



AIR CARGO SECURITY POLICY NEWSLETTER

Regulatory Oversight and Reporting of Transportation Related Security issues Apr 29, 2011

This issue of the newsletter provides information on two items of interest to the air cargo community.

The first relates to the issuance by Transportation Security Administration (TSA) of a final rule, effective May 23, 2011, which establishes the process for persons reporting to TSA regarding any transportation-related security problem, deficiency, or vulnerability, to receive a receipt thereof.

Security incident reporting and observation of security lapses at third-country airports was identified as an important source of air cargo security information in the November 2010 "Study on the Legal Situation Regarding

Security of Flights from Third-countries to the EU"¹

The second item relates to a report by the US Transport Workers Union (TWU) on gaps in training, oversight and screening of third-party mechanics as a result of widespread outsourcing.

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http://ec.europa.eu/transport/air/studies/doc/security/2010_11_security_flights_3rdcountries-eu.pdf



The TWU report is entitled “Aircraft Maintenance in America: Who is Fixing my Plane”.

The introduction of known consignor validations across the EU using third-party validators, with oversight by hard pressed and understaffed cargo inspection resources in EU appropriate authorities, raises concerns.

And, with on-going discussions regarding extending shipper/consignor validations to third-countries, the challenge described in the TWU report: *“Inadequate oversight, strained government resources and lack of consistent application of standards have created an alarming lack of uniformity ...”* must be addressed.

TSA issuing Receipts for Security Reports

This mechanism to receive a receipt for reports applies to all modes of transportation, including aviation, commercial motor vehicle, maritime, pipeline, public transportation, and railroad transportation.

This is being done in accordance with the “Implementing Recommendations of the 9/11 Commission Act of 2007” (9/11 Act).

As background, in the immediate aftermath of the events on September 11, 2001, the Federal Aviation Administration (FAA) established a task force to respond to the large volume of incoming phone calls, e-mails, and letters from the public. On June 1, 2002, the Transportation Security Administration (TSA) assumed responsibility for this response to the public, creating what is now known as the TSA Contact Center (TCC).

The TCC is a widely-publicized open line for the public to contact TSA. As such, it has also provided a mechanism through which TSA may

receive information about potential threats to transportation security from both well-meaning persons and those with harmful intent.

In July 2010, the Department of Homeland Security (DHS) launched the “See Something, Say Something ™” campaign as part of DHS’s commitment to promoting a vigilant citizenry that actively participates in protecting national security. In her September 2010 speech to first responders at the NYC Emergency Operations Center, DHS Secretary Napolitano noted in her prepared remarks, “Recall that it was a New York street vendor who tipped off a policeman about the bombing attempt in Times Square. It was a group of passengers on Flight 253 who intervened to stop the bombing attempt on Christmas Day.” She then continued, “Making individuals and citizens better informed and empowered is crucial, and DHS has therefore launched, and is expanding, a national campaign around a slogan you probably know well: ‘If You See Something, Say Something.’” The purpose of the campaign, as stated by the Secretary, is to raise “awareness of potential terrorist tactics, and emphasizing the importance of reporting suspicious activity to law enforcement.” Effective May 23, 2011, you will now get a receipt for what you report to the TSA.

The Final Rule can be accessed in the April 22, 2011 Federal Register:

<http://www.gpo.gov/fdsys/pkg/FR-2011-04-22/pdf/2011-9629.pdf>

Aircraft Maintenance in America

The TWU report stated, “While billions of dollars and hundreds of thousands of work hours are devoted to screening passengers, comparatively little effort is made to check on a



much smaller group of people who play a critical role in airline safety: the workers who repair and maintain the aircraft of U.S.-based airlines.”

In addition to lapses in security, TWU worries that the lack of training and certification could result in shoddy airplane repair work.

James C. Little, the president of TWU International, said that poor quality standards in aircraft maintenance could be very dangerous.

Little went on to say, “But we’re not playing on a level field - not when work at outsourced facilities overseas can avoid the certification of mechanics, background checks, and alcohol and drug testing that are a regular feature of TWU workplaces.”

The report indicates that “a significant amount of wide-body aircraft are currently being sent to China, Singapore, India and Central America, where the FAA (Federal Aviation Administration) lacks resources to adequately oversee repair work.”

The TWU study found that there were critical shortages in FAA inspectors at overseas facilities with only 100 inspectors spread across 700 aircraft repair stations outside the United States. In contrast, “there are approximately 4,000 FAA inspectors for 4,200 aircraft repair stations,” in the United States.

The report warns that “Inadequate oversight, strained government resources and lack of consistent application of standards have created an alarming lack of uniformity in the critical area of aircraft maintenance and repair.”

Emmanuel Thorne, the chairman of the Economics Department at City University of New York’s Brooklyn College, who studies U.S. outsourcing issues, believes that many firms, including the airlines, are sending work

overseas specifically to avoid costly safety regulations.

Thorne said, “There is considerable evidence that many firms, indeed entire industries, seek to gain a competitive advantage by outsourcing abroad their productive activities, mainly to take advantage of lower standards of regulation or lower levels of enforcement.”

He added, “Outsourcing airline maintenance to avoid appropriate FAA regulation may be one such instance.”

The following reforms were recommended by the TWU report to achieve a uniform standard that offers the highest assurance of safety and security for passengers on U.S.-based airlines:

- *“Require that all maintenance on all U.S. aircraft used in service be maintained in FAA-certified repair facilities.*
- *Require, as a condition of FAA certification, that all repair stations meet the same standards, including but not limited to, background checks, drug and alcohol testing, and aircraft mechanic certification.*
- *Reconfigure FAA inspection and oversight to place the greatest scrutiny on those repair stations where audits have determined the greatest risk to safety and security.*
- *Require, as a condition of FAA-certification, that all repair stations be subject to unannounced FAA inspections.*
- *Prohibit the FAA from certifying any repair station in any countries that prohibit unannounced inspections and immediately revoke existing certifications in these countries”.*

These should be taken into account when proposing regulations for independent validation of shippers in third-countries.

The TWU Study can be accessed at:<http://www.twulocal563.com/Intl%20notices%20and%20communications/news%20room/TWU%20Aircraft%20Maintenance%20Report%200.pdf>

