

A Guide to Due Diligence at an Individual Shipment Basis



This document should be read in conjunction with the BIFA Good Practice Guide “Due Diligence checks to assist Members “Know Your Customer” which gives guidance regarding the due diligence it is recommended should be undertaken. Fulfilling these checks enables Members to meet most of their legal responsibilities contained with Anti Money Laundering Legislation and HMRC guidance prevention supply chain fraud.

Whilst acknowledging that undertaking a risk assessment on all shipments is a difficult task, particularly relative to high volume/ low value shipments, there are dangers in not carrying out this function. Balanced against this is the fact that Regulators are placing increasing emphasis on compliance within the supply chain, with a focus on Customs activities and fraud. The supply chain can be complex, and Members have to be aware that there are regulations and laws that apply at almost every stage of a shipment's journey. Some of these rules, such as Dangerous Goods regulations, are applicable to the whole journey.

In recent years we have seen increasing importance placed on traders either becoming an Authorised Economic Operator (AEO) or operating to the criteria required of an AEO. Many Free Trade Agreements include clauses which make reference to mutually recognising the AEO and similar schemes of both countries. Within aviation security we have seen similar globalisation of security regimes which assist in creating a certain degree of uniformity.

At the same time we have seen a change in the freight forwarder's role, certainly in the UK, because they rarely act purely as agents for their clients with the carrier. Nowadays they are much more likely to act as a principal with their client and operate their own consolidation services as principal with the carrier. These important changes

have occurred at a time when the forwarder's customers are placing increasing emphasis on the guidance provided by their forwarder. Also, we have seen the growth of e-Commerce where often neither the shipper nor consignee have detailed knowledge of forwarding or other regulatory requirements.

Members, when fulfilling their responsibilities, need to consider the following two key factors: -

- What information is held on the customer that has been checked as being accurate as part of a wider due diligence procedure?
- What information is held on individual consignments that has been checked as being accurate

In respect of both key factors above, consideration needs to be given to what additional information needs to be obtained, how it is to be recorded, checked and verified and by whom within your organisation as part of your governance procedures.

When reviewing the above it is important to consider what regulations are applicable to these matters and to check the information against them. HMRC issued guidance entitled “Due diligence when making customs declarations”. www.gov.uk/guidance/due-diligence-when-making-customs-declarations

Additional checks such as on embargo lists may need to be made to ensure that it is legal to ship the goods. Responsibilities were placed on freight forwarders and customs agents to look for suspicious activity in the supply chain

As HMRC acknowledges in their guidance, due diligence is not a “precise science” but, as far as they are concerned in relation to declarations, certain steps need to be taken by the customs agent to demonstrate that they have the requisite evidence to support the accuracy of customs declarations, including the authenticity of supporting documents. It is essential to remember that this evidence should be easily retrieved so that it may be presented to regulators as evidence as to how decisions have been reached. Emphasis is placed on having as much of this information as possible in writing and that includes electronic means. Due diligence is becoming an increasingly important aspect of many of our Members normal business activities, primarily because government is placing additional emphasis on trade to perform in part the functions that have been a traditional government responsibility.

A Framework for Due Diligence Relating to Individual Shipments

Members must conduct some form of due diligence checks on their customers when onboarding a client. These are often I focus on business criteria related to the customers financial standing, locations and commercial activities

Individual shipments should be risk assessed to ensure that they comply with all legal requirements.

AEO requires AEO-C's to conduct thorough and systematic checks. When assessing risk, the following main headings are regarded as being the most appropriate to use: -

- The client with a focus on the place of establishment
- Nature of the Cargo
- Documentation
- Routing of the shipment

Companies may use additional criteria in addition to the above and these include but are not limited to: -

- The Customs regime to which the goods are declared
- The specific licencing requirements relating to the goods in question e.g. Dual use goods if there are any
- Specific requirements or exclusions for high risk and high value consignments (the latter is defined as those goods with an invoice value exceeding £100,000.00)

Below is a non-exhaustive list of high risk items and dual use goods: -

High Value and High Theft Risk Cargo

Alcoholic beverages exceeding 9%
Processed tobacco or tobacco products
Non-ferrous metals
Furs
Mobile telephones
Perfume and cosmetics
Footwear
Photographic equipment
Precious Stones
Precious Metals
Audio and visual equipment
Computer hardware or software

Dual-use Goods

Nuclear materials, facilities and equipment
Special material and related equipment
Material processing
Electronics
Computers
Telecommunications and "information security"
Sensors and lasers
Navigation and avionics
Marine
Aerospace and propulsion

The following Risk Assessment Matrix provides an overview of how Members may set up a system for enabling their staff to carry out a risk assessment on individual shipments. This may also help them decide whether the shipment should be rejected, whether they should refer to more senior staff or whether they need more information before they can make a decision using the matrix.

The matrix should be unique to your organisation and is not a document set in stone. It needs regular consideration as it may need to be changed depending on what business you undertake, with whom and where, and what goods are involved etc.

It is an important point of governance that staff know when to escalate a matter and to whom. You will note that this matrix deals with areas where the staff may handle matters themselves and matters where they need to escalate on internal escalation procedure basis or to Director level.

It also considers aspects of dangerous goods or goods that may cause injury, customs issues, theft risk, piracy or corruption. Before you draft such a matrix you need to assess your business and to determine where the risks are and what you want your staff to deal with.

The matrix is a useful tool for all businesses. Indeed, the bigger you are and the more varied your business, the need for several matrices increases allowing you to deal in more detail with perceived issues that may affect the various areas of your business.

The following matrix is for guidance purposes only and Members will have to consider their own risk areas and framework for conducting a risk analysis.

Assessing the operational risk of a shipment

	CLIENT	CARGO	DOCUMENTATION	ROUTING
LOW RISK Minimal economic impact from handling shipment. No danger to wider community Handle shipment as per normal operating procedures	- Known client – handled regular shipments for 1 year plus with no issues - Low risk classification from the Accounts Department - Carrier may have visited the client at their site	- Low value goods (under £100,000) - Low theft risk	- Original paperwork available with shipment including GSP, C of O etc. - Documents appear to be authentic and consistent with previous shipments - Clear handling and customs instructions provided in writing	- Low risk to supply chain - Logical cargo routing - Large known ports - Overseas agent with whom the receiving agent and importer have long term working relationship
MEDIUM RISK Possible danger to the wider community if the shipment fell into the wrong hands. Possible negative commercial impact, non-payment, cargo loss, customs non-compliance Use internal escalation procedure	- New client/new office of known client - Known for a short period of time, or referred to by trusted party - Medium risk classification from finance department - No known links to Carriers	- Hazardous class goods with correct documentation - Medium value/ theft risk e.g. goods that could be sold on the black market e.g. fashion items, shoes and branded clothing	- Electronic documents only available which could have been edited - Unclear/ uncertain customs clearance instructions provided - Only verbal instructions provided and unwilling to confirm information in writing	- Medium risk of supply chain disruption - Unusual cargo routing - Use of unfamiliar ports - Shipment via a new overseas agent or consolidator
HIGH RISK Potential for loss of life and infrastructure damage if goods fall into the wrong hands Potential for significant negative economic impact or customs compliance breach Seek director's approval	- Unknown client - Unusual behaviour - High risk classification from finance department	- Military items - Dual-use goods - Explosives - High theft risk e.g. Excise goods, mobile phones, jewellery etc (over £100,000) - Unusual product for origin or time of year	- Inconsistent paperwork and poor instructions from client - Missing documents and the information included omits certain key information - Delays in obtaining documents	- High supply chain risk, country of origin known for instability and/or corruption - Goods have transited known areas of piracy e.g. Benin/ Somalia

This approach for risk assessment is largely based on current AEO guidelines for a general cargo forwarder undertaking customs clearance activities.

In other sectors, including specialist ones, handling products such as high value and dangerous goods will produce a very different matrix.

Members involved in such trades have a much deeper understanding of the specifics of their sector both in terms of the companies involved and the goods being moved. For instance, £100K for a shipment handled may not be unusual and the financial limit may be significantly increased.

Whilst we have tended to look at import cargo, it is important to remember that restrictions, especially licencing requirements may be applicable for export consignments especially for military and dual use goods transshipping via the UK.

Use of technical solutions

There are numerous service providers who can provide systems to check data when onboarding a customer. Such checks are usually conducted on company data and give an overall picture of the Company's compliance history.

For due diligence at an individual shipment level, having spoken to

some software houses providing forwarding and customs software it is suggested that Members may initially wish to consult with them as it is likely that some of the current due diligence checks are conducted and information stored within a Members existing system. Systems used to undertake customs declarations can provide additional benefits in both checking the accuracy of data and maintaining a historical record of electronic transactions. The ability to validate key elements within the declaration is helpful in avoiding unnecessary errors and omissions.

It is important to ensure that databases are accurately maintained with details of customer data. Especial focus must be placed on certain key pieces of data correct EORI for shippers and consignees, which can be used when validating data entry. It may also be possible to 'flag up' unknown or untrusted shipper or consignee data. Systems can be used to measure and report on compliance and identify potential issues to users.

When choosing a software supplier, it is important to establish that they have a detailed knowledge of what you need and the validation principles and processes of their systems to deal with your issues and that the software regularly updates systems to ensure ongoing compliance.

This guide forms part of a series of Good Practice Guides on the subject of Due Diligence. The individual guides are:

Good Practice Guide to Due Diligence regarding Credit Application Procedures



Good Practice Guide to Due Diligence at an Individual Shipment Basis



Good Practice Guide to Due Diligence Checks to Assist Members 'Know Your Customer'



Good Practice Guide to Due Diligence on Release of Bills of Lading and Freight



This Guide has been produced to provide general industry guidance to members. However, it is not legal advice nor is it a substitute for legal advice. The Association is only in a position to provide general non-legal guidance as each Member's situation may be different and this may affect particular legal advice that may be given by suitably qualified lawyers to each member. The Association is not able to provide legal advice and if you wish to ensure that any specific action you intend to take while relying on this general guide is legally appropriate you are advised to consult a qualified lawyer experienced in the relevant legal field which may include forwarding, transport, logistics, international trade and commerce in advance of taking such action.

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