

# Aust govt out to widen security and cover more activities, identify organised crime

FOLLOWING the terrorist events of September 11 2001, governments around the world acted to increase levels of aviation (and maritime) security. In Australia, that led to the introduction of the Aviation Transport Security Act 2004 and the Maritime Transport and Offshore Facility Security Act 2003. Among other things, the legislation introduced the need for certain parties in the supply chain to adopt Transport Security Plans and for those operating in secure areas to hold Aviation and Maritime Security Identification Cards.

This commentary summarises some current developments.

The Customs Amendment (Export Controls and Other Measures) Act 2011

The general intention of the Act (discussed in more detail in an earlier commentary) was to provide a response to the Wheeler Report into Aviation Security and the Australian National Audit Office Report into the Cargo Management Re-Engineering Project conducted by the Australian Customs and Border Protection Service ("Customs").

Topics addressed by the Act included:

- \* Increased control of export goods
- \* Strengthening security at depots and warehouses.

In relation to export goods, the Act gives significant additional powers to Customs to direct the movement of goods which, while intended for export are "no longer for export". In addition, Customs has now been given power to suspend an "Authority To Deal" given for export goods to allow additional review of the export goods.

In terms of licensed premises, the Act now allows Customs to impose additional conditions on those operating depots and to suspend and/or cancel depot licences. Similarly, the Act also allows Customs to impose additional conditions on warehouse licences. In both cases, the ability to impose additional conditions or suspend licences is to ensure compliance not just with Customs regulation but with a wider variety of other regulations.

The Act also includes new offences to enforce compliance, many of which operate on the basis of strict liability. This gives

Customs the alternative of issuing Infringement Notices to penalise breaches of the Act.

The Act has now commenced - as of 5 September 2011 - and while Customs cannot issue Infringement Notices until 1 March 2012, the remainder of the provisions are in full force and effect. This means that Customs is able to impose additional conditions on those parties operating licensed premises, suspend and/or cancel licences and to commence prosecutions against those it believes to have contravened the Act.

Parliamentary Joint Committee on Law Enforcement

On 14 September 2009, the predecessor committee to the Parliamentary Joint Committee on Law Enforcement ("Committee") initiated an Inquiry into the "Adequacy of Aviation and Maritime Security measures to combat serious and organised crime" pursuant to the Committee's obligations set out in paragraph 55(1)(d) of the Australian Crime Commission Act 2002.

The Inquiry did not relate to terrorism offences but to the impact of serious and organised crime in the airport and port environments.

The Committee issued a preliminary report ("Report") in June 2011. Paragraph 2.4 of the Report identifies the view of the Committee that "serious and organised criminality in the aviation and maritime sectors poses a very real threat to Australia".

The Report includes 22 recommendations. Included are a number of particular interest to those in industry including the following:

- \* That the scope of the Aviation Transport Security Act 2004 and the Maritime Transport and Offshore Facility Security Act 2003 be widened to include serious and organised crime in addition to terrorist activity and unlawful interference.

- \* That the current ASIC and MSIC schemes be expanded to capture a greater part of the overall supply chain including parties such as staff at cargo unpacking and stuff-unstuff facilities, transport workers involved in the transmission of cargo between ports, airports and other parts of the logistics chain and licensed customs brokers that



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do not access port facilities.

- \* The current ASIC and MSIC security issuing bodies be replaced by a single, Government-run, centralised issuing body.

The Committee is continuing its work and has sought additional submissions from interested parties into the recommendations. It will then be an issue as to which recommendations are ultimately accepted by the Federal Government and adopted by legislation. However, at the least, it does raise the possibility of an additional level of regulation for licensed Customs brokers.

But that's not all....

The examples selected above are but two examples of increased regulation for the air transport industry and the supply chain. In addition, there is additional air transport security legislation passing through Parliament and the Office of Transport Security will be conducting seminars in October and November 2011 to discuss its new air cargo security framework comprising the introduction of a Regulated Shipper Scheme in conjunction with enhanced technological examination for air cargo.

The obvious next steps?

However, there are at least two other obvious areas where there is no clear immediate mandate to adopt measures which could advance aviation (and maritime) security:

- \* Introducing alterations to Customs Integrated Cargo System so that an importer or exporter can specifically nominate parties who are entitled to report import or ex-

*Continued page 23.*

# Radaich wins Student of the Year award

THE CUSTOMS Brokers and Forwarders Council of Australia (CBFCA) recently held its annual Gala Dinner at New South Wales' Parliament House.

The event attracted 275 guests from the international trade and logistics sectors who saw Daniel Radaich (Fremantle Customs Brokers) win the prestigious Student of the Year Award. He attributed his success to the support received from his employer, partner and training mentors at the International Trade and Logistics College (ITALC).

Air New Zealand sponsored the major raffle prize on the night, contributing to participants raising A\$17,000 which will be donated to the Arrow Bone Marrow Transplant Foundation, a charitable organisation that supports research into the cause, prevention, treatment and cure of leukaemia and other diseases that are treated through bone marrow and other therapies.

Importantly Arrow also supports patients preparing for a transplant, and assists their families with the management of their disease before, during and after treatment.

The CBFCA was introduced to the foundation by life member, Kent Heazlett.

As well as being an active member of the CBFCA, Kent is also the committee president of the Hawkesbury Canoe Classic (HCC).

The Hawkesbury Canoe Classic has been associated with the Foundation for 16 years and has raised approximately A\$2.7 million for leukaemia research and patient support services. Kent is participating in the 60+ age group at this year's event ... perhaps a sponsorship contribution would be all the encouragement he needs to get across the line!



Connor Anderson contingent: Bob Fraser, Sue Wilcox, Bruce Rayment, Belinda Rayment, Julia Cozanitis and Bert Loreto.



Fedex contingent: Emory White, Alex Brooker and Megan Hughes.



Student of the year: L to R - Leanne Lewis (director Insync Personnel), Bill Murphy (CBFCA manager Professional Development & Training) and Daniel Radaich (Fremantle Customs Brokers).



Jason Bailey (Wymap) and Detlef Kappell (All Port)

## Qantas inks US\$9.5 billion airplane deal

European planemaker Airbus says Australia's Qantas - in a deal worth US\$9.5 billion - has finalised an order for 78 A320neo and 32 A320s, the largest single order in Australian aviation history (measured in aircraft units).

## Identities to be safeguarded

From page 21.

port activities on its behalf. This would help against "unauthorised" use of the identity of traders.

\* The introduction of a "Trusted Trader" and "Trusted Service Provider" arrangement similar to the "Authorised Economic Operator" concept endorsed by the World Customs Organisation. This would allow certain service providers and their clients to be "approved" as representing a reduced security risk and these people and bodies would then benefit by their goods being fast-tracked through the supply chain.

As always, we will keep you informed of developments with these air cargo security and other trade-related legislative and practice changes.