



WORLD CUSTOMS ORGANIZATION  
ORGANISATION MONDIALE DES DOUANES

Established in 1952 as the Customs Co-operation Council  
Créée en 1952 sous le nom de Conseil de coopération douanière

The Secretary General

07.EL-0259E/L.B.

Brussels, 13 December 2007.

Dear Mr. Chairman,

I am writing to you, in my capacity as Secretary General of the World Customs Organization (WCO), an independent intergovernmental body whose mission is to enhance the efficiency and effectiveness of Customs administrations world-wide, thereby assisting them to contribute successfully to national development goals, particularly in the areas of trade facilitation, revenue collection, community protection and national security. The WCO's membership consists of 171 Governments world-wide.

The specific purpose of this letter is to transmit to you a Resolution adopted jointly by the WCO Policy Commission and the WCO Private Sector Consultative Group (PSCG) at their recently concluded meeting in Almaty, Kazakhstan. For understandable reasons, the delegation representing the United States abstained from the deliberations which led to the unanimous adoption of this instrument. The Resolution, dated 6 December 2007, expresses the considerable concerns shared by WCO Members and our private sector partners regarding the newly enacted requirement that, beginning in July 2012, all containerized maritime cargoes must undergo X-ray scanning in foreign ports prior to being shipped to the United States.

Let me make it absolutely clear at this point that the WCO, of which the United States is an important Member of long standing, does recognize a legitimate role for the use of X-ray scanning in assessing the potential risks posed by containerized maritime cargoes. I will address the parameters of that role later in this letter. I should also make it clear that the WCO raises no objection to another requirement present in the new United States law, namely that all containerized maritime cargoes be subjected to radiation detection processes prior to shipment.

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Senator Joseph LIEBERMAN,  
Chairman,  
Senate Committee on Homeland Security  
and Governmental Affairs,  
706 Hart Senate Office Building,  
WASHINGTON, D.C. 20510-0703.

.../...

The WCO's concerns revolve around the major adverse impacts which the new legal requirement for X-ray scanning will have on several of the Organization's core processes and instruments. Prominent amongst these is the Revised Kyoto Convention (RKC), an international Customs agreement to which the United States and 52 other nations, plus the European Communities, have already acceded. It is in the RKC that we first see defined the proper role of cargo scanning as a tool to be applied as an element of well-reasoned risk management systems. Such systems have proven their value in providing assessments of risk potential. Implementation of the new United States requirement will be tantamount to abandonment of these fundamental principles and systems.

In the WCO SAFE Framework of Standards to Secure and Facilitate Global Trade (adopted in June 2005), the role of cargo scanning as provided in the RKC is further advanced and upheld. In signing a Letter of Intent to implement these Standards, the United States has also acknowledged the propriety of the proper use of cargo scanning as one tool, amongst others, in the arsenal available to assess risks from containerized cargo shipments. As in the case of the RKC, we view the prospect of 100 % X-ray scanning of containerized cargo in foreign ports as anathema to - and ultimately destructive of - the SAFE Framework of Standards, to which the United States has committed itself.

Regrettably, the same fate may befall the Authorized Economic Operator (AEO) programme which is incorporated as part of the SAFE Framework of Standards. Prospective AEOs are currently undertaking major expenditure in order to meet the stringent security standards imposed by the WCO SAFE Framework. The standards and requirements of the AEO programme will intermesh with one another to form a cargo security programme which the vast majority of the Customs administrations of the world have chosen to implement, and in which businesses across the entire spectrum of trade are willing to invest heavily. Our business partners may now legitimately question the need for these robust programmes and heavy investments if the risk management which underpins the WCO programmes is shortly to be undermined by looming requirements from the United States which abandon proven risk management principles.

We would urge you and your fellow legislators in the United States to take account of the points raised in this letter, as well as the sentiments embodied in the accompanying Resolution, when considering the future implementation of the new X-ray scanning law. There is solid and pragmatic reasoning behind the decisions of 149 of our 171 Members to implement and rely upon the principles of risk management as embodied in the programmes and instruments formulated by the WCO. My staff stand ready to assist you should you require any further information or clarification, in order to better inform your deliberations regarding possible implementation of the new X-ray scanning law by the United States.

Yours sincerely, *his respect*



Michel Danet.



**JOINT RESOLUTION OF THE**  
**CUSTOMS CO-OPERATION COUNCIL'S<sup>1</sup> POLICY COMMISSION**  
**AND THE PRIVATE SECTOR CONSULTATIVE GROUP**  
**CONCERNING THE WCO SAFE FRAMEWORK OF STANDARDS**  
**AND THE UNITED STATES LEGAL REQUIREMENTS**  
**FOR 100 PERCENT CONTAINER SCANNING<sup>2</sup> AT EXPORT**

**THE POLICY COMMISSION OF THE CUSTOMS CO-OPERATION COUNCIL<sup>1</sup> AND THE WCO PRIVATE SECTOR CONSULTATIVE GROUP,**

**NOTING THAT :**

- the World Customs Organization (WCO) is the intergovernmental organization competent in Customs matters and that it represents 171 Customs administrations world-wide;
- the Council of the World Customs Organization unanimously adopted the WCO Framework of Standards to Secure and Facilitate Global Trade in June 2005;
- the objective of the WCO SAFE Framework of Standards is to establish standards that provide supply chain security and facilitation at a global level to promote certainty and predictability.

**FURTHER NOTING :**

- that the US Law "Implementing Recommendations of the 9/11 Commission Act" of 2007 requires the 100 percent scanning of US-bound containers at a foreign port.

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<sup>1</sup> Customs Co-operation Council is the official name of the World Customs Organization (WCO).

<sup>2</sup> Reference to image scanning only.



**CONCERNED that the implementation of the requirement for 100 percent container scanning at export :**

- would be detrimental to world trade, as well as economic and social development at national and global level;
- would introduce a significant non-tariff trade barrier and bring about disproportionate infrastructure, operational and inventory costs to both trade and economies;
- would deviate from trade facilitation and logistical efficiency and result in unreasonable delays, increased storage demands and port congestion;
- would present severe international trading difficulties to everybody, including small and medium sized enterprises in the United States and other countries.

**NOTING ALSO :**

- the core elements of the WCO SAFE Framework of Standards :
  - advance electronic cargo information,
  - use of a consistent risk management approach to address security threats,
  - selective intelligent outbound inspection of high-risk containers and cargo using non-intrusive detection equipment, such as scanners and detectors, based on international Customs co-operation and risk analysis,
  - provision of benefits to businesses that comply with supply chain security standards;



- the provisions on trade facilitation and risk management in the WCO Convention on the Simplification and Harmonization of Customs Procedures, known as the "Revised Kyoto Convention", to which the United States is a Contracting Party, as well as the recommendations related to the mutual recognition of control standards and a multi-layered risk-based approach in line with the WCO SAFE Framework of Standards;
- the security provided by authorization of companies through trade partnership programmes.

**GATHERING :**

- the expertise of governments, Customs administrations, private sector operators active in international trade and relevant international organizations.

**RESOLVES :**

- To express its opposition to 100 percent scanning of containers at export and its impact on world trade.
- To petition the United States Congress to take all appropriate steps to review the requirement of 100 percent scanning legislation, and to reconsider its implementation.
- To recommend the United States Congress to support the WCO SAFE Framework of Standards as well as capacity building to ensure implementation.

Done at Almaty on 6 December 2007.

Tapani Erling  
Chairperson of the WCO Council

*Renee E. Stein*

Renée Stein  
Chairperson of the Private  
Sector Consultative Group