

**ADVISORY COMMITTEE ON COMMERCIAL OPERATIONS OF
CUSTOMS AND BORDER PROTECTION**

COAC Global Supply Chain Subcommittee

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Beyond the Border / 21st Century Work Group

Due to the focus on air cargo advance screening and resource limitations during the partial government shutdown, nothing new is reported on this topic. The Committee and Work Group continue to consider Beyond the Border and the 21st Century Border Initiative important and will re-engage with CBP on this topic in Q4.

Projects under Beyond The Border include:

1. The Blaine Pre-inspection pilot
2. The Peace Bridge pilot
3. Border Infrastructure Investment Plan, version 2
4. Border Fee study
5. Data Harmonization
6. Prince Rupert Pilot

Projects under the Mexico – 21st Century Agreement include:

- 1) Expansion of Global Entry to Mexican Nationals
- 2) Pre-inspection pilot by Mexican Customs to screen cargo leaving Laredo airport for Mexico
- 3) Pre-inspection pilot in Santa Teresa

Air Cargo Advance Screening (ACAS) Workgroup

The major work of the subcommittee since the August COAC meeting has been in the ACAS Workgroup (ACAS WG).

Administrative Overview:

- Detailed background on the ACAS pilot project and on the mandate/work of the ACAS WG can be found in GSCS reports to the May 22 and August 7 COAC meetings. The work plan of the ACAS WG continues to evolve to effectively address the most time-critical issues as they are identified and analyzed in order to keep pace with CBP's regulatory timeline.
- While the ACAS WG has maintained an ambitious schedule of substantively-robust deliverables throughout 2013, its work in October was complicated by the partial government

shutdown. For this reason, to meet the deadline for the November COAC meeting, the ACAS WG has focused exclusively on the integrated carrier and freight forwarder self-filing models, and to the overarching regulatory framework under which these models would function. The Workgroup held a productive “self-filer deep dive” session with CBP and TSA on October 31 to continue to work through proposals with CBP and the trade.

- Work products produced for the November meeting, which underlie the recommendations to be made, include:
 - Addenda to the Integrated Carrier / Conventional Carrier Self Filer Model Proposal and the Freight Forwarder / Conventional Carrier Self-Filer Model Proposal, further elaborating the models’ security and operational foundations, and identifying remaining issues to be addressed in the development of these models.
 - Drafting of an ACAS Regulatory Regime paper setting out the key policy concepts necessary to move ACAS into a regulatory framework while maintaining intact the key characteristics of the successful pilot.
- The next immediate work products, stemming from issues raised at the October 31 meeting, include:
 - Further elaboration of the Freight Forwarder self-filer model to provide at least two options – a “functional self-filer” model for forwarders most interested in the operational benefits provided by ACAS participation and a “regulatory self-filer model” for forwarders who wish to take on enhanced filing responsibilities; and
 - An analysis of how trusted trader, C-TPAT and AEO-mutual recognition programs can be leveraged in the ACAS regulatory structure.

Overview of Recommendations to be made by the ACAS Workgroup to the GSCS:

- Follow the Pilot.

The ACAS pilot has been described by all stakeholders as a “game-changer”. Not only was the pilot stood up within mere weeks of the October 2010 Yemen plot, but 2 short years after its inception ACAS transmissions already covered more than 80% of cargo arriving into the United States. The pilot’s success is directly attributable to its strategy to leverage real-life standard supply chain practices when obtaining advance data. This practical basis allows data to be secured for risk assessment at the earliest possible time while avoiding the imposition of unnecessary operational disruption or IT costs on trade participants and safeguarding the flow of legitimate trade. To approach the success of the pilot, the ACAS regulatory framework should facilitate the submission of pre-departure data in the same manner as the pilot. Therefore, the ACAS WG recommends that before any ACAS regulatory provisions add new requirements or otherwise significantly diverge from successful pilot practice, a 3-part “test” be applied:

 - A “de novo” review of the Trade Act be carried out to determine whether it allows implementation of regulatory provisions that match pilot practice;

- If security or regulatory gaps are identified, bi-directional and co-creative discussion take place to determine the most cost-effective and least-disruptive way to close them; and
 - For divergences identified by the trade as significant, a pilot test be employed to ensure the operational feasibility of the divergence and enable a proper cost/benefit analysis to be conducted prior to reducing the divergence to a regulatory requirement.
- Ensure that the ACAS regulatory framework does not conflict with the Trade Act, in particular the specific direction found in Sec 343(a)(3)(B) and (D).
 - (B) In general, the requirement to provide particular information shall be imposed on the party most likely to have direct knowledge of that information...
 - (D) Where the regulations impose requirements on carriers of cargo, they shall take into account differences among different modes of transportation, including differences in commercial practices, operational characteristics, and technological capacity to collect and transmit information electronically...
- The ACAS initiative is first and foremost an aviation security enhancement, therefore operational efficiency requires that ACAS data and filing requirements be fully harmonized with existing and planned security programs. In particular, to avoid significant operational disruption, CBP's ACAS data screening regime and TSA's ACAS resolution protocols and physical screening regimes must be seamless with regard to data transmission authority, resolution protocol recognition, and cargo handoff processes. It is recommended that the ACAS WG embark on a "cargo transfer mapping project", similar to the work of the Export Mapping Workgroup under COAC's Export Subcommittee, to allow potential bottlenecks and mismatches to be identified, and that the ACAS WG add the development of workable solutions to its mandate.

Recommendations Under Consideration

Possible recommendations to be considered by the COAC include:

- Regulatory requirements for filing air advance data should closely follow successful processes used in the ACAS pilot.
- Prior to publication air advance data regulations should be carefully reviewed to ensure that they do not conflict with the Trade Act.
- To promote harmonization of data and physical cargo security protocols, the ACAS Workgroup should add mapping of cargo transfer scenarios, identification of issues, and development of workable solutions to its mandate.