



Union des Finanzpersonals in Europa

European Commission
Directorate General for Taxation and Customs Union
Commissioner Algirdas Semeta
1049 Brussels
Belgium

Berlin, 9 November 2010

**Security in air freight traffic;
Working group of the Ministers of the Interior of the EU**

**Security risk analysis according to Customs Code (CC) and Customs
Code Implementing Provisions (CC-IP)**

Dear Commissioner Semeta,

the Union of Finance Personnel in Europe (UFE) is the only European representation of interests of the employees of the tax and customs administrations in Europe from all career groups. It organises more than 400,000 individual members from 19 countries. I am one of the Vice Presidents, and as the Chairman of the Customs Commission, I represent the interests of the trade unions under the roof of UFE, which organise customs officers. In September 2010, General Director Walter Deffaa gave a speech on behalf of the Directorate General for Taxation and Customs Union at our Committee Congress in Lisbon, and we agreed further contacts.

With this letter, I would like to personally present an initiative of UFE to you. As you know, the current terrorist threat by explosives packages transported in air freight traffic from Yemen via intermediate stops in the EU with the US as their destination, resulted in a political debate on principles of aviation security in the national states and in the EU, and in an initiative of the Commissions of Home Affairs and Traffic.

Due to the aggravated worldwide security situation because of the terrorist threats, the EU, as a consequence, has already introduced measures for safeguarding the transport chain with the Directives (EC) No. 648/2005 and 1875/2006 in customs legislation of the Union.

One core area is the obligation to implement a uniform security risk analysis in all the member states on the basis of electronic summary entry and exit declarations (ESumA) of the declarants. Due to the complexity of the processes for the introduction of ESumA in the electronic form, with Directive (EC) No. 273/2009, the difficulties were taken into account and the economic operators granted a transition period until 31 December 2010. Accordingly, from 1 January 2010 on, summary entry and exit declarations for goods transported into and from the customs area of the Union will be electronically announced on the basis of parameters standardised in the EU. For the role European customs play in the fight against terrorism in the conflicting areas of facilitations for legal trade and the fight against crime, this step is long overdue and corresponds to part of the demands made by UFE.

With astonishment and great concern, the Presiding Board of UFE therefore acknowledged, that customs, originally competent for the control of the cross-border traffic of goods, is not equally included into the preparation of an optimised security concept for air freight traffic. It is not understandable for us at all, that customs is practically ignored in politics and the media in this central security issue, although the Commission has been advancing the role of European customs in the fight against terrorism with the Customs Code (CC) and its Implementing Provisions (CC-IP) on a legally secured basis for years.

According to reports of the media, the EU wants to agree until the beginning of December 2010, how air freight traffic can be better protected against terrorist attacks. For that, the Ministers of the Interior of the EU commissioned a working group with the preparation of suggestions, which, according to reports, can still be implemented this year. The German Federal Minister of the Interior Thomas de Maizière demands an examination of the competences due to their fragmentation and their "combination in one hand". According to press releases, the working group equally formed by politicians of the sectors interior and traffic also is to examine an alteration in the distribution of competences.

Assignment, competences and procedural regulations of the customs authorities in Europe are unambiguously regulated with CC and CC-IP as well as the applicable directives (EC). This also applies to the cooperation between the authorities. In Article 26, the CC specifies that the customs authorities are assigned with the task of coordination, when the same goods were subjected to other controls than customs controls by other competent authorities than customs authorities. Furthermore, this provision demands

close cooperation and defines as the target, that the controls are to take place at the same time and at the same place as the customs controls, if possible.

Since we are missing a clear and demanding positioning of your Commission towards the Commissions for Home Affairs and Traffic so far, we request you to represent the interests of the customs administrations and their employees in Europe in a committed manner, and to consistently fight off dual competences or even a complete shift of goods controls into the responsibility of the police authorities on objective grounds.

UFE would like to use the opportunity to refer to the resolution enclosed in the Appendix, which was passed within the scope of the 45th Committee Congress of UFE in September 2010 (see Appendix).

It includes our repeated demand, that we consider comprehensive, uniform and **IT-supported risk management** in all the member states indispensable, the implementation of which has to be supervised by the Commission. We therefore expressly welcome this long overdue regulation as of 1/1/2011, which was passed being aware of the threat scenario, but temporally against the backdrop of the latest treaty package bombs, as a step in the right direction.

As the assignment of the customs authorities, the CC determines the guarantee of protection and security of the Union and its inhabitants as well as the protection of the environment and the maintenance of an appropriate balance between customs controls and facilitations of legal trade. Since the safeguarding of the transport chain and the guarantees by the authorised economic operator have to be permanently and lastingly guaranteed, over the past years, UFE and BDZ have repeatedly raised the demand, that the **privileges of the authorised economic** operators, too, not only require strict certification within the scope of facilitations and in order to guarantee security, but also intensive monitoring by the customs authorities. Furthermore, the task of the Commission has to be to guarantee a high European standard in all (!) member states. For safeguarding the delivery chain, the observation of **prohibitions and restrictions for goods traffic** has particular significance, since this also includes explosives and weapons. The concerns currently brought forward by the economic operators due to the demand for stricter controls strongly emphasise our position.

UFE repeatedly demanded the introduction of a **minimum inspection quota** and **stricter security checks at the external borders of the Union**, and upon non-compliance, the imposition of penalties with national charges, as it has been practiced in the market regulations area for years. It also does not conflict with risk-based and random controls, but sets a binding minimum standard.

The basic prerequisite, however, is the immediate **stop of staff reductions** in the customs administrations of the member states. The permanent compression of work due to the increase in freight and passenger traffic in

the globalised trade on the one hand, and the Europe-wide staff reductions on the other hand, interfere with effective controls of customs.

Dear Commissioner Semeta,

in conclusion, let me state the following: if the Directorate General states in its *publication of April 2006: "Security of the delivery chain: the role of European customs in the fight against terrorism"*, that the customs administrations of the member states play an important role in the fight against cross-border crime and terrorism, and that the expertise of customs in the area of goods controls, supported by the use of state-of-the-art information and communication technologies as well as efficient risk assessment, are indispensable in order to detect illegal goods like drugs, explosives or nuclear and chemical weapons, then there is nothing left to be added to this in principle. Affected, however, is not only air freight traffic, but all transport routes, in particular also the transport of containers in maritime traffic. Therefore, UFE warns against focussing on air freight traffic only in view of recent events. Rather a comprehensive consideration under the aegis of the Commission for Taxation and Customs Union is required.

The fact that the specifications of the Commission are implemented in a very different manner in the individual member states, i.e. that

- in Europe, despite any efforts of the EU, there still is no IT-aided risk management effectively supporting any risks with import, export and transit in all the member states (according to reports also not from 1/1/2011 on),
- the inspection quota is only one to two percent,
- there are permanent staff reductions in virtually all member states due to reasons of budget,

is gaining outstanding significance in view of the currently objectively determined threat and the terrorist threat situation, since the security interests of the states and the people are perceptibly threatened and there not only is the question, to which extent customs controls may restrict the flow of goods traffic for fiscal reasons.

The customs administrations in the member states are not uniformly organised and have different competences and responsibilities, but they are all responsible for monitoring of the cross-border goods traffic, for the import, export and transit of goods on the basis of CC and CC-IR. We also know that the legal foundation for the prohibitions and restrictions in goods traffic are regulated differently in the member states. Nevertheless, we take the view that the customs administrations in the member states, due to their original competences, the existing expertise as well as the European and national legal bases, are particularly suited, contrary to the police and other security authorities, for goods controls, for fighting terrorism in air freight traffic, in maritime traffic, in inland waterway transport, on road and rail. We therefore expect you to emphatically represent and enforce these interests.

I would also like to inform you that I have taken a respective initiative as the Federal Chairman of BDZ German Customs and Finance Union at the national level towards the Chancellor, the Federal Ministers of Finance and the Interior as well as the delegates of the German Bundestag. With its 25,000 members, BDZ is the representative trade union of the 34,000 customs officers in Germany.

General Director Walter Deffaa has received a copy of this letter.

Yours sincerely,

Klaus H. Leprich
Vice President
and Chairman of the Customs Commission
of UFE