criteria, but a complete review would still be needed to identify any deficiencies which need to be addressed.