

TESTIMONY OF

**MICHAEL C. MULLEN
EXECUTIVE DIRECTOR
EXPRESS ASSOCIATION OF AMERICA**

**COMMITTEE ON HOMELAND SECURITY
SUBCOMMITTEE ON TRANSPORTATION SECURITY
UNITED STATES HOUSE OF REPRESENTATIVES**

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I. Our Response to The Yemen Bomb Incident

On October 28, 2010, Al-Qaida in the Arabian Peninsula attempted to ship explosive devices hidden in printer cartridges coming out of Yemen and destined for the United States on express delivery air cargo flights. While technical screening, canines and physical inspection failed to detect the bombs, the plot was disrupted when specific intelligence describing the nature of the threat was obtained which allowed the express companies to immediately identify and neutralize the shipments.

The day after the Yemen bombs were discovered and the plot disrupted, the four member companies of the Express Association of America (EAA) – DHL, FedEx, TNT and UPS – had a telephone conference with senior U.S. Customs and Border Protection (CBP) and Transportation Security Administration (TSA) officials. All participants in the call agreed that providing information on air cargo shipments earlier would be a key step toward improving security and disrupting any future terrorist attempts to deliver a weapon through the air cargo supply chain. A series of meetings began which focused on concrete approaches to achieving this goal. Government agencies identified seven key data elements from the existing manifest submission that are critical to risk targeting capabilities. The concept was to provide this data as soon as possible, with the complete information in the manifest on the aircraft continuing to be submitted in accordance with the Trade Act four hours before arrival. The express companies were permitted to take the lead in developing an operationally feasible approach to providing this data as early as possible in the supply chain. The express firms found the data could be transmitted several hours before the shipment left the last point of departure on its trip to the United States, and each company worked with the CBP National Targeting Center to develop the technical means to deliver the information.

II. Development of ACAS

The resulting project is named Air Cargo Advance Screening or ACAS. By January 2011 all four express firms were transmitting data on shipments from a list of countries identified by the Department of Homeland Security as high priorities. CBP and TSA initially focused the pilot program on express consignment operators since this sector of the trade accounts for more than 70% of all international air cargo shipments. The four members of the Express Association of America account for approximately 93% of the international air cargo shipments in the express consignment environment.

As operational experience with the ACAS pilot project increased, both the government and the express companies found innovative approaches to improving the targeting and risk management process. The express companies are providing access to their proprietary information and targeting systems to help CBP and TSA resolve anomalies in the shipment data, which allows a more rapid risk assessment of the cargo. Express carrier personnel have worked with the ACAS Unit at the National Targeting Center to share their expertise on express delivery operations with government personnel and to develop a deeper understanding of the governmental targeting process. ACAS Unit personnel have visited express delivery hubs to gain awareness of the operational environment. CBP and TSA, and other key stakeholders, have developed and refined rules and weight sets within the automated targeting system to better identify shipments that pose a security risk to aviation. The express companies are constantly expanding the number of countries – now over 100 – for which shipment data is transmitted, with the ultimate goal of providing global information on shipments coming to the United States worldwide. CBP and TSA are providing additional resources to the ACAS unit to manage the increasing volume of information and still ensure the shipment risk assessment process is completed expeditiously. In short, ACAS has become an extremely effective and well developed partnership between the public and private sectors.

III. ACAS Results

To date, information on 17.5 million air cargo shipments has been analyzed by the ACAS Unit. Over 250,000 shipments have been selected by the targeting system for further review and nearly 3000 of these have been identified for additional data analysis or screening. No terrorist threats to aviation have been detected and no shipments have been designated as “do not load”. Security concerns for identified shipments are mitigated through TSA-implemented security screening protocols conducted by the carrier prior to lading. In the event of a “do not load” situation, protocols have been developed to engage host-country authorities and lines of communication are defined to ensure all relevant stakeholders would receive required information.

The key factor to the success of the ACAS project has been the flexibility displayed by both the public and private sectors. From the beginning, the government agreed that no time deadlines would be applied to the submission of ACAS data, and no penalties would be assessed for inaccurate or incomplete data. The National Targeting Center developed a capability to accept ACAS data in any format and map the information to existing targeting data bases, as opposed to requiring the data in a specific format from all participants. The private sector agreed to submit the data as early as possible in the supply chain, which has developed into a capability to transmit the information nearly as soon as it is recorded in express carrier data bases. The transmission time is often 24 hours or more before the shipment is loaded on the aircraft that will bring it to the United States. As ACAS is expanded to additional countries and eventually the entire globe, maintaining a flexible approach to the information reporting will be critical to ensuring the continued success of the project.

IV. Screening Issues

ACAS also has served to illuminate issues around the operational protocols for screening shipments considered to be elevated risk. ACAS information analysis can result in a requirement

to screen a shipment at origin, before it begins a trip to the United States that may involve several plane changes. We need to find a better way for the results of this screening, and the identification of a package as non-threat, to stay with the shipment as it moves through the supply chain, assuming it is kept in secure environments. Under existing TSA-regulated procedures and national requirements of other governments, shipments screened at origin often require re-screening, particularly at the last point of departure of the flight to the United States. A more rapid expansion of TSA's National Cargo Security Program is a potential approach to providing upstream screening that would meet TSA requirements. Developing an international version of TSA's domestic Certified Cargo Screening Program is another potential solution for this problem. The air cargo industry is developing a proposal to present to TSA on this issue.

V. ACAS Expansion

Deliveries from Asia to the United State represent a large percentage of the millions of packages moved by EAA members around the world on a daily basis. As more countries in the Asian region are added to ACAS, the resulting increase in the volume of information will require that both the government and the private sector ensure adequate resources are available to provide the information, conduct the analysis, and respond operationally to the results of the targeting.

The volume of ACAS information is also expanding through the addition of more participants to the pilot project. Since late 2011 several passenger airlines and air cargo consolidators such as freight forwarders have engaged in the ACAS project, and information on the cargo being shipped and carried by these entities is being analyzed. CBP and TSA have published a plan to bring additional air cargo entities into ACAS, including heavy lift air cargo airlines. The government has been particularly adept at realizing that the business models of the new participants are quite different from express delivery operations, and that a "one size fits all" approach is not feasible for ACAS.

VI. ACAS: the New Public-Private Partnership

ACAS represents a breakthrough in the development of public-private partnerships to achieve mutual security and trade facilitation goals, or, as the CBP Commissioner has described it, ACAS is a "game changer". To establish ACAS, CBP and TSA employed an approach that has come to be known as "co-creation", in which the private sector determined at the outset an operational concept for the project, how the data would be transmitted, and how the reaction to the results of the risk assessment would be managed. These pillars of the project were then discussed with the government and refined to ensure the effort would meet their requirements. The private sector also decided the pace and direction of the expansion of ACAS to additional countries, within a set of priorities that was determined by CBP and TSA. This approach differs significantly from the normal method of allowing the business community to comment on the government's approach to a security issue only after a regulation has been drafted.

Based on the success of this approach, CBP and TSA intend to use a similar method to eventually move ACAS to a regulatory framework. After the pilot project has run for a sufficient amount of time and the results are analyzed, the ACAS private sector participants will engage with CBP and TSA to draft a regulation that is based on the operational lessons learned from the pilot and that incorporates the flexibility and feasibility of the approach employed in the

pilot. The regulation will also not attempt to employ a “one size fits all” approach, but will recognize the different business models of the ACAS participants and provide a flexible approach to ensuring optimum security, tailored to the specific industry entities in the air cargo environment. While participation in ACAS is now voluntary, CBP and TSA have often pointed out that the primary benefit of engaging in the ACAS pilot will be the opportunity to engage in the regulation writing process.

VII. Lessons Learned

ACAS has already provided significant lessons learned, and as the project moves forward the members of the Express Association of America would like to see these lessons applied to establish a permanent air cargo security regime characterized by flexibility and driven by a determination to employ the most operationally feasible approach. The key lessons from ACAS are:

- The private sector and the government should approach a new security challenge from the outset as fully equal partners who share common goals and a dedication to finding a solution that will meet the highest security standards, while preserving the operational capabilities the private sector needs to remain fully competitive.
- The government needs to develop a more robust capability to share intelligence information with the private sector. More effective information sharing needs to occur in the short term in the event of a terrorist incident to ensure the operational response is optimally effective in disrupting the attack, as well as in the longer term to make the private sector more aware of trends that may indicate their resources are being targeted.
- Flexibility and a willingness to discard previous practices and adopt new procedures, sometimes overnight, is the key to defeating an adaptive terrorist enemy and ensuring attempted attacks do not have a serious negative impact on U.S. and global economic interests.
- Security programs must be tailored to private sector business models in a way that is operationally feasible, but still meets high security standards. The division of the international logistics system into four “modes” – air, sea, rail and truck – is overly simplistic and creates operational inefficiencies. There are at least three air cargo business models and possibly more.
- Analysis of all available information should be the precondition for focusing technical screening resources on shipments that have been identified as potential threats. If this analysis indicates screening is required, it should occur as far upstream as possible, preferably at origin, to ensure a high risk shipment is interdicted early in the supply chain. Once screening has determined that a shipment is not a threat to aviation, that result should stay with the shipment regardless of it being transferred to another carrier, and additional screening should not be necessary.