

MULTIMODAL CARGO SECURITY



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Following the 9/11 attacks in New York unparalleled security measures were put in place by the US, the EU and other nations around the globe to radically improve security throughout the supply chain. Two recent threats, namely the uncovering of a huge arms haul in 13 maritime containers at the port of Lagos and the discovery of two explosive devices emanating from Yemen and shipped on passenger aircraft as harmless cargo, have brought the question of supply chain security sharply back into focus. In this briefing we summarise the present security regimes, the imminent changes to the EU legislative environment and what the future may hold.

UK airfreight security

The current UK regime is set out in the Aviation and Maritime Security Act 1990 (the “1990 Act”). The 1990 Act introduced the concept of an ‘air cargo agent’. Until 31 July 2003, air cargo agents could assess shippers’ security arrangements and, if they were found to be in accordance with the required standards, could validate the premises and award the status of ‘known

consignor’. On 1 August 2003, the Department for Transport (DfT) introduced a new protocol that transferred the responsibility for assessing consignors from air cargo agents and airlines to independent validators, approved and appointed by the DfT.

Once a shipper has ‘known consignor’ status its consignments can be treated as known cargo and are thereafter not ordinarily subject to any other security vetting. If a shipper does not have ‘known consignor’ status, its consignments will be subjected to screening procedures. The screening process may involve various techniques, which are carried out either by the airline or an air cargo agent. Once screened, cargo must be stored and transported in secure conditions until it is placed on an aircraft.

EU airfreight security

Subsequent EU Regulation, most recently EC 300/2008, has attempted to supplement and harmonise legislation across EU Member States. Regulation EC 300/2008 specifically



aims to establish common rules for safeguarding civil aviation in order to protect persons and goods within the EU and prevent acts of unlawful interference. The Regulation seeks to achieve these objectives through setting common rules and common basic standards on aviation security as well as establishing mechanisms for monitoring compliance. The measures listed in the Regulation include: identifying prohibited articles; establishing methods of screening; and, updating procedures for the approval of regulated agents (air cargo agents) and known consignors.

EU multimodal Advance Cargo Declaration regime

The EU is continuing to adapt and improve security in relation to goods imported into or exported out of the customs territory of the Community. From 1 January 2011, the 'Safety and Security Amendment' to the Community Customs Code Regulation EC 273/2009, commonly referred to as the EU Advance Cargo Declaration regime, will come into force. These require a person who imports the goods or who assumes responsibility for the carriage of the goods into the customs territory of the Community to lodge an Entry Summary Declaration (ENS) at the customs office of first entry and on export an Exit Summary Declaration (EXS). Ultimate responsibility rests with the carrier. The main aim of the amendment is to improve security by allowing the

authorities more effectively to monitor goods coming into and exiting the EU.

US multimodal security

The Trade Act 2002 brought about many changes to the security landscape, including the establishment of the system of advanced electronic registration of cargo arriving or departing the United States. The rules affect carriers and NVOCs and are applicable to all modes of transport, although the specific requirements vary according to the mode in question.

Specifically in relation to air cargo, in contrast to the 'known consignor' system of the UK and EU, the US authorities are implementing what is considered by many to be a far more stringent approach. The Transportation Security Administration (TSA) is required to ensure the screening of 100% of cargo travelling on both US domestic and international passenger flights to or from the United States.

The future?

The overreaching aim of all of the legislation, within the UK, the EU, the United States and elsewhere, is to achieve the most effective levels of security to guarantee, insofar as is possible, the safety of the public. As a result of the recent incidents, the UK government (and other governments around the world) are carrying out a full review of security measures. The UK government has announced

that cargo arriving into the UK from certain jurisdictions will be subject to re-screening before being loaded onto onward flights and is considering the viability of implementing a grading system for countries forwarding cargo to or through the UK. The German Interior Minister is also proposing a five-point EU wide plan to tackle the threat of future terrorist attacks including: the blacklisting of certain airports outside the EU, which do not meet the international safety standards for the carriage of airfreight, and a requirement that carriers and freight forwarders provide security agencies with a list of all consignments on every flight so that suspected packages can be identified and removed from the supply chain.

Commercial impact

Those active in the sector and their insurers must continue to monitor the situation and ensure that, as and when additional measures are put in place, they are ready to align themselves to the new landscape. Initially, this may mean additional cost to the industry and in turn this may give rise to an increase in air freight rates, but as recent history has shown the industry is both resilient and adaptable.

For more information, please contact [Justin Reynolds](#), Associate, on +44 (0)20 7264 8470 or justin.reynolds@hfw.com, or [Daniel O'Connell](#), Trainee, on +44 (0)20 7264 8753 or daniel.o'connell@hfw.com or your usual contact at HFW.

Lawyers for international commerce hfw.com

HOLMAN FENWICK WILLAN LLP
Friary Court, 65 Crutched Friars
London EC3N 2AE
T: +44 (0)20 7264 8000
F: +44 (0)20 7264 8888

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