Why Not Have a Visa System for Cargo?
Commentary by Tony Young
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Imagine if you will, a visa being denied a rug merchant from a country considered by the U.S. government to be high on the terrorism watch list. It is the job of the U.S. consulates around the world to scrutinize all visa applications and deny it to anyone considered non grata and it is the responsibility of the carrier to refuse boarding anyone without a valid visa onto its aircraft or ship. Yet, the same merchant, though being denied a visa, can ship a container load of rugs to the United States. He would use a reputable freight forwarder to book a container, load the cargo and be issued the freight forwarder’s ‘house’ bill of lading. The freight forwarder would name himself as the shipper on the ocean carrier’s bill of lading and consign it to his agent in Canada, who in turn would arrange for the inland carriage, “In Bond” to the importer in the United States, as is the practice. The container would travel by road and rail from a country a couple of thousand kilometres from the port of Antwerp and be loaded on board a ship together with 3,500 other containers, all destined to the port of Montreal. From there, the container would move by rail and truck to Chicago. It would be a container of hand-crafted tribal rugs but it could be Pandora’s Box shipped by terrorists. Prior to September 11, it would have been a fantastical script for a movie. But these days, the unthinkable is plausible.

Under the Container Security Initiative (CSI), U.S. Customs, responding to industry concerns and potential terrorist threats are hastily implementing various cargo security measures. Agreements have been made with foreign governments to station U.S. Customs agents at key ports of loading to inspect suspect containers and containers at random before they go on board ships calling at U.S. ports. There will soon be a requirement for ocean carriers to submit manifest details to U.S. Customs 24 hours in advance of vessel loading, using the Automated Manifest System (AMS). Terms such as “said to contain” or “general cargo” or freight all kinds” will no longer be allowed to describe cargo particulars. Shipper and consignee names must be fully disclosed. The problem with this is that most ocean carriers deal with NVOCC intermediaries who are the ones issuing transport documents to the shippers and consignees. So the solution being proposed is for the U.S. licensed NVOCC to file his manifest information directly with Customs using AMS, like the ocean carriers. However, the NVOCC in turn may be dealing with another intermediary freight forwarder, who would be the one issuing the ultimate transport document so the NVOCC may not know the identities of the actual shipper and consignee. Such “co-load” information is usually kept confidential by the freight forwarder that acts as the primary contracting carrier. Still, what does one do with the proposed “FROB” (Freight Remaining On Board) reporting requirement - containers that are not consigned to the United States but are on board the ship to be discharged at another country? That would apply to all Canadian exports loaded at the port of Vancouver, if the ship’s next port of call was Tacoma or Seattle and likewise to all Canadian imports to be discharged at Vancouver if the ship called at Los Angeles first. There is no purpose for Canadian or foreign NVOCCs not operating in the United States to be licensed in the U.S. so why should they report to U.S. Customs what they are shipping to another country from a Canadian port or bringing into a Canadian port from other countries? How will they submit manifest information electronically to U.S. Customs even if they wanted to? Canada already has in place a system for all exports valued over $2,000 to be declared by the exporter to Customs 48 hours in advance of vessel loading. Albeit, Canadian Customs may have to extend its ACI (Advance Customs Information), currently under study, to vessel pre-loading, in similar fashion to U.S. Customs’ AMS.

It is shipper and consignee names and their business registration numbers that need to be scrutinized more than the cargo particulars. Smugglers are obviously not going to truthfully declare the contents of a container just because it is not permitted to use the term: “Said to Contain”. Most likely, shell companies, front companies, fake or fictitious companies or persons will be used as shipper and consignee names. Identities are what intelligence agencies need to know. Back to the scenario described in the first paragraph concerning containers entering straight into the U.S. heartland through Canada, how would U.S. Customs obtain advance manifest information on ships that don’t even call at any U.S. port? There are gaps in the CSI because it is still largely a unilateral U.S. initiative. Nevertheless, container security is a universal issue that ought to concern all trading nations, not just the United States and a multilateral solution needs to be found.
One possible solution to CSI is for all shippers of all nations to register their intended exports with Customs. Anyone wishing to ship goods overseas would simply file an export declaration in advance, disclosing full details of the intended shipment, over the Internet or in person, either with his own country’s Customs authority or with the importing country’s consulate or trade mission, if his country does not have a system in place for taking export declarations. A unique transaction number would be issued electronically or over the counter (if the shipper registers in person) and the transaction number would be submitted to the contracting carrier, whether it is a freight forwarder, NVOCC or ocean carrier, at the time of booking. The ocean carrier releasing the empty container for loading would report the transaction number or numbers to the customs authorities of any interested country, which will already have in their system the export declaration made by the prospective shipper in its database or obtain it from the exporting country’s Customs authority. The shipment can thus proceed unhindered unless tagged for interdiction by either the importing or exporting country’s authorities, even tailed from the beginning if suspect. The idea is that the vast majority of containers would move smoothly, while suspect ones or those with missing information could be tagged for inspection right from the outset. Forwarders, NVOCCs and ocean carriers would be able to keep their commercial information confidential from one another and vessel operators would not have the onerous task of digging for shipper and consignee information for the thousands of containers and the multitude of shipments within them and manually inputting the data and reporting them to Customs all within 24 hours prior to commencing lifting operations. Realistically, how could any Customs authority possibly sift through the myriad of cargo data and make the crucial decision to inspect or not to inspect within 24 hours of receiving the information anyway? Bilateral agreements should be made among all trading nations to have access into each others’ export declarations database and the information should be available to counter-terrorism intelligence agencies for sifting and screening.

Back to that merchant who was denied a traveller’s visa to the United States, his export declaration filed with the U.S. Consulate in his country might perhaps trigger a tag for his shipment to be inspected at any number of checkpoints right from his door step up to and including the port of loading. As a legitimate merchant of fine rugs, there may have been no reason that he was denied a traveller’s visa after all.

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