



Wendy Nixon  
Director  
Aviation Security Program Development  
Ottawa, Ontario  
K1A 0N5

December 19<sup>th</sup>, 2014

Dear Wendy Nixon:

UPS SCS Canada Inc. and UPS Canada Ltd. have reviewed the Regulations Amending the Canadian Aviation Security Regulations, 2012 and the Designated Provision Regulations (Air Cargo) that were posted in Canada Gazette 1 on November 1<sup>st</sup>, 2014. We are grateful to have the opportunity to address the regulatory environment that we face prior to finalization and would like to identify 3 key areas of concern:

1. 100% screening platform. Transport Canada has stated the intention to build a 100% screening platform based on the direction of ICAO and major partner countries.
  - a. This is inconsistent with the ICAO position. The ICAO position is to ensure that ‘appropriate security controls’ are applied, prior to loading, through the application of screening or other security controls. Other security controls include the receipt of secured cargo from approved entities who originate cargo and/or mail for its own account and whose procedures meet common security rules and standards. By not including these provisions Transport Canada appears to be planning to implement more stringent measures that will put Canadian business at a competitive disadvantage.
2. The Transport Canada definition of Known Consignor differs from the ICAO definition.
  - a. Under ICAO document 8973, an approved Known Consignor, whose procedures meet common security rules and standards, is not required to screen volume prior to loading on a commercial aircraft, nor is anyone else in the secure supply chain, provided the consignment is protected from unauthorised interference.
3. We would recommend that the economic impact of these measures be re-evaluated taking into consideration the following factors:
  - a. Existing TPSPs are required to become Certified Agents (CA’s). We believe the cost and regulatory risk of becoming a CA will prevent many TPSPs from joining the program. This may result in gaps in the secure supply chain due to an insufficient number of CA’s.
  - b. Based on the current Transport Canada definition of Known Consignor, we believe Transport Canada has overestimated the number of large shippers who

will become Known Consignors during the short, one-year coming into force period. This may result in significant screening bottlenecks, missed cut-off times and lost revenue.

- c. There needs to be provision for 3PLs to ship secure cargo from their warehouses. This is not covered under the currently proposed Regulation.

These points, and several others listed directly below, represent the consensus opinion of UPS SCS Canada Inc. and UPS Canada Ltd.

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### **Concern #1**

**Transport Canada Statement:** In the Regulatory Impact Analysis Statement section under “Description” Transport Canada states: *“The proposed amendments would allow for the creation of new categories of participants at the program level and would put in place requirements on how cargo tendered by such parties must be transported and stored in the secure supply chain. The current registered shipper would be replaced with two categories of participants: known consignors, who would be subject to the proposed amendments, and account consignors, who are not covered by these amendments.”*

**UPS Comment:** It is our opinion that the Account Consignors are covered by these amendments and will be impacted. In the current program Registered Shippers can move air cargo through a secure supply chain without additional screening. Once these amendments come into force the majority of Registered Shippers will become Account Consignors and will no longer be permitted to ship secure air cargo through the supply chain unless it is screened.

### **Concern #2**

**Transport Canada Statement:** In the Regulatory Impact Analysis Statement section under “Description” Transport Canada states: *“Third-party service providers, such as truckers, warehouse operators and freight forwarders, would also be covered by the proposed amendments and would be required to register with the program to be authorized to handle secure cargo as certified agents.”*

**UPS Comment:** Based on information provided in T.C. consultation meetings, UPS was under the impression that freight forwarders would be permitted to join the program as Regulated Agents if they screen air cargo? We are seeking confirmation of this.

### **Concern #3**

**Transport Canada Statement:** In the Regulatory Impact Analysis Statement section under *Description, Known Consignors* Transport Canada states: *“The current Air Cargo Security Program does not allow shippers to screen and secure their own goods that are intended to be transported by air. The proposed amendments would allow persons (the consignors or originators of the goods) to become known consignors at the program level and to screen and*

*tender their own goods as secure cargo to either members of the Air Cargo Security Program or directly to air carriers.”*

**UPS Comment:** We are requesting that Transport Canada better define the terms “consignor” and “originator” so it becomes clear to industry exactly what type of shipper or entity will be permitted to register as a Known Consignor. The definition should be broad enough to cover 3PL and/or “pick and pack” operators who may not manufacture or assemble the goods but are, in reality, “originators” of the goods because they are capable, through packaging protocols, of producing “screened” shipments for transport. If 3PL and/or pick and pack operators are not permitted to register as Known Consignors then they should be permitted to register as Regulated Agents. Leaving these entities out of the program completely would have a significant impact on the several industries, including healthcare.

**UPS Comment:** The definition of Known Consignor and how Transport Canada’s definition differs from that of ICAO is a **major concern**. In ICAO, the Known Consignor is defined as “*A consignor who originates cargo or mail for its own account and whose procedures meet common security rules and standards sufficient to allow the carriage of cargo or mail on any aircraft*”. Under this definition the Known Consignor (or any other approved entity in the secure supply chain handling volume from a Know Consignor) is not required to screen volume prior to transportation on a commercial aircraft. Transport Canada appear to be applying more stringent measures beyond those from ICAO and other major countries with aviation security programs. In the global economy, this will put Canadian business at a competitive disadvantage.

#### **Concern #4**

**Transport Canada Statement:** In the Regulatory Impact Analysis Statement section under *Description, Certified Agents* Transport Canada states: “*Currently, third-party service providers are regulated as agents of the air carrier or member of the Air Cargo Security Program to whom they provide services. The proposed amendments would require that entities such as cargo operators, warehouse operators and trucking companies, who will be known as certified agents at the program level, be certified to transport or store secure cargo in the secure supply chain.*”

**UPS Comment:** Freight forwarders who do not screen cargo have been left off this list. Under the new program Freight forwarders will either register as Regulated Agents (RA) or Certified Agents (CA) depending on whether or not they screen cargo. Many freight forwarders will have several RA sites and several CA sites depending on key business factors. UPS is seeking confirmation that freight forwarders will be permitted to register as RA’s and CA’s at different sites.

#### **Concern #5**

**Transport Canada Statement:** In the Regulatory Impact Analysis Statement section under *Description*, Transport Canada has not included a section on Regulated Agents.

**UPS Comment:** Why has a description of “Regulated Agents” not been included? Will freight forwarders who screen their own cargo become Regulated Agents under the revised program?

What about pick and pack operators who store and ship product for multiple shippers (commonly referred to as 3PLs)? Will they be included?

### **Concern #6**

**Transport Canada Statement:** In the Regulatory Impact Analysis Statement section under *Description*, Transport Canada has included an illustration depicting how secure cargo flows under the current and proposed programs.

**UPS Comment:** UPS recommends that Transport Canada include a 4<sup>th</sup> scenario illustrating how Account Consignor would move cargo through a secure supply since the amendments do introduce a screening requirement for Registered Shippers who elect to become Account Consignors.

### **Concern #7**

**Transport Canada Statement:** In the Regulatory Impact Analysis Statement section under *Benefits and Costs, Known consignors* Transport Canada states: “*Reduced shipment delays and risks, Transport Canada states: “The proposed amendments would enable known consignors to screen their own cargo, significantly reducing any potential for delays associated with air carrier or regulated agent screening. Assuming that 1 000 to 1 500 known consignors would account for between 30% and 50% of air cargo volumes, Transport Canada estimates that the resulting delay reductions would yield benefits of \$60 million over 10 years.”*

**UPS Comment -** Is the assumption that the majority of these 1000 to 1500 large shippers would elect to become Known Consignors? If so, that is a liberal assumption that may have produced inflated numbers. Does Transport Canada actually anticipate that 30% to 50% of air cargo shipped by industry, after these amendments come into force, will be tendered by Known Consignors? If so, UPS would like to better understand that studies that have been conducted to suggest this. If Transport Canada has grossly overestimated these numbers there could be significant impacts to industry when 100% screening comes into force.

### **Concern #8**

**Transport Canada Statement:** In the Regulatory Impact Analysis Statement section under *Benefits and Costs, Known Consignors participation costs* Transport Canada provides a list of possible compliance costs.

**UPS Comment:** Transport Canada has not included the costs of ACR background checks. Based on the size and complexity of a shipper’s operation, these costs could be considerable.

### **Concern #9**

**Transport Canada Statement:** In the Regulatory Impact Analysis Statement section under *Benefits and Costs, Certified Agent participation costs* Transport Canada states: “*Transport*

*Canada has evaluated a range of possible compliance costs associated with certified agent participation. Many third-party service providers already meet the requirements of certification (e.g. facility security), and costs would therefore be limited to application costs. An additional 50 to 100 third-party service providers are assumed to become certified agents, and would bear costs similar to those borne by known consignors (excluding cargo packing and chain of custody).”*

**UPS Comment:** UPS contends that Certified Agents would bear initial and ongoing training and background checks costs for all ACRs. These are not application costs and should be clearly set out, along with all other initial and ongoing compliance costs.

### **Concern #10**

**Transport Canada Statement:** In the Regulatory Impact Analysis Statement section under *Consultation, July 2012 to October 2012* Transport Canada provides a list of concerns around which the consultation discussions were focused.

**UPS Comment:** The list does not but should include the following:

- The safe and secure movement of healthcare product including life-saving drugs. A good percentage of this product is moved through the Canadian supply chain by 3PLs.
- Whether or not pick and pick and 3PL companies can register as Regulated Agents and screen cargo just as Known Consignors can. This method has recently been approved in the European Union (EU aviation security legislation - recent amendment to the regulation (687/2014) and the amended regulation (185/2010). Refer to section 6.3.2.3.) No additional screening is required in cases where the Regulated Agent has the option to ship via air **and** ground.

### **Concern #11**

**Transport Canada Statement:** In the Regulatory Impact Analysis Statement section under *Consultation, July 2012 to October 2012* Transport Canada states: “*With respect to Canada’s North, Transport Canada has been and will continue to be involved in open dialogues with those stakeholders involved in getting food shipments to northern communities, with a view to finding solutions so that the cost and timely delivery of food to the North are not unduly affected. A northern air carrier working group has been created in order to ensure that Transport Canada is well aware and continues to be aware of the distinct issues affecting northern and remote regions.*”

**UPS Comment:** It is the position of UPS that medications (especially life-saving, sterile and cold chain drugs) should be included in this grouping. In some geographies these medications are delivered to remote areas by passenger aircraft directly from 3PL locations. A significant (and dangerous) supply chain issue would occur if these 3PL locations were not permitted to register as Regulated Agents and screen their own goods and/or small passenger air carriers did not have screening capabilities. Significant public health issues will arise. Certainly the risk of

terrorist action is remote in relation to small passenger aircraft delivering goods to northern and remote areas.

### **Concern #12**

**Transport Canada Statement:** In the Proposed Regulatory Text, *Part 11 Air Cargo Overview, Cargo Security Form, Section 672* Transport Canada sets out a rather confusing description of the new cargo security form content.

**UPS Comment:** It is exceedingly difficult to understand this requirement, and hence provide meaningful comment, without understanding the details. The associated security measures do **not** provide these details either and a new CSF guidance document has not been released. It is requested that Transport Canada provide additional details on this topic before closing the industry comment window. UPS would appreciate the opportunity to take part in any working groups that are formed to address this issue.

### **Concern #13**

**Transport Canada Statement:** In the Proposed Regulatory Text, *Part 11 Air Cargo Overview, Screenings, sections 675(2)(c) and 676(2)(c)*, Transport Canada states: “*the cargo security coordinator or one of the person’s authorized cargo representatives verifies the identity of the individual by means of government-issued photo identification provided by the individual;*”

**UPS Comment:** UPS is requesting that Transport Canada approve the use of photo company ID for identification purposes if the individual is an employee of the person? If we understand the intent correctly, the main goal is to determine whether or not the person is authorized to be on site or in a particular area not to simply identify them.

### **Concern #14**

**Transport Canada Statement:** In the Proposed Regulatory Text, *Part 11 Air Cargo Overview, Cargo Security Coordinators and Authorized Cargo Representatives, section 680(1)*, Transport Canada states: “*A person must not designate an individual as one of the person’s authorized cargo representatives unless the individual is (a) is employed by the person;*”

**UPS Comment:** UPS is recommending that a person should be permitted to “designate” an employee from an outside agency that provides temporary labour. Relying on temporary labour resources during peak periods is common in the industry. If this is not permitted, does Transport Canada expect such outside agencies to become members of the program and, if so, in what capacity? It would seem more sensible to require the “person” to ensure that proper background checks were conducted in relation to temporary employees who are temporarily employed as authorized cargo representatives.

### **Concern #15**

**Transport Canada Statement:** In the Proposed Regulatory Text, *Part 11 Air Cargo Overview, Record Keeping, section 685(1)*, Transport Canada states: “*If an individual undergoes a background check for the purposes of paragraph 680(1)(b) and is designated as a person’s authorized cargo representative, the person must keep a record in respect of the check that contains (c) the name of the cargo security coordinator who conducted the check.*”

**UPS SCS Comment:** In most cases the Cargo Security Representative will not conduct the actual background check. It will be completed by the company’s Human Resources Department or by an outside agency. The CSC will oversee the process however. UPS recommends that this section be amended to read “the name of the cargo security coordinator or his/her designee.

### **Concern #16**

**Transport Canada Statement:** In the Proposed Regulatory Text, *Part 11 Air Cargo Overview, Coming Into Force*, Transport Canada states: “*These Regulations come into force on the day that is ten months after the day on which they are registered.*”

**UPS Comment:** UPS SCS requests that the coming into force date be extended from 10 months to 2 years. Considerations are:

- Participants cannot implement final compliance plans until the amendments are registered in Canada Gazette. Plans will include:
  - ordering screening equipment (many companies will not approve the purchase of expensive screening equipment when they are not certain how many to purchase or which facilities require them. These determinations can only be made once the security measures and regulations are written into law.
  - drafting compliance documents, training material and internal procedures based on the finalized regulations and security measures,
  - contract outside vendors for training, background check and screening services (as required)
  - obtaining corporate approvals for all of the above including financial approvals
  - conducting background checks,
  - installing screening equipment,
  - testing screening equipment,
  - hiring screeners
  - training all ACR employees
- There is some concern that Transport Canada may not have sufficient resources to perform the following tasks inside of 10 months?
  - Reviewing, approving and inspecting:
    - Every Regulated Agent location
    - Every Certified Agent location
    - Every Known Consignor location
    - Outside training agencies
  - Registering every Account Consignor
  - Ensuring that canine screening is viable option for Regulated Agents who will depend on it.

- Certifying all screening programs and screeners.
- Bear in mind that entities will be reluctant to register for any of the above until they have the opportunity to review the final regulations and security measures. It will be difficult to get a “head start” on any of this.
- In Europe the normal “coming into force” date is two years after the regulations are finalized. This is because of the complexities involved. The new regulations and security measures in Canada will definitely be complex and extremely difficult to implement. The recommendation would be a 2 year coming into force date.

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UPS welcomes any opportunity to work in a consultative manner with Transport Canada with the aim of developing security measures that meet the needs of government and industry. Please contact me at any time to discuss these opinions in further detail or to arrange a further face to face meeting.

Sincerely,

Clare South  
Transport Canada Aviation Security Manager  
UPS SCS Canada Inc.  
UPS Canada Ltd.





Wendy Nixon  
Director  
Aviation Security Program Development  
Ottawa, Ontario  
K1A 0N5

December 19<sup>th</sup>, 2014

Dear Wendy Nixon:

UPS SCS Canada Inc. and UPS Canada Ltd. have reviewed the proposed changes to the Security Measures Respecting Air Cargo (SMRAC) that were posted on Transport Canada's Secure Channel on November 17<sup>th</sup>, 2014. We are grateful to have the opportunity to address the regulatory environment that we face prior to finalization and would like to identify these key areas of concern:

2. Transport Canada has stated that many key SMRAC elements are still under development and may not be released to industry in final form until the measures become law. UPS brings a breadth of regulatory experience and industry knowledge to the table. We welcome the opportunity to consult with Transport Canada over the next several months while these challenging and very important elements are being developed.
3. The Transport Canada definition of Known Consignor differs from the ICAO definition. Under ICAO document 8973, an approved Known Consignor, whose procedures meet common security rules and standards, is not required to screen volume prior to loading on a commercial aircraft, nor is anyone else in the secure supply chain, provided the consignment is protected from unauthorised interference.
4. There needs to be provisions for 3PL companies to ship secure cargo from their warehouses. 3PLs in the EU can register as Regulated Agents and tender secure cargo without the use of packaging protocols in cases where the Regulated Agent has the option to ship via air and ground.
5. It is our position that the coming into force timelines are too tight especially for multifaceted integrators whose business units will be regulated in various different ways. It is requested that the coming into force date be extended from 10 months to 24 months which is the EU standard. This will provide industry with the opportunity to properly plan and implement effective, high quality security plans.

These points, and several others listed directly below, represent the consensus opinion of UPS SCS Canada Inc. and UPS Canada Ltd.

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### **Concern #1**

**Transport Canada Statement:** In the opening page of the document Transport Canada states that there will be staggered coming into force dates for active screening; spring 2016 or international-bound passenger aircraft and fall 2016 for cargo on board domestic passenger aircraft.

**UPS Comment:** UPS would like to better understand the purpose of the staggered coming into force dates? Is it to assist Approved Participants (APs) in becoming compliant by providing additional time to prepare for domestic screening? If so, it misses the mark. Many APs ship international, trans-border and domestic cargo and would build compliance plans to address these destinations simultaneously. UPS supports staggered coming into force dates if they provide industry with the flexibility to implement more challenging elements later in the timeline. One such challenging element would be the converting of Third Party Service Providers (TPSPs) to Certified Agents. UPS doubts that all current TPSPs will be eager to apply for CA status because of the associated regulatory risks and costs. There should be an overlap period whereby APs can use Certified Agents and TPSPs to move secure cargo. Without this overlap there may be a shortage of Certified Agents (CAs) to choose from. It should be recognized that there are many other criterion used to select transportation and warehouse vendors such as: cost, scope of services, quality, etc. Certified Agent status is only one. APs will conduct aggressive outreach activities with TPSPs but it will be very challenging to get a sufficient number of CAs into the program within 12 months, especially when T.C.'s outreach activities will be focused on Registered Shippers and Approved Participants.

### **Concern #2**

**Transport Canada Statement:** In the opening page of the document Transport Canada states: *“These proposed requirements would also be timed to coincide with the coming into force of the related CASR Cargo Amendments to expand the supply chain.”*

**UPS Comment:** The current stated coming into force for the CASR Cargo Amendments in 10 months after the publication of the regulations in Canada Gazette II. It is requested that the coming into force timelines for screening (all destinations) be extended to two years following the publication of the CASR Cargo Amendments. The reasons for this request are set out below:

- Participants cannot implement final compliance plans until the amendments are registered in Canada Gazette. Plans will include:
  - ordering screening equipment (many companies, including UPS, will not approve the purchase of expensive screening equipment when they are not certain how many to purchase or which facilities require them. These determinations can only be made once the security measures and regulations are written into law.

- drafting compliance documents, training material and internal procedures based on the finalized regulations and security measures,
- contract outside vendors for training, background check and screening services (as required)
- obtaining Corporate approvals for all of the above including financial approvals
- conducting background checks,
- installing screening equipment,
- testing screening equipment,
- hiring screeners
- training all ACR employees
- Will Transport Canada have the resources to perform the following tasks inside of 10 months?
  - Reviewing, approving and inspecting:
    - Every Regulated Agent location
    - Every Certified Agent location
    - Every Known Consignor location
    - Outside training agencies
  - Registering every Account Consignor
  - Ensuring that canine screening is viable option for Regulated Agents who will depend on it.
  - Certifying all screening programs and screeners.
  - Bear in mind that entities will be reluctant to register for any of the above until they have the opportunity to review the final regulations and security measures. It will be difficult to get a “head start” on any of this.
- In Europe the normal “coming into force” date is two years after the regulations are finalized. This is because of the complexities involved. The new regulations and security measures in Canada will definitely be complex and extremely difficult to implement. The recommendation would be a 2 year coming into force date.

### **Concern #3**

**Transport Canada Statement:** In *Part 1, section 1* 100% active screening of cargo on passenger flights Transport Canada states: “*This amendment would require that 100% of cargo transported on board domestic and international passenger flights be screened. This means that cargo would need to be screened using one of the four current approved methods outlined in the Security Measures Respecting Air Cargo, or screened at source by a Known Consignor.*”

**UPS Comment:** Canine detection is one of the four approved screening methods but it is truly not a viable option because Transport Canada has not certified any canine detection operators. Canine detection would be extremely valuable in permitting freight forwarders who handle high volume, palletized cargo to meet tight tendering cutoff times. The alternatives are far too cumbersome and slow, especially if ETD must be performed internally on each piece of palletized cargo as currently set out in the SMRAC. In the absence of canine detection only full pallet x-ray screening will prevent the supply chain from becoming clogged but there are concerns with this method also since it can only be used when the product contained on a pallet is homogenous and it has limitations with respect to electronics. UPS is requesting that

Transport Canada intensify their efforts at developing a canine screening option for industry. UPS would be eager to assist in any pilot projects or testing that may be required to bring this option to fruition.

#### **Concern #4**

**Transport Canada Statement:** In *Part 1, section 1. 100% active screening of cargo on passenger flights* Transport Canada states: “*The proposed CASR Cargo Amendments to expand of the secure supply chain are designed to help mitigate the potential compliance burden faced by air carriers having to screen all cargo at the airport, and move screening to where it is most efficient and cost-effective in the secure supply chain.*”

**UPS Comment:** UPS would argue that moving screening from the passenger air carriers to the shippers and freight forwarders would have a greater cost impact on industry. Performing 100% screening at the air carrier would do the following:

- ***For shipments from Known Consignors*** – there would be no real difference since shipments from these entities would still have to flow through a secure supply chain. Certified Agents would still have to move this cargo to the air carrier but the numbers of KCs are expected to be low in comparison to ACs.
- ***For shipments from Account Consignors*** – it would eliminate the need for the Regulated Agent from the program altogether and would reduce the overall number of Certified Agents. Cargo from ACs would flow from the shipper to the passenger air carrier through a non-secure supply chain (no regulated or certified agents), with more abundant, lower cost carriers. Since the vast majority of cargo tendered to passenger air carriers is expected to come from Account Consignors, there would be far fewer Regulated Agents and Certified Agents to certify. This would reduce training, background check and other internal compliance costs considerably. It would also reduce oversight and compliance costs for Transport Canada.

UPS is not necessarily recommending that all Account Consignor screening take place at the air carrier, though if it were at all possible it should be explored in depth. UPS is simply questioning Transport Canada statements regarding efficiency and cost-effectiveness.

#### **Concern #5**

**Transport Canada Statement:** In *Part 1, section 1 100% active screening of cargo on passenger flights* Transport Canada states: “*Consequential amendments would also need to be made to the definition of “secure cargo”.*”

**UPS Comment:** UPS would appreciate the opportunity to consult on this before the security measures come into force? “Secure cargo” is a key program definition and our input would be useful to Transport Canada.

## **Concern #6**

**Transport Canada Statement:** In *Part 1, section 2. Changes to program participant categories*” Transport Canada provides this definition of Known Consignor: “*Known Consignor – the category for a shipper / originator of cargo that plans to screen its own cargo for air transport.*”

**UPS Comment:** UPS is requesting that Transport Canada provide a definition for *shipper/originator of cargo*. Indications from T.C. consultation meetings suggest that only the manufacturer or assembler of goods could be considered originators of cargo and, consequently, all other shippers could not apply for Known Consignor status. Understanding these key definitions will assist participants and shippers in developing compliance plans earlier in the process. Many obvious benefits would be associated with this.

**UPS Comment:** The definition of Known Consignor and how Transport Canada’s definition differs from that of ICAO is a **major concern**. In ICAO, the Known Consignor is defined as “*A consignor who originates cargo or mail for its own account and whose procedures meet common security rules and standards sufficient to allow the carriage of cargo or mail on any aircraft*”. Under this definition the Known Consignor (or any other approved entity in the secure supply chain handling volume from a Know Consignor) is not required to screen volume prior to transportation on a commercial aircraft. Transport Canada appear to be applying more stringent measures beyond those from ICAO and other major countries with aviation security programs. In the global economy, this will put Canadian business at a competitive disadvantage.

## **Concern #7**

**Transport Canada Statement:** In *Part 1, section 2 Changes to program participant categories*” Transport Canada provides this definition of Known Consignor: “*Regulated Agent – the category for a cargo operator that will actively screen cargo on behalf of others for air transport. Regulated Agents can also accept, transport, and/or store secure air cargo.*”

**UPS Comment:** UPS is seeking assurance that Third Party Logistics providers (3PLs) who, from their own premises, pick, pack and ship goods owned by other companies, will be permitted to use packing protocols to produce “secure cargo.” If the definition of shipper/originator of cargo cannot be expanded to include 3PL operations then it is requested that they be permitted to register as Regulated Agents and produce “secure cargo” through packaging protocols. There are a great many 3PLs that will be impacted by this decision. Many of these ship sensitive goods like pharmaceuticals that are rendered spoiled (temperature excursions, sterility, safety seals etc.) if opened in transit. It is important to note that 3PL companies in the European Union can register as Regulated Agents and tender secure cargo just as Known Consignors can. This method has recently been approved by EU aviation security legislation (recent amendment to the regulation (687/2014) and the amended regulation (185/2010) - refer to section 6.3.2.3.). No additional screening is required in cases where the Regulated Agent has the option to ship via air and ground.

**Concern #8**

**Transport Canada Statement:** *In Part 1, section 2.2 Replace “Approved Participants” with references to “Regulated Agents” and “Certified Agents” Transport Canada states: “The terms “Regulated Agent” and “Certified Agents” would replace the participant category “Approved Participant”. As described above, “Regulated Agents” would be the term used for those operators who screen air cargo for others, using one or more of the four current approved screening methods listed in the Security Measures Respecting Air Cargo. Operators who do not screen cargo, but who accept, transport, or store secure cargo for others would become “Certified Agents” whose roles are outlined in the proposed CASR Cargo Amendments (Section 670).”*

**UPS Comment:** UPS wishes to note that 3PL companies in the European Union can register as Regulated Agents and tender secure cargo just as Known Consignors can. This method has recently been approved by EU aviation security legislation (recent amendment to the regulation (687/2014) and the amended regulation (185/2010) - refer to section 6.3.2.3.). No additional screening is required in cases where the Regulated Agent has the option to ship via air and ground. If RA's are not permitted to ship secure cargo in this manner under the Transport Canada program, many Canadian businesses will be placed at a competitive disadvantage with their European competitors. If Transport Canada does not follow the EU programs in this regard (and we strongly recommend that they do) will 3PLs be permitted to register as Regulated Agents and produce “secure cargo” using approved packaging protocols? If not, will they be permitted to register as Known Consignors? If they are not permitted to register in any of these ways there will be a significant impact to this industry.

**Concern #9**

**Transport Canada Statement:** *Part 1, section 3 – all sections.*

**UPS Comment:** Section 3 has *less* detail than the CASR Cargo Amendments. Some of the subsections (3.1 and 3.2) have been cut and pasted directly from the amendments while other subsections (3.3 and 3.4) contain less useful information than the amendments. It was the expectation of UPS that the proposed SMRACs would provide industry with more detail to review. It is important that transportation security requirements satisfy their intended purpose without being too prescriptive and restrictive. To be effective and cost efficient transportation security requirements must be a good mix of procedural and physical security. UPS has a great deal of industry knowledge and experience in this regard (all modes of transportation). If the transportation security requirements are still under development by T.C. UPS is willing to provide consultative assistance at any time.

**Concern #10**

**Transport Canada Statement:** *In Part 1, section 4.0 Chain of Custody Transport Canada states: “A regulated entity originating or tendering secure cargo would need to initiate the chain of custody process before the cargo leaves their possession, and carry out chain of custody processes from the time the cargo is screened until the cargo is tendered to another regulated*

*entity within the secure supply chain. The proposed amendments would outline chain of custody methods and additional chain of custody processes, including acceptance procedures.”*

**UPS Comment:** UPS is offering this comment as a point of clarification. There should be no need to enact chain of custody for unregulated cargo. For cargo received from Account Consignors there should be no requirement to maintain chain of custody until the cargo is screened by a Regulated Agent. For Known Consignor cargo the chain of custody should start once the KC has designated the cargo as secure.

### **Concern #11**

**Transport Canada Statement:** In *Part 1, section 4.0* Transport Canada states “With respect to chain of custody requirements for transporting secure cargo, Transport Canada is proposing at this time that all vehicles adopt one of the following methods in order to prevent the introduction of explosives, incendiary devices, suspicious items, and threat items into cargo:

**UPS Comment:** For ease of comprehension UPS comments will be entered with each subsection as follows:

- i. Use of an ISO-compliant high security mechanical seals on the cargo compartment of the vehicle (such as ISO Standard 17712); or **UPS Comment:** This method will not work in an LTL environment where multiple pick-ups occur between points. It would only work for point A to point B moves.
- ii. Use of an escort (person in addition to the driver) to monitor the secure cargo, where the escort has visual contact (either direct or indirect) with the cargo at all times; or **UPS Comment:** This is not a viable method. Escorts are very costly and can easily lose contact with the vehicle they are following in urban areas with busy traffic. Industry typically only uses escorts for extremely high value/high risk cargo moves.
- iii. Driver monitoring the secure cargo as escort, where the cargo is secured in a lockable vehicle and the driver has direct visual contact with the cargo at all times, or **UPS Comment:** Is “driver” a second person in the vehicle? If so, this would drive up costs. If not, it would be physically impossible for the driver to maintain visual contact with the cargo at all times. Plus, cargo is often transported in cargo compartments that are segregated from the driver compartment.
- iv. Use of other appropriate means for locking a conveyance vehicle. **UPS Comment (Clare South – UPS):** This is a viable option. Vehicle cargo areas should always be locked when cargo is aboard. That is standard. Many vehicles have keyed doors that self-lock when closed. All others should be locked with a padlock. All good security programs prescribe to a “security in layers” concept. Physically locking cargo compartments is important but having procedures requiring drivers to check for signs of tampering on doors, door locks and cargo, and then having procedures firmly in place to report anomalies, is equally important. It would be difficult to prescribe the use of specific locking devices because there are so many different types of self-locking cargo doors in the industry and many of these cannot accommodate an external lock. Attempting to retrofit doors for this

purpose would produce staggering costs. The most sensible and achievable method would be to require ACR drivers to lock cargo doors (without specifying the type of lock) and adhere to a Certified Agent's transportation security procedures.

### **Concern #12**

**Transport Canada Statement:** In *Part 1, section 6.0 Packing Method* Transport Canada discusses the proposed packing method in brief detail.

**UPS Comment:** UPS requests that consideration be given to cargo that was received in inventory, wholly boxed and will be shipped back out, wholly boxed. Since the threat of introducing an IED into such inventory prior to it being designated as air cargo is extremely remote, a visual external inspection of the cargo should be sufficient permitted that the cargo has been controlled in a secure environment by an ACR from the time of picking until the time it is turned over to another regulated entity for transportation to the air carrier. Requiring an ACR to open a sealed box that was simply "inventory" moments ago and inspecting it for an IED does not seem like a reasonable risk-based activity. However, if that wholly boxed piece of cargo was consolidated with other cargo inside a larger box, UPS would fully expect that packaging protocols for the larger box would have to be adhered to. UPS requests that T.C. consider including external inspection as an acceptable form of "screening" for cargo described above.

### **Concern #13**

**Transport Canada Statement:** In *Part 2, section 1.0 High Risk cargo and mail* Transport Canada states: "*Cargo presented for transportation on passenger aircraft between designated airports in Canada shall be considered high-risk if, it meets any of the following criteria:*"

**UPS Comment:** The wording "between designated airports in Canada" implies that these provisions apply to domestic flights only. UPS is seeking clarification.

### **Concern #14**

**Transport Canada Statement:** In *Part 2, section 1.0 High Risk cargo and mail* Transport Canada states: "*Until the coming into force of 100% active screening (anticipated to be the period between spring 2015 and spring 2016) high-risk cargo would need be screened in accordance with a screening process set out in Schedule 4 to 6, 8 and 9 of the Security Measures Respecting Air Cargo before tendering it for transportation by air.*"

**UPS Comment:** Does this mean that the Approved Participant (AP) would simply tender such cargo to a passenger air carrier as non-secure (prompting screening) or would the AP be obligated to notify the air carrier that the cargo was suspicious and the reasons for that suspicion? UPS is seeking clarification on this point.



**Concern #15**

**Transport Canada Statement:** In *Part 2, section 3.2 Application of secure cargo storage requirements to screening of special cases* Transport Canada states: “Cargo accepted pursuant to *Part 3 of the Security Measures Respecting Air Cargo* would be subject to the secure cargo requirements for handling, storage and transport. Record keeping requirements would also be added.”

**UPS Comment:** The following items are listed under 33(1) of the SMRAC:

- (a) bone marrow;
- (b) human organs or tissue for use in transplantation;
- (c) human blood or human blood product;
- (d) human skin;
- (e) human embryos;
- (f) human organ by-products; and
- (g) diagnostic specimens.

Other healthcare products that would be rendered spoiled by screening such as bio-therapeutics, vaccines, cold chain products, sterile products and products that are regulated by strict security measures such as controlled drugs and narcotics should all be added to this list. Currently these products can move through the secure supply chain without screening if the shipper is a Registered Shipper. When the amended CASR regulations come into force all such shipments, except those received from Known Consignors, will require screening. Since the participant level of shippers electing to become Known Consignors is relatively unknown it would serve the healthcare industry well to permit an expansion of the items listed under 33(1). Failing to do so could generate health and safety risks due to unnecessary screening and subsequent spoiling of these products.

**Concern #16**

**Transport Canada Statement:** In *Part 2, section 3.3 Visual Inspection* Transport Canada makes reference to schedule 1 of section 33.

**UPS Comment:** Should this read subsection 1 of section 33. UPS does not see a schedule 1 of section 33 in the current SMRAC.

**Concern #17**

**General Comment from UPS:** These proposed changes do not contain specific information. The expectation was that they would be released in proper legal format with section numbers, definitions and detailed content. It is difficult for industry to provide meaningful feedback on directional information. UPS is requesting that industry be given the opportunity to consult as more detailed content is developed by Transport Canada. Such consultation should occur as far away from the coming into force dates as possible.

UPS welcomes any opportunity to work in a consultative manner with Transport Canada with the aim of developing security measures that meet the needs of government and industry. Please contact me at any time to discuss these opinions in further detail or to arrange a further face to face meeting.

Sincerely,

Clare South  
Transport Canada Aviation Security Manager  
UPS SCS Canada Inc.  
UPS Canada Ltd.