CLECAT Workshop for ICS2

ICS2 – What it brings? When?

Brussels, 10/09/2019

European Commission

ICS2

- **ICS2 – What it brings?**
  - Context
  - Regulatory requirements – freight forwarding perspective
  - Introduction of Air Cargo Pre-Loading (PLACI) and Multiple Filing
- **Summary of changes impacting freight forwarding**
- **ICS2 – When will enter into operation?**
  - Implementation in three releases

ICS2 Context

European Commission

REMARKS OF CHRISTOPHER KOCH
President and CEO, World Shipping Council
Before the Maritime Security Expo 2006
New York City
September 19, 2006*

The European Union's basic strategy appears to be properly focused on building advance containerized cargo screening or risk assessment capabilities that can be applied 24 hours before vessel loading, and on improving importers' supply chain security through voluntary AEO programs.

It is unfortunate, therefore, that the European Commission's most recent draft of these regulations has chosen an approach for the implementation of that strategy that contains a fundamental flaw and will not meet the stated objective of effectively enhancing the EU's cargo risk assessment capabilities.

The most significant problem with the pending draft of Regulation 1250 is that it includes a conscious decision to not require freight forwarders (NVOCCs under U.S. regulations)[1] to file advance summary declarations (or manifest information) for the shipments they control under their own bills of lading.

Without a filing obligation by freight forwarder/NVOCCs, any shipper could easily avoid advance screening of its shipment (e.g., the underlying shipper and consignee, and the origin and destination of the shipment) by simply contracting for transportation services with a forwarder instead of an ocean carrier. The resulting illogic is particularly pronounced in European containerized trades that historically have had a significant share of freight forwarder–controlled shipments. Without forwarder/NVOCC shipment information, Customs administrations would, for their cargo risk assessments, only be able to review the ocean carrier's bill of lading information. This is likely to show the freight forwarder as both the shipper and consignee, show the foreign load port as the origin and the Community port of unloading as the destination, and oftentimes will only include a general cargo description. This would be insufficient and misleading for cargo risk assessment purposes.

It is too soon to know if the Commission's current draft regulation will be adopted. There is still the hope that the Commission will take the logical step that other nations' 24-Hour Rule regulations have taken, and require freight forwarders to file their shipment data.

Although ocean carriers could physically comply with a regulatory requirement that doesn't include forwarder filings, it is apparent that all commercial parties, as well as the various European Customs authorities, would be better off by not implementing a system that has such a significant security flaw.

EU Advance Cargo Information regime for security risk assessment introduced by Regulation 648/2005
Customs security role brought into the EU legal and operational instruments as a response to the increasing global security challenges (9/11…)

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Purpose and scope of the ICS2

ICS2 system supports implementation of new entry summary declaration (ENS) requirements under Union Customs Code and strategic objectives set in the Risk Management Strategy of 2014

- **ENS = Electronic** declaration lodged by the EO to the customs:
  - **in advance of arrival** of goods to the EU
  - **Covers all goods** (except limited waivers) intended to be brought in the EU by commercial means of transport **(also transit through EU)**
  - Includes **info about consignment and conveyances** used
  - Based on a legally **prescribed data-set per specific mode of transport** (air, sea, road & rail) **and business model** (i.e. post, express, general cargo)

ICS2 Context

Purpose of ENS and ICS2

- ENS is required for customs to carry out risk analysis primarily for the **public security, health and safety purpose**
- Allows customs **to mitigate risks at the most appropriate time and place** in the supply chain

1 – Pre-loading - Immediate threat e.g. explosive device concealed in cargo, spread of disease

2 – First EU entry point: Immediate threats not covered by 1

3 – Place of unloading – risks requiring control at border e.g. prohibited or dangerous goods and illicit trade

4 – Final destination – Early control not required e.g. conformance with product safety rules

ICS2 Context

Customs entry processes and positioning of the ENS - ICS2 requirements

ICS2 Context

ICS2 system architecture – Block 1 & 2.1

ICS2 Regulatory requirements – freight forwarding perspective

(all transport modes)

ICS2 Regulatory requirements

- **May 2016*: Union Customs Code (UCC) entry into force with implementing regulations:***
  - **New ENS data requirements –** improve data quality
  - **Multiple filing** from various supply chain actors (Art. 127 (6))

    ENS may be lodged by one EO, or ENS can be lodged in more than one data-set and by more than one Eos
  - **Removal of** small consignments **waiver** (postal and €<22)
  - **Pre-loading Air (PLACI) filing** (based on ENS data sub-set)**, risk analysis** and **risk mitigation referrals to EO**
- **Ongoing – amendments to the implementing law (DAs / IAs)**

  + ICS2 three releases implementation, ENS data sharing and risk processes by customs, new structure of Annex B on data requirements…

ICS2 Regulatory requirements

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Union Customs Code (UCC)

- **ENS requirement - Article 127** of the Union Customs Code (Reg. 952/2013) – applies on all transport modes
- **Carrier is responsible** to lodge e-ENS to the MS of first entry
- BUT, **other parties may be obliged as well** (if the carrier not able to obtain all necessary data) – Article 127 (6) UCC
- So, UCC introduces possibility of dual/multiple ENS filing
- UCC Implementing Acts (DAs and IAs) **concretize it**

ICS2 Regulatory requirements

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UCC Delegated Regulation (2015/2446):

- Responsibilities of different actors for ENS filing – multiple filing
- Exemptions from ENS filing obligations on certain goods
- Time-limits (pre-loading, pre-arrival)
  - **Pre-loading: as early as possible prior to goods loading on plane destined to EU**
  - **Pre-arrival: 4h prior to arrival for flights of +4 hours or at actual departure for flights of –4h.**
- ENS Data requirements (Annex B)

UCC Implementing Regulation (2015/2447):

- Procedural rules for ENS filing (sharing of data among supply chain actors)
- Risk analysis and risk mitigation referrals (RfI, RfS, DNL)
- ENS Data structure and format (Annex B)

ICS2 Regulatory requirements

Maritime & Air ENS Data requirements (Annex B) include mandatory information:

- contained in the **master bill** of lading (conveyance) – maritime/air carrier
- Contained **in any house bill** of lading issued under the master bill (including co-load, lowest BoL) – freight forwarder

Maritime ENS Data requirements

- Certain **commercial data** (i.e. seller, buyer (owner)) for the maritime cargo with final destination EU - lowest BoL - ultimate consignee

ICS2 Regulatory requirements

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Parties responsible to file ENS data to the EU customs:

- **Carrier**

In addition and in the case, when more than one bill of lading issued for the same goods (i.e. house bill):

- Any **person issuing** that **bill of lading**, if it does not want to share this information with the carrier i.e. **freight forwarder**

In the case of data not contained in the bill of lading (i.e. commercial data):

- **Consignee** at the **lowest bill of lading level,** if it does not want to share this information with the carrier or with the lowest BoL issuing party – freight forwarder

Introduction to ICS2 - Air Cargo Pre-Loading (PLACI)

ICS2 - PLACI

- **PLACI is a minimum set of ENS data** required as soon as possible prior to loading of goods in a third country

- PLACI **covers only a segment of ENS requirements** and processes in air traffic

- **Obligation to file PLACI is on carrier**, **or** in absence of required timely information **by other supply chain actor** i.e. postal operator, express carrier, FFW.

ICS2 - PLACI

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Scope and purpose of PLACI filing, customs risk assessment

- To identify a **consignment** (following a PLACI 7+1 declaration) placed in air cargo/mail with an intent of bringing down an aircraft
- which may contain a potential assembled IED (explosive) or IID (incendiary) device → **'bomb in the box'**
- which may pose an imminent, lethal threat to the **aircraft**
- to help **prevent it being loaded** on aircraft in a third country

PLACI data - minimum ENS dataset

- **'7+1' minimum ENS dataset:**
- Consignor name
- Consignor address
- Consignee name
- Consignee address
- Description of goods
- Gross mass
- Number of packages*
- + Transport document number

- * Total number of packages based on the smallest external packing unit. This is the number of individual items packaged in such a way that they cannot be divided without first undoing the packing, or the number of pieces, if unpackaged.

PLACI – risk mitigation measures

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- If the automated outcome of the PLACI risk analysis will require attention of customs, further risk assessment process will be human based

- THERE WILL BE NO PURELY AUTOMATED DECISION MAKING (human decision!)

- Customs addressed in PLACI & in charge of risk assessment filing will have at disposal & depending on individual case different mitigation measures (referrals)

Levels of Mitigation
Level 0 – Information that does not require additional action at pre-load – 'Assessment complete'
Level 1 - Request for Information (RFI)
Level 2 - Request for Screening (RFS)
Level 3 - Do Not Load (DNL)

- In the case PLACI will not trigger any MS human intervention, the 'assessment complete' message will be generated automatically

PLACI filing, risk assessment and mitigation – to illustrate

Introduction to ICS2 ENS Multiple filing process – air and maritime

Multiple-filing in operational reality
Knowing what is in the box and who is involved? Can be complicated in some cases

Phase
Carrier (MSC line)
NVOCC (ECU) / co-loading NVOCC (DHL)
Freight Forwarder (Qingdao Waywall International Logistics)
Carrier
Straight Bill of Lading
Consignor = 'Direct' Customer
Straight Bill of Lading
Consignor = 'Direct' customer
CONSIGNMENT MASTER LEVEL
STRAIGHT BoL
Master Bill of Lading (e.g. 1.000 containers)
Consignor = 'Direct' customer
House Bill of Lading
Consignor= NVOCC (ECU)
House Bill of Lading (e.g. 500 conainers)
Consignor= Co-loading NVOCC (DHL)
House Bill of Lading
Consignor = 'Direct' Customer
House Bill of Lading
Consignor = 'Direct' customer
Consignor = 'Direct' customer
House Bill of Lading
HOUSE LEVEL - 'MASTER' CONSOLIDATOR
House Bill of Lading
HOUSE LEVEL – CO-LOADING
Consignor = Freight Forwarder (Qingdao Logistics)
Sub-House Bill of Lading
Consignor = 'Direct' customer
HOUSE LEVEL – SUB-HOUSE BoL

ENS multiple-filing process

It happens in the case a carrier is not able to provide complete ENS; Obligation/liability for missing data falls to other party:

- **(Airway)bill issuing party obliged to inform** its contracting party **of the issuance** of that (airway)bill of lading

- **Carrier obliged** to refer **another filer ID (current D.E. 3/38)** in its submission (i.e. **EORI** of FFW, consignee, postal operator), **its own EORI** and **Nr of its MBoL / MAWB** (unique min 1 year).

- **House bill of lading issuing party (FFW)** and if the case; the lowest BoL **consignee obliged** to refer in its filing the carrier's **MBoL / MAWB reference and carrier ID (EORI)** – unique linking key!

- **In the case of Co-loading or sub house BoL issued - House bill of lading issuing party (FFW) obliged** to refer another filer ID in its submission (D.E. 3/38) (e.g. EORI of another FFW issuing house BoL)

ENS multiple-filing process

	DATA SHARING WITH SUPPLY CHAIN PARTY	ENS D.E.	DATA SHARING WITH SUPPLY CHAIN PARTY	ENS D.E.
SEA/AIR	CARRIER TO FFW	Its EORI ID BOL/MAWB	FFW TO CARRIER	Its EORI
SEA/AIR	'MASTER' FFW TO CO-LOADING FFW	CARRIER EORI ID BOL/MAWB	CO-LOADING FFW TO 'MASTER' FFW	Its EORI
SEA/AIR	'MASTER' FFW TO SUB-HOUSE FFW	CARRIER EORI ID BOL/MAWB	SUB-HOUSE FFW TO 'MASTER' FFW	Its EORI
SEA/AIR	CO-LOADING FFW TO SUB-HOUSE FFW	CARRIER EORI ID BOL/MAWB	SUB-HOUSE FFW TO CO-LOADING FFW	Its EORI
SEA	CARRIER TO ULTIMATE CONSIGNEE	Its EORI ID BOL/MAWB	ULTIMATE CONSIGNEE TO CARRIER	Its EORI
SEA	LOWEST HBoL FFW TO ULTIMATE CONSIGNEE	CARRIER EORI ID BOL/MAWB	ULTIMATE CONSIGNEE TO LOWEST Bol FFW	Its EORI

ENS multiple-filing process

ENS filing options for the EOs:

- **Single filing** by the **carrier** (e.g. straight BoLs, direct MAWBs) – (maritime and air)

- **Dual filing** by the **carrier** and **consignee** (buyer/seller/HS) (maritime)

- **Dual filing** by the **carrier** and **freight forwarder** (maritime and air)
  - **For Air FFW perspective:**

  a) a possibility to file PLACI with 7+1 only, and supplement at pre-load phase with the additional MAWB reference, and at pre-arrival full house consignment data

  b) FFW can also choose to file PLACI with 7+2 (thus HAWB + MAWB ref Nr) and at pre-arrival phase full house consignment data

  c) FFW can also file full house consignment data (with MAWB reference) as part of PLACI filing

- **Multiple filing** by the **carrier**, **freight forwarder(s)** and the lowest BoL **consignee** (maritime)

- **Single filing by the freight forwarder** or consignee (consent of the carrier needed) – (maritime and air)

Summary of changes impacting freight forwarding

How do these changes impact freight forwarders (1)?

- **New roles** and **legal obligations** due to new ENS requirements:
  - FFW will either need to share data with carriers, considered commercially sensitive *or*
  - FFW will choose to file partial ENS data to customs and be responsible, for timeliness, accuracy and completeness of ENS data they provide

- FFW will have **legal obligations** to:
  - Obtain EU EORI number from EU customs (also non-EU FFW), if chooses to file ENS data
  - Comply with the legal obligation to inform the carrier or 'master' or 'co-loading' FFW (as applicable), that they issued a (airway)bill of lading and are legally obliged to provide ENS data
  - Comply with legal obligation to share its EORI nr for particular transaction (BoL, MAWB) with carrier, 'master FFW' or 'co-loading FFW', as applicable
  - Comply with legal obligation to share defined carrier's data with other FFW (co-loading, sub-house (airway)bill of lading issuing parties, or ultimate consignee, as applicable)

How do these changes impact FFWs? (2)

- **IT aspects**: If FFWs will file ENS data, they will need to:
  - Develop necessary IT interfaces and systems to support required business processes, or
  - Use IT service providers that will be allowed to send data and support business processes with EU customs

- **Business transformation**: If FFW will file ENS data, they will need to:
  - design and implement all necessary ENS business processes (e.g. to organize interactions with other supply chain actors, referral processes, control phase at presentation, etc)

ICS2 – When will enter into operation?

Implementation in three releases

When will it come into operation?

The new ENS (ICS2) implementation in three releases

1. **Release =15/3/2021**

New system: **Minimum air pre-loading** dataset for **postal and express** consignments – purpose Air Cargo Security RA ('bomb-in-a-box')

Existing system: continuation of all current ENS in the existing system (no change!)

2. **Release = 1/3/2023**

New system: **Complete** ENS for goods in **air traffic**

Existing system: continuation of current ENS for maritime, road & rail (phase out of the current ENS for air after end of deployment window)

3. **Release = 1/3/2024**

New system: Complete ENS for **maritime, road & rail (including postal goods in these sectors)**

Existing system: Phase out 25.3.2025 (ICS = switched off)

Schedule of ICS2 Releases

Roll out by group starting with **Postal (Air) and Air express pre-load**, followed by **full Postal & Air express and Air cargo**, with last group being **Maritime and Rail & Road**.

Thank you

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