

This is a pre decisional document created by the Air Cargo Advance Screening (ACAS) Working Group for submission to the COAC Global Supply Chain Subcommittee for consideration. These documents reflect input from industry that helped foster discussions within subject matter experts and government representatives.

Data Elements – Preserving the ACAS Pilot’s Success in the Transition to a Regulatory Regime

August 2013

At its inception, the goal of ACAS was to secure the advance delivery of cargo data to facilitate risk assessment and resolution of issues as early as possible in the supply chain. As demonstrated by over 2 years of pilot experience, the key initial decision to require only a minimum data set for security targeting had 2 powerful benefits:

- 1) from the security point of view, the promotion of as-early-as-possible data submission allowed targeting to take place well before flight departure to the United States;
- 2) from the facilitation and operational efficiency point of view, the ability to address problem shipments early in the process allowed resolution of concerns without causing operational disruption or placing an undue and unnecessary burden on the movement of legitimate goods.

As ACAS moves from the pilot to the regulatory phase, it is critical that its data element requirements continue to promote as-early-as-possible data submission and its resultant benefits.

At the point in time when the ACAS data set becomes available for transmission, the data is “raw” – i.e., it is freshly received from the shipper, it has not undergone a data quality check, and the ACAS transmitter has often not taken possession of the physical shipment - and so has had no opportunity to visually inspect the shipment to compare it to the electronic data that was received. It was never the intention of the government or industry stakeholders to require an “AMS standard of data” for ACAS, as it was understood by all that the earlier the transmission of data, the greater the chance for inaccuracies/imprecision, but also that the benefits of the early delivery of data nonetheless outweighed the downside. At the same time, from the intelligence point of view, it was recognized that raw shipment data in its “unedited” form, being provided directly by the shipper or his agent (as opposed to verified/corrected/completed by a carrier for Air AMS purposes) confers a substantial benefit in terms of the effectiveness of the security risk assessment.

To either impose data element requirements that cannot be met in an early pre-departure environment, or to subject a transmitter to penalties should ACAS data not match a later Air AMS transmission for the same shipment, would damage the very foundation on which the pilot has been built and call into question its successes thus far.

Such an effect is already apparent today under the current Air AMS regulatory regime, where it has become a standard industry business process to transmit AMS data as late

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as possible - after maximum checks have been completed to ensure accuracy and completeness - in order to reduce both penalty exposure and the procedural and IT costs of tracking and making corrections to already-submitted Air AMS data. A similar fate would befall ACAS should such strict data element definitions or data comparison for the purpose of penalties be implemented. Far from being encouraged to transmit data as early as possible, ACAS transmitters would instead be incentivized to delay transmission to a much later point in time when they could better guarantee the accuracy and precision of their transmissions, with an accompanying decrease in the security benefit of ACAS and simultaneous increase in negative impact on the movement of legitimate cargo.

Air cargo stakeholders are concerned about 2 specific issues that would pose the risks outlined above:

- 1) The adoption of Air AMS definitions of key data elements, in particular piece count and cargo description, which are not in line with those of the pilot period. Industry believes that it is not possible to achieve the level of precision required by these proposed definitions in the early pre-departure time frame when ACAS transmissions are most valuable. Not only do these unnecessarily narrow definitions not provide any measurable security benefit, particularly when the associated cost of delayed data transmission is taken into account, they have also not been tried or tested in the pilot thus far.
- 2) The assessment of penalties or liquidated damages for data discrepancies between ACAS and Air AMS would have a chilling effect, and diminish CBP and TSA's ability to perform targeting at the earliest opportunity, which should be well in advance of the freight being loaded on an aircraft in most cases. (Note, this topic is not addressed in further detail in this paper, as it is covered by the COAC ACAS WG Compliance Paper.)

It is industry's strong conviction that raw data and its early transmission are the best strategies to identify problem shipments and avoid any potential DNL scenario. Every minute of delay in transmitting ACAS data diminishes the ability and opportunity of CBP, TSA, and the trade to maximize the positive impact of ACAS targeting on supply chain security. In light of this, we believe that Air AMS definitions of data elements should be expanded to better promote the earliest possible transmission of necessary data – the ultimate objective of the ACAS program in both the pilot and the regulatory regime – per the authority of the Trade Act of 2002, Section 343(a)(2), which states: “The information required by the regulations ... shall be such information as the Secretary determines to be reasonably necessary to ensure aviation ... safety and security...” (emphasis added)

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With the raw-data premise outlined above in mind, we address the likely ACAS data elements in the table below:

DATA ELEMENT	COMMENTS
(DATA REQUIRED PRE-LOADING)	
<i>Shipper Name and Address</i>	The ACAS definition of this data element must recognize that 1) MAWBs will be submitted, where the shipper will by definition be a consolidator, 2) there are legitimate shipments in which the consolidator is in fact the actual shipper and not an intermediary and 3) at the early stage of ACAS transmissions, it is possible that HAWB level data will inaccurately include consolidator information, despite the filer's best intentions.
<i>Consignee Name and Address</i>	No comments
<i>Cargo Description</i>	<p>With regard to the cargo description data element, the COAC ACAS WG has two key concerns:</p> <ol style="list-style-type: none"> 1) That the definition not be too narrow: In the ideal case, ACAS information is transmitted at the point of origin of the shipment. Often, the data is available through electronic messaging before the transportation provider has taken possession of the shipment. If the information must be reviewed and validated to perfect the description before transmission to ACAS, the data will no longer be available for targeting at the earliest possible point in the supply chain, nor will it reflect the raw data provided by the shipper – which is the most valuable for risk assessment purposes. It is understandable that generic descriptions such as “freight of all kinds” or “general cargo” are not useful for targeting. However, descriptions such as machinery parts, samples of cloth, etc. should be acceptable. 2) That the definition not include the HTS number, based on operational, security and international harmonization concerns: <ol style="list-style-type: none"> a. The HTS code may not be known or available until much later in the process, and/or may be provided by a different party in the supply chain (e.g., the importer or agent); i.e., by a “downstream” U.S.-related party as opposed to an upstream, foreign-situated party. Therefore, while an HTS number may be an appropriate alternative to a plain language description for Air AMS purposes, it is not relevant to the pre-departure ACAS time frame, nor does it add any value to the risk assessment process. <p style="text-align: right;">The plain language description of the goods, combined with the ability of the automated targeting system to analyze vast</p>

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	<p>amounts of data for detection of anomalies, and other mitigation protocols, allows for effective targeting and the collection of additional data when required.</p> <p>b. Additionally, this issue is critical in the international arena, where CBP and its ACAS model have an outsize effect on developments in other countries, and where adoption of the U.S. ACAS model as the global standard is a key objective of pilot participants. Around the world, upstream supply chain parties face a persistent threat of being <u>required</u> to supply downstream data elements such as HTS in their pre-departure or pre-arrival transmissions. Therefore it is critical that the ACAS cargo description data element definition be limited to a plain language description of the goods, and not include even the option of an HTS number, as this would only encourage other governments to adopt this as a mandatory element in their own ACAS-like systems, constituting a burden on U.S. carriers and on the movement of legitimate commerce. Any HTS references should be limited to policy clarification documents, not the regulatory language.</p>
<i>Pieces</i>	<p>Pilot participants currently transmit a data element known as "number of pieces". This broad definition should persist into the regulatory structure, and not be replaced with the Air AMS definition of piece count, i.e., the "total quantity based on the smallest external packing unit."</p> <p>The broad definition is necessary, because at the earliest point in the supply chain, often only the number of pieces is known. Freight may be tendered to the carrier palletized by the shipper or forwarder – this is particularly true with conventional freight shipments. Moreover, whether the piece count provided to the ACAS data transmitter is based on the smallest external packaging unit or on a palletized “skid count” or “operational count” may not be known to the transportation provider until after a verification process has occurred. To narrow “ACAS pieces” to “the smallest external packing unit” count would significantly delay ACAS data submission until a point much closer to departure. Therefore, the COAC ACAS WG recommends that the broader ACAS piece count data element definition not be narrowed, in order to allow the trade to submit the piece count as known at the time of the ACAS filing.</p>
<i>Total weight of cargo</i>	No comments
<i>Air Waybill Number (Master Air Waybill)</i>	<p>With regard to the MAWB data element, the specific requirements for MAWB and HAWB transmission are addressed in two additional COAC ACAS WG documents: “Integrated Carrier Cargo on Conventional Carriers – Self Filer Solution” and “Self-Filers in the Freight Forwarder / Conventional Carrier Business Model”. The COAC ACAS WG strongly suggests that CBP adopt the recommendations set out there and put in place filing regimes that promote early delivery of data and establish the necessary ACAS</p>

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	communication links with transporting carriers, while simultaneously taking into account the specificities of each business model and minimizing unnecessary negative operational and supply chain impacts.
(DATA REQUIRED UPON DEPARTURE)	
<i>Flight Departure Message (FDM)</i>	The COAC ACAS WG notes that FDM transmission is already a requirement for the receipt of Air AMS status messages and that this transmission should suffice as an FDM transmission for ACAS purposes also.

RECOMMENDATIONS:

1. Each ACAS data element definition should be drafted to promote the earliest possible transmission of data for targeting, and should match as closely as possible the definitions that have been used and thoroughly tested during the pilot period.
2. The “shipper name and address” element should reflect the fact that a consolidator might be reported as the shipper in FHL and FWB transmissions.
3. The “cargo description” field should allow a broader ACAS definition of “precise cargo description” than that for Air AMS, and not reference the HTS code, which is potentially damaging from both the security and international harmonization points of view.
4. The piece count data element should remain “total pieces” and not be narrowed to the Air AMS definition of “total quantity based on the smallest external packing unit”, recognizing that an ACAS filer will usually not know the Air AMS level of data at the time of transmission.
5. The master air waybill number should only be required in dual-filing situations as set out in the specific self-filing models developed for shipments moving from integrated carriers to conventional carriers, from freight forwarders to conventional carriers, and from one conventional carrier to another.
6. A single FDM transmission should suffice for both ACAS and Air AMS requirements.