An EEA Proposal for additional anti-terrorism security measures in the Global Supply Chain

> The European Express Association fully supports all viable measures to improve anti-terrorism security procedures for goods moving within the Global Supply Chain. The balance, however, between security and facilitation is a delicate one. In this light, the EEA has developed a proposal for an appropriate and workable framework for better security risk assessment using customs data.

The express sector as an established partner in the crafting of EU legislation

The EEA has been an active contributor to drafting legislation and guidelines in the fields of customs and security, engaging with bodies such as the European Commission, in particular the Director General for Taxation and Customs (DG TAXUD), Directorate General for Mobility and Transport (DG MOVE), and the Directorate General for Home Affairs (DG HOME), EU Member States, the European Parliament, as well as beyond the EU to countries such as Norway and Switzerland.

The express industry has contributed to legislation to enhance supply chain security for shipments being imported to and exported from the EU; guidelines for import and export security procedures; and has consequently developed and invested in systems and processes to support the practical application of these developments.

Such consultation has contributed to a better understanding of the specificity of the express sector's business model amongst the EU institutions, with sector being legally recognized in Commission Regulation (EC) No 1875/2006 which introduced a definition of "an express consignment" as "an individual item carried via an integrated service of expedited/time-definite collection, transport, customs clearance and delivery of parcels whilst tracking the location of, and maintaining control over such items throughout the supply of the service". As a consequence, and in recognition of the integrated nature of the express business model, which incorporates enhanced screening, express consignments benefit from reduced data sets for risk analysis for security purposes.

The EEA fully supports the objective of the High Level Group on Air Cargo Security

In the Action Plan to strengthen air cargo security endorsed by the Council of Ministers in December 2010[1], EU Member States asked the Commission to "develop methods to assess the elevated risk of specific cargo, taking into account *inter alia* the new advance information system to be deployed by EU customs authorities". The plan also tasks that "time limits and data elements be reviewed in cooperation with industry".

Member of the High-Level Group for Air Cargo Security and European Commission Vice-President Siim Kallas has stated that air cargo security measures should bring an "appropriate response in order to

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[1] The Action Plan has been adopted in response to the incident in October 2010, when 2 explosive devices were forwarded from Yemen.

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protect our citizens, preserve an efficient air transport system, and safeguard the crucial role of air transport in the economy [...] with an approach based on risk assessment, better integrated with intelligence; and to use a range of control methods in combination. [Measures should be taken] in close cooperation with our partners, in particular the United States. There is no point in developing different and incompatible approaches on both sides of the Atlantic for addressing the same problem."[2]

In full agreement with Vice President Kallas' vision for strengthening air cargo security, the EEA trusts the European Commission to find a balance between anti-terrorist policy requirements and flexible, time-sensitive transport operations. It further notes that in the 10 years since 9/11, billions of shipments have moved safely through the supply chain, which underlines the efficiency of current risk analysis systems employed worldwide.

The EU should not feel rushed into using the Import Control System for security risk assessment

Taking its responsibility and that of its members seriously, the EEA has provided input to DG MOVE for the adoption of new aviation security measures now provided in Commission Implementing Regulation (EU) 859/2011 and is ready to provide DG TAXUD with the necessary contributory elements to create an appropriate and workable framework for better security risk assessment.

 Commission Regulation (EC) No 1875/2006 currently requires that for goods being imported by air:

► For long haul flights, data needs to be sent to the Import Control System 4 hours before the arrival of the aircraft carrying them into the EU ; and,

► For short haul flights, data needs to be sent to the Import Control System at the time the aircraft takes off for its flight to a Member State in the EU, from a third country.

The EEA believes it is too early to make conclusions on the implementation of the Import Control System (ICS). ICS is currently not working as one common system as it was originally intended, since in reality, each of the 27 EU Member States analyzes pre-arrival data in a different way. In some cases, ICS still has to be applied in key EU gateways. This leaves a potential for varying interpretation regarding risk assessment that could put the smooth and consistent running of the global supply chain at risk.

Our concern comes at a time when it will take months or even years to properly operate and evaluate ICS as a system to be used to prevent a serious threat to the security of the EU. We would therefore support that DG TAXUD should, in the meantime, propose an alternative framework to enhance risk assessment based on certain readily available customs data.

If this proposal is adopted, it will have serious consequences for both business and the consumer in the EU, as such measures could result in 24 hour delays with significant store requirements at origin locations for goods that cannot travel on their scheduled flights pending risk assessment. Express operators do not have facilities to store goods, as these are immediately processed for continued travel. Goods storage comes with further security risks, will raise costs and create delays for our customers.

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[2] Statement by Siim Kallas on air cargo security, Press conference on 5 November 2010

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The gains to be made from running risk assessment as currently outlined are disproportionate to the risk to the global supply chain

The reliability of express delivery has become the model upon which many key global industries rely: service sectors, electrical equipment (such as IT and telecommunications), auto and transport equipment, engineering services, financial and business services, and health and biotechnology are just a few of our client sectors. Oxford Economics' forecast (see figure 3.1) suggests that the global economy will become even more dependent on trade over the next decade, with world trade increasing by almost 90% over the next decade. The European economy is increasingly reliant on trade, meaning that it is also increasingly dependent on efficient and competitive means of both delivering its exports to their destinations and bringing in imports from other countries. Express delivery services play a crucial role for trade as they connect 90% of EU27 members with the rest of the globe within 72 hours, providing fast, highly reliable delivery services that many firms depend upon. Some 47% of European business has indicated that they would be very badly affected by constraints on the availability of express delivery services, 43% indicated that orders could be lost and 15% stated that operations could have to be relocated[3].

Figure 3.1 The pattern of EU27 trade with other regions
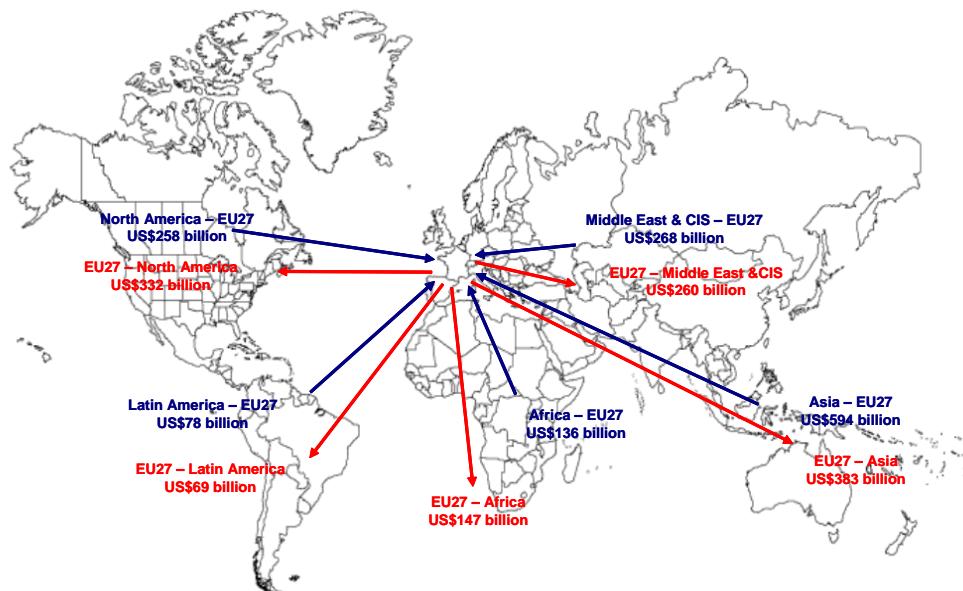
Given the size and scope of the global supply chain that supports such international trade, **we feel that what is to be gained from running a security risk assessment as currently planned is disproportionate to the risk it poses to the global supply chain and, as at the same time, to European competitiveness.**

While we acknowledge that DG TAXUD is proposing a multi-layered risk based approach to timing, should a 4 hour timeline be written into the legislation, there is a high likelihood that, due to varying

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[3] *The Economic impact of Express carriers in Europe*, an Oxford Economic Study, due for release in November 2011.

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interpretation of legislation, some Member States will require data 4 hours before loading regardless of risk.

If there is a requirement for data to be provided at an earlier point in the supply chain, this will duplicate the air cargo security procedures that all express operators have invested in and practiced for many years to prevent explosive devices being placed on an aircraft. These procedures are effective, and are currently even being strengthened with the implementation of the new air cargo security rules. These air cargo security procedures are governed by international as well as EU legislation, such as the new security measures for cargo originating from third countries.

It is worth examining the US Air Cargo Advance Screening program (ACAS)

As an immediate response to the Yemen incident - and in contrast to the EU - the US Customs and Border Protection (CBP) initiated a pilot risk analysis program called the Air Cargo Advance Screening program, (ACAS). The four express integrators have all voluntarily joined this pilot scheme, which basically requires a limited number of raw data elements per shipment to be provided as soon as it is available. Risk analysis of this data is carried out by a single entity for the entire United States.

The pilot scheme recognises the commercial sensitivity of express consignments, in respect of the very short time windows within which express operations take place. One of the pillars of the ACAS pilot was that there should be no delay to the international supply chain, as this would add cost to business and the consumer at an economically sensitive time and would represent a significant publicity coup for terrorist interests.

The ACAS scheme is specifically directed at identifying shipments which are seen to be a serious threat to the security of the US. Similarly, Council Regulation (EC) 2913/92 as amended by Commission Regulation 648/2005, defines risk as:

> *"(25) […] the likelihood of an event occurring, in connection with the entry, exit, transit, transfer and end-use of goods moved between the customs territory of the Community and third countries and the presence of goods that do not have Community status, which :*
>
> ► *poses a threat to the Community's security and safety, to public health, to the environment or to consumers."*

In the context of this definition "safety and security" have been carefully separated from risk to public health, the environment and consumers, and justifiably so. Both the ACAS program and the direction set by the High Level Working Group on Air Cargo Security in the EU, are aimed at shipments that pose a serious threat to the security of the EU.

To achieve this target, **any system utilised must focus specifically on risk analysis to prevent such a terrorist threat.** It should not be used to identify other shipments that may require inspection or interception such as those subject to fiscal controls or for prohibitions and restrictions which can be undertaken elsewhere and at another time. The inclusion of such additional risk criteria in a system aimed at preventing a serious security threat will increase the number of targeted shipments

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exponentially. This will distract the people analysing the results of the risk analysis, and make the process less efficient. The EEA agrees with DG TAXUD in that the pure focus of carrying out the plans of the High Level Group on Air Cargo Security should be the security one, i.e. "bombs on planes".

A proposed framework for risk analysis on terrorist threats, to take place before the departure of an aircraft destined for the EU

The balance between security and facilitation is a delicate one. The European business community has learned from years of cooperating with customs officials to develop and implement a secure supply chain system. Any additional, uncoordinated security requirements risk creating greater bureaucracy without increasing security, placing an ever greater financial burden on the EU economy at a time of great economic uncertainty.

In support of our commitment to supporting the European Commission in finding a practical and efficient solution, the EEA would like to offer the following proposal for a proposed framework for risk analysis before the departure of an aircraft destined for the EU:

1.   Data: express carriers would send the House Air Way Bill Number (HAWB) and a set of raw data comprising the following elements:
   ► Shipper name
   ► Shipper address
   ► Consignee name
   ► Consignee address
   ► Weight
   ► Number of pieces
   ► Description of goods (as keyed)

The data used for risk assessment purposes for security threats should be the raw data which is provided by the consignor, for all shipments, and which is uploaded directly into the operating system of the express company concerned. The EEA strongly recommends the use of such raw data, i.e. data that has not been modified by the freight forwarder or carrier, to allow government authorities, who are best placed to analyse data based on the intelligence information they hold, access to the most incorrupt data available.

2.   Effective threat-based risk-managed approach: focus on unknown high risk customers (over the counter, one-time cash payment with no established business history). Consignments where security inspection, appropriate to the threat level, has been completed should be excluded from a situation of secondary and/or replicated security checks. This should include recognition of the status of Authorised Economic Operator (AEO) or its equivalent on an international basis.

3.   Timeline for data submission: as soon as available and no later than 30 minutes before the departure of an aircraft from the last airport before its arrival in the EU.

4.   For risk assessment: the data should be transmitted to the competent national authority of one EU Member State for risk assessment based on EU common standards to identify terrorist threat; risk assessment is supposed to be automatically mutually accepted by all EU Member States.

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► Ideally, the EU should explore having one common risk assessment for all consignments destined for the EU. If this is not possible, to avoid duplication, only the destination country should be responsible for consignments destined for that country. This will allow each of the 27 Member States to share the burden of risk assessment for consignments destined to their country. This is especially relevant as the destination delivery country is most likely better placed than the transit country to know local terrorist threats.

5. Response time from the receiving competent authority: as quick as possible based on the EU standard approach and under 15 minutes. In the event no response is received by the agreed time limit, that the shipment departs on its scheduled flight to the EU.

6. Systems: ICS (Import Control System) appropriateness should be evaluated based on the system modifications and the complexity of operating multiple systems to a standard EU approach. There must be a global standard of data capture and risk assessment.

7. Trials: as a pre-requisite process trials within the Union should be undertaken. This will enable the European Commission, EU Member States and the Express Carriers to fully assess, in a controlled environment, the ability of carriers to deliver data and for administrations to process the data. The EEA's members are ready to work with European Commission and the EU Member States to set up without delay a pilot for security risk assessment providing the above data elements and timelines. There is a very serious concern that should a big bang approach be taken, both proper security assessment and the ability of carriers to operate may be severely impaired. This is something that the US has considered with the ACAS pilot.

8. Risk assessment should apply to all sectors of the industry, while taking into account that different business models may require appropriate and workable measures.

The European Express Association (EEA) is the representative organisation for the express industry in Europe. The industry specialises in time-definite, reliable transportation services for documents, parcels, and freight. It allows European business to rely on predictable, expeditious delivery of supplies, thereby enabling them to attain and maintain global competitiveness. The express industry employs over 250,000 people across the EU and supports a further 175,000 indirect jobs in Europe through the supply-chain. The express industry's employees are widely spread across the EU.

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