



UNION EUROPEENNE DE L'ARTISANAT ET DES PETITES ET MOYENNES ENTREPRISES
EUROPÄISCHE UNION DES HANDWERKS UND DER KLEIN- UND MITTELBETRIEBE
EUROPEAN ASSOCIATION OF CRAFT, SMALL AND MEDIUM-SIZED ENTERPRISES
UNIONE EUROPEA DELL' ARTIGIANATO E DELLE PICCOLE E MEDIE IMPRESE

UEAPME position on the Commission proposal COM (2006) 79 / SEC (2006) 251 on enhancing supply chain security

Introduction

The Commission's proposal of 27 February 2006 aims to improve the security of road, rail and inland waterway freight against terrorist attacks. It aims to achieve this by

- “a) setting up a scheme which enables Member States to award the “secure operator” status to operators in the supply chain;
- b) setting minimum security requirements which operators have to meet before they can be awarded the “secure operator” status;
- c) setting up appropriate monitoring mechanisms.”¹

The proposed regulation encompasses all operators involved in the transporting of goods from production site to point of delivery. It envisages the first Secure Operator Certificates being issued within 18 months of the adoption of the regulation.

UEAPME's position

UEAPME is sceptical of this proposal, principally because it intends to place the cost burden of guarding against terrorist attacks on to haulers.

While UEAPME of course supports the laudable aim of protecting our surface infrastructure, and its users, against the very real and present threat of international terrorism, we are concerned that the struggle against terror could become a misplaced rationale for placing disproportionate cost burdens on small and medium-sized businesses (SMEs). These cost burdens could in fact become prohibitive to new businesses, and fatal for existing ones. This would lead to reduced productivity and competitiveness, and therefore be inconsistent with the Lisbon Agenda of making the EU the most competitive and dynamic knowledge-based economy in the world.

UEAPME, of course, accepts that every part of society – business large and small, government, individuals - has to make a contribution to preventing terrorist outrages from disrupting our way of life, threatening our freedom and democracy, and endangering the lives of our citizens. For example, UEAPME believes that it is the duty of every citizen and business to report suspicious activity that could be linked to terrorism. It is also our duty, for

¹ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on enhancing supply chain security (SEC(2006)251)
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52006DC0079:EN:HTML>

example, not to behave in any way which arouses suspicion ourselves, such as leaving luggage unattended at airports and train stations, and thus diverting resources away from the fight against genuine terrorists. Furthermore, businesses and individuals pay taxes to governments to supply the “public good” aspects of security which they cannot provide themselves, such as intelligence, border security and, in the most extreme cases, military action and defence. We also, for the most part, give governments democratic mandates to carry out this defence.

Many haulage businesses also, for example, take security precautions to protect the integrity of their freight, which are analogous to those which should be taken to fight terrorism. Furthermore, existing legal or voluntary standards take account of many of the prerequisites for obtaining certification contained in the proposal.

Furthermore, responsible anti-terrorist security actions taken by transport businesses could be further improved by public policy improvements other than the Commission’s proposal. For example, more explicit information from government to business on specific threats would enable businesses to take precautions. Secondly, better availability and knowledge of, for example, hotline numbers or anti-terrorist authority contact points would help businesses to communicate perceived threats “upwards.” Finally, there is the Belgian example where businesses have a fiscal incentive to carry out security measures – this is logical, given that the benefit of their actions is shared between themselves and society at large.

It is not logical, therefore, that, having met their societal obligations, businesses should have extra security costs passed on to them by government. It is for this reason that we are concerned that the placing of an extra burden in the fight against terrorism on the shoulders of businesses, especially SMEs in the transport sector who would find it hard to survive under these financial constraints, does not meet the proportionality criteria and is not reasonable.

Furthermore, one of the reasons why we believe this is an example of government absolving responsibility is that the measures businesses will have to take, at great cost, in order to be granted the Secure Operator Certificate are not nearly as effective in the fight against terror as those that could be taken by governments, and that the thinking behind this proposal is a classic case of “grasping the wrong end of the snake”.

For example, if businesses were to complete all the steps necessary to be granted the Certificate: documentation of security management, training of personnel, access controls, procedural security steps, and information systems; they still could not guarantee that they would not be the victim of a terrorist attack. They would still be vulnerable to hijacking or external attack by sophisticated terrorist organisations which would be capable of finding a way around the security measures. For example, the attacks of September 11th, 2001, were carried out by hijacking the actual planes themselves and using them as the weapons, rather than planting bombs on them or in other ways attempting to damage them. The only way to stop such attacks is through high quality intelligence on credible terrorist threats, and the ability and willingness of governments to confront and prevent them once the plots have been discovered: as was shown to work when the plots to blow up planes carrying out transatlantic flights between the UK and the USA was discovered and prevented in August 2006.

For example, most terrorist attacks tend to attack infrastructure such as roads, tunnels, and underground networks. The measures set out in the Commission’s proposals, taken at great cost, would not diminish these risks at all. In fact, by partially securing one element, they

would encourage terrorists to shift to other target elements such as infrastructure. The constant here is the terrorists' ability and willingness to strike an unspecified target – it is this that should be addressed, rather than the security status of what is in effect a limitless array of possible targets.

The Commission itself acquired research from Det Norske Veritas which suggested that the cost of implementing the certificate would be €48bn initially, continuing with €36bn annually, affecting 4.75m businesses in the EU. For SMEs, compliance costs totalling €135000 in the first year and €131000 in every subsequent year would be unmanageable. In fact, given that 4.2m of these businesses are SMEs with 10 or fewer employees, all of whom may find the requirements to be prohibitively expensive, the Commission's proposals may effectively be putting an entire industry at risk.

It is not to be forgotten that these costs, as with most administrative burdens, would disproportionately affect small and medium-sized enterprises (SMEs). While large businesses could absorb the costs with their margins intact, many smaller businesses would not be able to continue operating. Furthermore, this cost estimate may in fact be an underestimate of the true economic costs, as increases in transportation costs will be passed on to supply chain end users, increasing operating costs and therefore reducing productivity of any business that relies on transported goods. Furthermore, the prospect of many smaller transporters being forced out of business will push transportation prices up further through the decreased competition.

We should bear in mind that the war on terror is fought for dual reasons: to preserve life; and to preserve our way of life. Measures which are introduced which severely impact upon our ability to conduct our daily business and to drive our prosperity, implemented solely on the small chance that may halt a terrorist attack, are on the one hand a failure to recognise what genuinely needs to be done to fight terror, and on the other hand a failure of the second objective, as they effectively characterise a society cowed through terror into being distracted from its objectives and to acting in a disproportionately over-cautious manner.

We believe, also, that it is unrealistic to describe the Certificate as a voluntary measure. UEAPME fears that it will *de facto* become obligatory due to market pressure, as transport users, having once dealt with a certified company, will demand to see certification from any company they use. Furthermore, if certified carriers are to be given fast-track clearance at ports and entry points, those carriers which are not certified will necessarily be at a competitive disadvantage. The *de facto* obligatory nature of the scheme will hit SMEs the hardest.

A further reason why the Certificate may in fact become obligatory is downstream supply chain pressure. Large transporters subcontracting parts of their business to smaller hauliers will likely demand certification from any subcontractor submitting a tender, as was seen to be the case in the example of ISO 9000.

Conclusion

UEAPME believes that this proposal is wrongly focused. It asks businesses to pay prohibitively large sums of money in order to take measures against terrorism which are far from guaranteed to be adequate protection. Furthermore, it shifts the burden of expense in the fight against terrorism onto business and therefore the wider economy, which will have to pay

for inefficiency and reduced productivity, and this in order to take measures which would be less effective than better government action. As businesses already make a significant contribution to the fight against terrorism, both through their taxes as well as through their vigilance and already existing security procedures, UEAPME does not believe it fair to impose such a disproportionate burden on them and on the economy with little tangible benefit for society. Therefore, we believe that this proposal should be rejected.

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