

International Road Transport Union
8th Symposium of Lawyers

**Supply Chain Security - The Policy of the
German Ministry of Transport**

Ladies and Gentlemen,

First of all, I would like to thank you for your kind invitation to Geneva. It is a great pleasure for me today to set forth the policy of the Federal Ministry of Transport, Building and Urban Development on non-police intermodal security.

Accordingly, my presentation does not focus on conventional traffic safety which, nevertheless, continues to count among the most important tasks of transport policy: An ever-increasing mobility and rising passenger and goods transport volumes will only be accepted by society if road safety is further enhanced and the conditions on the roads are noticeably improved. Apart from these issues which are designated as safety issues, road safety also comprises the protection against external risks threatening the supply chains, which is designated as security and which is the subject of my speech.

But let me first introduce myself and, as the head of this division, make a few comments on the division Z 34 in the German Ministry of Transport.

*Ein paar Aussagen zu Ihrer Person;
Aufgaben von Ref. Z 34: NATO-Planning Boards (Civil Emergency);
Crisis Management; Transport Security matters (Protection of Critical
Transport Infrastructures, Supply Chain Security).*

I.

I usually start my presentation by explaining to the audience the enormous importance of the services provided by the transport sector to the economy and the population and to illustrate this by the relevant figures. I think that I can waive this explanation in this circle of renowned transport experts.

Therefore, very briefly: We all know that the transport and logistics industry is of central importance in our modern national economy. It is only the mobility of goods and persons which ensures an economic management based on the division of labour and wealth creation in all other sectors of the economy. But transport is also a symbol of individual mobility and freedom: Many transport services are an essential basis for the population to develop and enhance their lifestyle. They make it possible to participate in working life, in education and training and facilitate social contacts.

Especially in the Federal Republic of Germany with its strongly export-oriented industry and its position as an important transit country in the European Union, functioning transport infrastructures are of high economic significance. A major share of our economic prosperity is to be attributable to the services provided by the transport sector.

These brief statements already illustrate the importance and symbolism of traffic and transport for modern societies. Therefore, the facilities and processes which are necessary in this respect require adequate protection.

Traffic and transport must be an area for action to apply national precautionary security arrangements. State and industry are jointly committed to this objective. Consequently, the Federal Government considers it to be a joint task to enhance the security of goods supply chains and, thus, also of the people employed in the freight transport industry, as well as of high entrepreneurial assets.

II.

The risks to which the transport infrastructures and the supply chains are exposed today are multifaceted.

First of all, the risks emanate from terrorist attacks on transport means and/or by using them for these attacks. It is undeniable that 11 September 2001 has changed the world in this respect. The use of aircraft with full passenger load as a weapon and the high number of civilian victims presented a new and previously unimaginable form of terrorism. Since then it has become clear that transport means cannot only be the target but also the means of an attack. Many of the terrorist attacks during the last few years were also performed targetting the different transport modes or in the public transport environment, such as the awful attacks in London or Madrid.

In contrast to those incidents in the public transport sector, only few terrorist organisations have actually made a serious attempt to target major freight networks.

However, any serious attempt at assessing the risk must look beyond past experience and, if necessary, consider the vulnerability against terrorist intent. And there are two main reasons why the freight transport system might be attractive to terrorists:

The first is that our society functions largely through the smooth and efficient transit of goods. A concerted terrorist effort with the goal to paralyse, disrupt or destroy the economic and social fabric of our society would target our freight transport system.

The second reason why the freight network might prove attractive is the nature of some of the consignments it regularly carries. Particular cargoes, such as noxious chemicals, poisons, flammable fuels and radioactive materials are regularly transported along both roads and railways. The theft or diversion of any such freight could lead to a situation where it could be 'weaponized' and immediately or ultimately exploited by terrorists, either as a form of blackmail over the threat to use it or its actual use against specific civilian targets. Similarly, if a terrorist was able to identify high-value cargo, locate it and control it to a certain location, then the possibility would exist of it being used as part of a terrorist attack to cause maximum damage and loss of life.

And it could be argued that rail and road freight are more likely to be exposed to sustained terrorist attack than air and maritime forms. The reasons for this are obvious: In contrast to aviation or maritime infrastructures, the safety of transport routes on land and by rail is generally not subject to any specific form of security other than for health and safety reasons. Beyond this, access to them is guaranteed and the terrorist can more or less choose the time and place of any attack.

The great importance of the subject can, however, mainly be attributed to the consequences of a successful attack: The dependence of all sectors of public and private life on critical infrastructures has strongly increased during the last few decades. This is even and especially true for logistical services with their fundamental significance for the uninterrupted functioning of many economic processes. The progressing decentralization of manufacturing processes, the reduction of redundancies, the global interlinking of enterprises with an increasing “just in time” production have even resulted in an increased risk level for the supply chain.

Therefore, the security of supply chains and the protection of critical transport infrastructures is gaining more and more in importance on the international scale, a fact of which we are also aware due to our work in the international bodies of NATO, the European Union, the International Working Group on Transport Security or the G 8 Transport Security Subgroup.

III.

Since Nine-Eleven, we have in some cases considerably enhanced our security arrangements in the various sectors of the transport industry. The driving forces here were the USA but also the European Union. A multiplicity of agreements and conventions have already been signed, new initiatives have been launched and new legislation has been enacted. The impact of the security measures which were improved in their wake is also highly visible in the freight sector.

On the basis of the Container Security Initiative – in short CSI - implemented by the USA which essentially provides for the timely registration and inspection of containers already before their loading on a vessel destined for the USA, the first measures to enhance the security of supply chains were initiated already one year after the terrorist attacks in the USA.

Further activities in the freight transport sector concentrate on special risks and defined areas such as the ISPS Code (*International Ship and Port Security Code*) of December 2002 with globally improved security measures for port facilities and vessels in international maritime transport. (*e.g. ship security alert systems, access control to port facilities, barriers*)

In the aviation sector, new regulations and quality control measures were introduced at international level both for passenger and freight transport (*e.g. prohibition of carrying liquids, tightened baggage screening, protection of cockpit doors*). These measures have considerably improved aviation security and thus also the transport of air freight.

As regards the transport of dangerous goods, new and internationally applicable regulations for the protection of transport movements have been adopted, in some cases with stronger focus on the warding off of external risks. (*Chapter 1.10 of the UN Model Regulations: personnel screening, security plans*)

Moreover, in order to improve the security of worldwide supply chains, international outline conditions were created by the World Customs Organization in the so-called SAFE Framework and the status of an

Authorised Economic Operator was introduced. (*SAFE = "Framework of Standards to secure and facilitate global trade"*).

I will not give detailed explanations here since I do not want to anticipate the speakers to follow. However, the developments outlined here may perhaps be summarized to state that after the terrorist attacks in 2001 there have been fundamental changes in the development of supply chain security. There have been a lot of new regulations, standards, programmes, guidebooks and other initiatives. Prior to 2001, the main topic of supply chain security was theft prevention and it was largely left to business to determine and manage their activities regarding the fight against theft and other forms of crime in supply chains. Governments at most had their interest in supply chain security matters when it came to smuggling or the illegal trade of narcotics.

The events of 2001, however, changed this situation: governments, first in the US, and later worldwide, started to introduce new regulations and programmes – primarily to mitigate the risk of terrorism in global supply chains. At the same time, some private sector actors and some international organizations, including various global, regional and national standardization bodies, have become active in bridging any perceived gaps in the broad field of supply chain security.

IV.

I would like to elaborate in more detail on a project which has not yet been mentioned, namely the proposal made by the EU Commission for a regulation on enhancing supply chain security which was submitted in 2006. This proposal was to become the general European standard for

intermodal security in surface transport within the EU Single Market. With this regulation the Commission intended to reach a security level for surface-bound transport chains comparable to that applicable in air and maritime transport.

To outline this proposal in a few words - the central element is the introduction of the status of “*Secure Operator*”. All enterprises directly or indirectly involved in the transport, storage and transshipment of goods in the EU Single Market should be capable of applying for this status. The status would be valid EU-wide, offering benefits to operators and facilitating controls. The minimum security requirements to be met by such “secure operators” concentrated essentially on physical and organizational security.

During the discussions within the Council Working Party on Land Transport and in the run-up to the first reading in the European Parliament, more and more concerns were raised in connection with this project. Ultimately, this ever-increasing criticism prompted the Commission to „freeze“ the proposal in December 2006. Until now the proposal has not been withdrawn but it has not been renegotiated, either.

It was not least the Federal Government which expressed grave concerns with regard to the Commission proposal and, thus, played a major role for the postponement of the planned legislation.

In connection with the proposed regulation, the Federal Ministry of Transport, Building and Urban Development has held several consultations with the transport and logistics industry affected by a regulatory framework. These talks were very useful for us in order to

identify the expectations of the sector, to assess them and to take them into consideration for our work. The points of criticism which I will set out in the following were in the majority of cases shared by many experts from the German transport industry. At the same time, our transparent handling of this matter has won us a high level of confidence among all the parties involved. Our central points of criticism were and are:

First of all it has to be asked which incentives the EU Commission will create in order to enhance security in the enterprises. Within the EU there exists already a free exchange of goods without, in principle, any checks. It is, therefore, not clear where the Commission intends to grant facilities to the certified operators. In view of the lacking incentives for investments in security precautions the regulation seems to be ineffective.

Second: The enormous costs which will have to be incurred by the transport and logistics industry, which is already facing a high cost pressure, are not acceptable. The EU Commission has indicated that the expenses for the implementation of the requirements in medium-sized enterprises would amount to about 130,000 Euro annually. Notably, in view of the lacking benefits – as already mentioned before - these costs are not reasonable.

And third: The lacking proportionality of means. The Commission imposes security requirements on all enterprises involved in supply chains. No distinction is, for example, made as to the type of goods carried or to the loading unit. But not every transport movement is equally susceptible to acts of terrorism.

You see, from our point of view this approach was not convincing in order to adequately and effectively enhance the protection of supply chains against external risks.

V.

Since the cooperation with the sectors of the economy concerned had at that time been very fruitful and successful, the Federal Ministry of Transport, Building and Urban Development has set itself the target to continue this close dialogue. This target was also included in the 2008 Freight Transport and Logistics Master Plan which is the central package of measures to be taken by the Federal Government in order to enhance the efficiency and the quality of logistics. We intend to especially develop, jointly with the business sectors, the key points which we had agreed on in the course of our criticism at the proposed regulation so as to define a general security strategy for the freight transport and logistics industry.

For this purpose, we set up, together with the transport and logistics industry in April 2008, the Working Party "Security Strategy for Logistics" which started its work in June 2008. This Working Party consists of representatives from the major Associations of German Freight Forwarders and Logistics Operators, from all transport infrastructure operators in Germany but also from related branches such as the insurance industry as well as of colleagues from the Federal Ministry of the Interior, the Federal Ministry of Economics, the Federal Ministry of Finance and the Federal Ministry of Defence.

Thus, we have ensured the interlinking of all relevant contact persons in the authorities, trade associations and the sector of science in order to identify the expectations and requirements of all those involved, if possible, and to combine cross-sectoral know-how and forces.

VI

Which aspects and subjects should be dealt with in connection with security? Which strategies should be elaborated or developed? I would now like to present in more detail some areas which we have identified:

First:

We must systematically elaborate future security concepts on the basis of the findings of risk and danger analyses. The causes of risks are very flexible and dynamic. However, some of the existing security measures are somewhat static and inflexible. This can be attributed to the fact that in many cases the focus was on a security-oriented target-hardening, that means comprehensive physical security measures at potential targets for attack. In an open society with numerous “soft targets”, this approach prevents us from providing flexible responses to changing threats and findings.

Remedial action may be taken by changing over from the current target-hardening approach to risk-based measures. Apart from a thorough weak-point analysis, the basis of our activities must be the evaluation of security-relevant findings on proven or suspected risks, the determination of a probable danger impact and its possible consequences.

Extreme measures such as the continuous container scanning should not be applied since this would imply the withdrawal of resources from more risk-prone sectors. What we need is a shift in perspective: We have to move away from the goal to include all threatened objects and processes in our security considerations. We need instead: The identification of risk-prone weak points and an in-depth risk-assessment. This would enable us to combine the only limited resources and to use them in a targeted manner.

Second:

Security has to be embedded in the course of the delivery process and should be considered as an added value. We all know that supply chains are in the majority of cases complex and develop rapidly. This requires first of all a high degree of flexibility for all security-related measures. In this connection, standardized regulations are not always the adequate means.

The principle of self-protection should be in the centre of our considerations. We should only provide for open standards and/or criteria for self-protection and assign the task of implementing them to the parties involved in the transport movement. The Federal Government is pursuing such a cooperative approach for the protection of critical infrastructures: In this respect, two guidelines have been elaborated up to now, namely the CIP Baseline Protection Concept and a Guide for Companies and Government Authorities regarding the Risk and Crisis Management. Operators and enterprises may, from the recommendations contained therein, filter out - on the basis of a checklist

- those measures which still have to be taken to obtain an adequate security level.

Moreover, we welcome and support voluntary arrangements or voluntary commitments by associations and enterprises to enhance security. Such security concepts promote the positive perception of security at the operating level and are, therefore, all the more considered to be necessary and effective.

A prominent example in this connection are the IRU Road Transport Security Guidelines with their recommendations for managers, drivers, forwarding agents and consignors. They prove their high commitment to this issue and show that the enhancement of security is in the road sector's own interest.

Third:

The understanding of supply chain security still focuses on a set of many individual measures rather than on a holistic approach. We have security management measures such as contingency planning, security technologies such as electronic seals, and of course a lot of security regimes via specific laws.

But they were up to now also elaborated, as a rule, isolated from each other. Accordingly, we have several parallel legal systems governing transport security which include, apart from mode-specific regulations, for example also customs law, foreign trade and payments law and industrial standards, which, however, affect the overall process of a supply chain to a lesser extent.

The predominantly modal perspective can be explained with the specific and in some cases very different requirements of individual transport modes and goods carried. But an exclusively isolated approach also entails many problems and does not do justice to the functioning of current product chains: In the overwhelming majority of cases, supply chains consist of a variety of most different elements which can, in the course of their handling on the international level, experience a broad range of combinations.

In supply chain security matters, the sum of a single party's optimum will usually not lead to a total optimum – a supply chain is as secure as its weakest element, since an attack against that element can lead to the collapse of the entire supply chain. Therefore we need a holistic security strategy. A realization of such an holistic approach could be found in a framework that is able to integrate all core fields to achieve supply chain security systematically and consistently and that takes all of the individual measures into consideration and binds them together.

Fourth:

Security is a global problem which requires global solutions.

And logistics, too, is an international business. Consequently, security programmes within the supply chain must be oriented at international outline conditions. Binding regulations should be discussed, elaborated and coordinated in the international community of nations. The reciprocal recognition of regulations can, all in all, avoid the duplication of administrative procedures and work for the overall security regime.

The operators of supply chains are interested in clear rules since these offer a basis for taking decisions on investments and measures for

functioning security systems. Clear and jointly elaborated as well as mutually recognized standards avoid distortions of competition and provide legal certainty.

Fifth:

We need more innovative solutions within the framework of the national and European security research for the supply chain. This applies both to secure logistical procedures and to the development of new security technologies. We should look for intelligent, economically viable alternative solutions, in order to take account of current security standards and at the same time to ensure the quality and speediness of transport services. New terrorist threats and methods can and must be counteracted by new technologies.

For this purpose, we must intensify our efforts to build bridges between the users and the science sector. The practical suitability can only be guaranteed by means of a requirement analysis which should be made as early as possible with the involvement of the end-users. Innovations must be “conceived” by the end-users; and the product must be affordable and marketable if it is to be applied on an area-wide basis.

Sixth:

If possible, the transport flow should not be adversely affected. If, on the one hand, the security requirements go over the roof, this might, on the other, lead to a considerable and inappropriate interference with the flow of trade and goods. We must not forget: Unlike any other sector of the economy, transport depends on the smoothness of the processes and open access to the network. This fact has to be taken into account when defining the security provisions.

Delays may in this connection give rise to risk potentials. Stationary traffic is disproportionately more prone to manipulation than moving traffic. These findings may be reduced to the simple formula: The faster the traffic is moving, the higher its security.

I would now like to address a subject in which you are surely particularly interested. It concerns the still insufficient number of secure parking spaces for lorries. This issue has also to be taken into consideration if we want to enhance the security of supply chains, since we must bear in mind that the optimum organizational and physical security measures at the company premises will be of no use if the goods to be carried are parked, especially at night, for several hours and are openly accessible. But I see that things have already started to move, especially due to the EU Programme SETPOS which is accompanied in the German Ministry of Transport by a newly-created division for motorway parking spaces and rest areas.

And last but not least:

We need an agreement between government and industry on the security objectives on the one hand and acceptable and manageable residual risks on the other. At this interface, the areas of „prevention“ and „response“ have to merge. We should clearly determine the competencies, abilities and strengths of the individual parties involved in a major risk and damage situation, since such a case requires very quickly a purposeful and effective cooperation in order to take remedial and tide-over measures. We should work towards a common understanding of the existing structures and procedures and should know the relevant requirements of our partners. Those who have to take

action have in the majority of cases no or only a limited common experience in crisis management. One might argue: Thanks God for this – but the more limited the experience of the persons responsible for handling a crisis the more extensive will the work be in an emergency. This requires an in-depth dialogue on common security arrangements and coordinated action between government and industry.

VII.

What is the current situation in Germany in view of these challenges? Which objectives have been achieved and what has still to be done?

In accordance with the procedures laid down in the Freight Transport and Logistics Master Plan drawn up by the Federal Government, we have first of all collected and reviewed the existing security architecture in order to gain an overview of the status quo. Moreover, last year the trade associations in our working party presented a coordinated paper assessing all relevant standards and initiatives concerning transport and logistics security from the perspective of the users.

This paper is a good basis for the discussions and the work now lying ahead of us. Our agreed objective is to prepare a joint – which in this case involves the Federal Government and the central associations of the transport industry – political strategy paper on the security of supply chains and civil emergency preparedness in the transport sector. This strategy is to include the bases and the guidelines of a sustainable security of supply chains and to combine our political and strategic approaches.

Our security strategy will mainly focus on the aspects which I have just explained. Furthermore, we will orient ourselves towards the currently existing security regime when defining future measures and organizational models. In order to avoid duplications, these arrangements have to be taken into consideration and/or as a basis.

We will continue to actively monitor the discussions on supply chain security at international and EU level. We will then have to confidently defend our approaches and push forward their international application in the relevant bodies. For this project, too, the basis for action will be our coordinated strategy paper.

For the months to come we intend, within the framework of a study, to perform an intermodal analysis of relevant threats and risks in the transport sector and to investigate the interaction of the existing security measures in the course of cross-modal supply chains. The invitation to tender for this study is already under preparation.

We will analyze in this study whether it is justified to focus on the currently selected aspects concerning supply chains from a security point of view and/or whether the actual external risks for freight transport can be effectively reduced.

Moreover, it has to be investigated whether some vulnerable areas in supply chains have possibly not yet been identified due to a lacking intermodal risk and security analysis. This might in particular be true for the interfaces between the transport modes along the supply chains

which have currently not or not adequately been taken into consideration in the course of the updating of the security regime.

The results of the study will, besides the current findings of our working party, provide a further key element of our overall strategy focussing on how and to what extent policy and the transport industry can interact effectively and appropriately when it comes to preventing permanent damage during transport procedures and at transport installations.

If our study identifies security deficiencies it will be our aim to elaborate, together with practitioners from industry, the relevant measures in continuation of our cooperative and transparent approach. According to our experience, coordinated and practice-oriented solutions are readily accepted by all those involved and, thus, ensure the actual improvement of the security level.

You see – and with this I would like to finish my speech – the recurring themes of the procedures followed by the Federal Ministry of Transport, Building and Urban Development for the enhancement of supply chain security are for many lines of action cooperation, transparency and confidence. All parties involved – be it at national or international level – can learn a lot from each other. Economic and political decision-makers are well advised to develop solutions in common. Isolated approaches are not useful here. And for this reason, too, I am glad to enter into dialogue with you today.

Thank you very much for your attention.