

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

COMMITTEE ON WAYS AND MEANS
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Streamlining and modernizing the border clearance process for goods entering the United States is a critical challenge. Key aspects of this process still use antiquated approaches that do not reflect 21st century business operations, IT capabilities or public-private sector partnership opportunities. The trade community is encouraged that the Subcommittee on Trade of the Ways & Means Committee is holding this hearing to examine these important issues.

No segment of the trade community is more engaged on these issues than the members of the Express Association of America (EAA). EAA members are DHL, Federal Express, TNT and UPS, the four largest express consignment operators in the world, providing fast and reliable service to the U.S. and more than 200 other countries and territories. These four companies have estimated annual revenues in excess of \$100 billion, employ more than 1.2 million people, utilize more than 1000 aircraft, and deliver more than 30 million packages each day. The multitude of customers utilizing the services of EAA members ship an extensive variety of commodities domestically and internationally and would benefit significantly from a streamlining and modernizing of customs' and other government agencies' border clearance operations.

I. Trade Facilitation and Streamlining

A. Co-Creation – the New Public-Private Partnership

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. This plot was successfully thwarted thanks to good intelligence, and this potentially tragic incident had the unexpected benefit of raising the concept of a trusted partnership between government and the private sector to a new level. 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 than the Trade Act mandate of four hours before arrival was required. 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.

This project became the Air Cargo Advance Screening pilot or ACAS. 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. 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 operational feasibility of the approach employed in the pilot. ACAS will evolve into the ACE air cargo module.

The process of “co-creation” has now become the preferred method at CBP for designing new requirements that will impact the trade community in a significant way. The Simplified Entry program was developed using this process, where a public-private sector working group determined the parameters of a pilot that would test the information requirements, transmission channels and operational parameters for providing entry data earlier. Members of the Express Association of America are also key participants in the Simplified Entry pilot. Just as the ACAS pilot is fundamentally changing manifest data as we know it, Simplified Entry will result in entry data being provided much earlier than is the case today, with release also being granted earlier, at wheels up when the plane departs for the United States for air cargo. Simplified Entry also is testing the operational protocols and data transmission channels that will develop into the cargo release module of ACE. In this regard, the participation of the Food and Drug Administration (FDA) and other government agencies in Simplified Entry is imperative to allow the project to develop validated concepts for a unified government release at the border.

The kind of highly developed partnerships between the public and private sectors represented by the ACAS and Simplified Entry pilots provide the most significant benefit to being a member of a trusted trader program. They allow the trade community to shape the parameters of the government’s approach to streamlining the entry process and meeting new security challenges. Having the opportunity to ensure the government shipment clearance process is aligned with operational business requirements represents a true partnership between co-equal parties, and allows the government to realize the benefits of best practices from the trade community to improve supply chain efficiency.

B. Relevant C-TPAT Benefits

But improving the benefits of the traditional Customs-Trade Partnership Against Terrorism (C-TPAT) program should remain a high priority. CBP should create a Tier III membership category, which currently is only restricted to importers, for carriers and other members of the supply chain. Beyond any specific benefits in terms of fewer inspections, Tier III membership is a formal recognition that a firm goes above and beyond CBP’s security standards. Providing this status for carriers would allow the creation of end-to-end Tier III

supply chains. Express consignment operators represent a gold standard for supply chain security management, with minute-by-minute control of a shipment from the time it enters their systems to delivery to the final customer. Their physical, personnel and IT security procedures significantly exceed C-TPAT standards, making these companies excellent candidates for Tier III status. Another potential new C-TPAT benefit would be reducing bond requirements. Companies in C-TPAT are low risk for duty evasion or product diversion or other problems for which the bond program is designed. CBP should also be required to measure inspection rates and clearance times and verify that C-TPAT members are experiencing fewer inspections and getting their goods cleared faster than a non-member. Fewer inspections is the core C-TPAT benefit that would encourage a company to join, particularly a small and medium enterprise.

C. Realizing Mutual Recognition Agreement Benefits

Mutual recognition between C-TPAT and other countries' trusted trader programs has the potential to harmonize clearance requirements and simplify the entry process on a global basis, but the reality of the mutual recognition agreements established so far is falling well short of this goal. Only the validation step of the partnership program is being mutually recognized, which does have some value in reducing the number of validation visits a company will experience. But much more could be done. Countries could agree on a single application process and set of information requirements for these programs, and the agreement also could serve as a basis for harmonizing customs declaration data elements. The World Customs Organization has provided a template for taking these additional steps. Mutual recognition agreements should provide a single risk assessment process for program participants that genuinely results in fewer inspections and a more rapid clearance for both imports and exports. Congress should require an annual report from CBP that describes how the benefits of mutual recognition agreements are aligned between the U.S. and partnering nations. The report should describe how C-TPAT members receive analogous benefits in other countries to those the U.S. provides to members of the foreign trusted trader program. On both sides the benefits should be commercially meaningful.

D. Unifying U.S. Trusted Trade Programs

But mutual recognition should start at home. Congress should require all agencies with border clearance responsibilities to participate in a single trusted trader program with the private sector. C-TPAT could serve as a model for this program, with other agencies adding their requirements to the application and validation processes as needed. The costs of applying to a myriad of different programs are a disincentive that discourages participation, as considerable resources are involved in meeting varying program requirements. As an initial step, Congress should mandate consolidation of C-TPAT and TSA's Certified Cargo Screening Program (CCSP) with a single application and vetting process. This will require harmonizing the company based approach of C-TPAT with the location based approach of CCSP, but that should not be an insurmountable obstacle.

The Certified Importer Program has become a now well-developed model of a unified trusted trader program that allows a product to be validated from the raw materials stage, through manufacturing, testing, and quality control to delivery via a secure supply chain. The program ensures government requirements regarding product safety, security, and trade compliance are

met and exceeded by the best practices of highly compliant importers. Certified Importers maintain risk signal detection controls that provide alerts to appropriate government agencies if a problem is detected or a recall required. In return for meeting these high standards, certified imports should receive a consolidated, automated release from all government agencies, prior to arrival at the port of entry. These shipments also should be exempt from transaction-based certificates and document requirements at time of entry, as well as from new government user fees when the importer's high self-management standards are meeting the requirements the user fee is designed to enforce. Congress should specifically authorize the Certified Importer Program and mandate engagement by an initial core group of agencies, to include CBP, FDA, USDA and CPSC.

E. Implementing Account Management – the Centers of Excellence and Expertise

The Centers of Excellence and Expertise (CEE) have been very successful in meaningfully implementing the concept of account management. CBP announced plans to add two additional centers recently, one in Detroit for automobile and aerospace imports and a second in Houston for petroleum, natural gas and minerals. CBP should be encouraged to continue to expand the CEE concept for managing low risk imports from Customs-Trade Partnership Against Terrorism (C-TPAT) and Importer Self-Assessment (ISA) members. By centralizing the import process for trusted shippers in what is essentially a virtual port of entry, groups of CBP experts can become very familiar with specific industries' supply chains, the volume and type of commodities they ship, and their standard risk management procedures. CEEs represent a significant step in raising the concept of trusted partnerships to a higher level by providing a single point of contact and a communication channel for rapidly resolving any issues that arise with a low risk importer's shipments. This is the kind of relevant benefit to C-TPAT membership that industry has long desired.

II. Modernization

A. Raising the De Minimis Level

A critical modernization measure, that also would improve enforcement, would be raising the level for de minimis shipments, which require no payment of duties or taxes or official customs clearance, from the current \$200 to \$1000. This level has not been raised for almost 20 years, despite the explosion of ecommerce and the corresponding increased participation of small and medium businesses in international trade. A higher de minimis level offers significant benefits to both the trade and CBP.

By reducing and simplifying the workload for CBP, the changes would allow officers to focus their efforts more on security issues and higher risk shipments. The changes would allow CBP to reallocate resources from entry document processing and review to security, targeting and enforcement activities. Officers could dedicate more time to manifest review, risk assessment and more productive and focused inspections. These increased efficiencies may even allow a reduction in the number of CBP officers assigned to entry ports. Due to better utilization of CBP resources, studies have shown that the proposed changes will likely result in a net reduction of costs to the Government.

The increase in value thresholds will not adversely affect security and enforcement, as full manifest detail and pre-arrival information is still required for all shipments. The entry reform changes apply only to smaller and lower value shipments, thus there is no increased risk of commercial violations. Simplified entry and release of these low value shipments facilitates CBP focusing of resources on larger commercial shipments where such enforcement will likely have more effective results.

For the trade community and the public, increasing the de minimis level is advantageous to several parties, beyond the reduced labor/operator expense reductions for the importers due to filing fewer formal entries. With more shipments eligible for simplified entry procedures, companies and individuals would realize reduced brokerage expenses. Total costs would be reduced for all customers, but small businesses with numerous low value shipments would see a proportionately greater reduction in costs. The advantages would also accrue to personal shippers in the form of simplified procedures for entry and release, less paperwork and reduced costs. With internet purchases increasing every year, the proposed changes would simplify the entry process for personal use shipments, which should not be subject to the restrictions intended for commercial shipments.

Through Free Trade Agreements and the APEC forum the United States has focused the attention of other countries on the need to raise their de minimis levels. Raising the U.S. level would improve our credibility in these efforts and demonstrate needed leadership. The bill introduced by Representative Schock last year to raise the de minimis level to \$1000 has attracted nearly 200 co-sponsors, so a higher de minimis level enjoys broad bipartisan support. The increased level also is supported by an overwhelming majority of the trade community.

CBP has made recent progress in raising the informal entry level from \$2000 to \$2500. Canada and the United States have agreed to mutually raise their informal entry level to \$2500 as part of the Beyond the Border Agreement. The formal rulemaking process to implement this step has been underway for over six months, but hopefully the final rule will be issued soon.

B. Implementing ITDS

Another vitally important trade modernization step the U.S. Government could take is the implementation of the International Trade Data System (ITDS). The competitiveness of U.S. industry continues to suffer from the lack of a unified government approach to the border clearance process. Despite initiating the ITDS process in 1995, we seem to be no closer today to the goal of submitting a single transmission of required information and the receipt of a single government clearance for an import. Proliferation of unique agency IT systems is exacerbating the problem and requiring the trade community to submit similar data elements to different systems and on different timelines.

The U.S. Government should require a single, consolidated set of data elements that are submitted once by the trade to satisfy all government requirements. The ITDS single submission should be the basis for providing U.S. Government-wide release of goods prior to arrival at the border, unless information analysis indicates the need for a hold. All agencies should use risk-based algorithms and automated targeting as the basis for a common decision on the release of goods.

The more than 15 year history of ITDS demonstrates that taking the approach has failed of allowing each agency to more or less voluntarily decide whether they will participate in a meaningful way in the project. I thought the SAFE Port Act of 2006 mandated quite clearly that

participation in ITDS was required, but progress since then has been minimal. Congress should mandate creation of a specific plan for the near term implementation of ITDS with a timeline of set dates when each agency will achieve full operational engagement in a single release process. Based on volume, CBP and FDA would be the two logical agencies to begin the effort by creating a unified clearance process.

C. Eliminating Paper

We are long past the date when the 19th century practice of paper documentation for clearing imports and exports should have been eliminated. Express consignment operators are among the world's most highly automated companies, but one EAA member estimates they provide over one million sheets of paper per year to CBP as part of the shipment clearance process. With CBP's Document Imaging System (DIS) reaching full operational capability this year, Congress should establish a date when paper documents will no longer be accepted as part of the border clearance process, and mandate that agencies requiring paper declarations, licenses and other forms for trade purposes obtain the documentation through DIS.

D. Modernizing Brokerage Operations

Congress could provide additional measures to promote customs modernization regarding the brokerage process. The first step should be establishing a national permit for customs brokers. The current requirement for a brokerage to have an individual licensed broker designated as a permit qualifier in each of 42 customs districts is cumbersome and outdated. It is difficult to keep a licensed broker in each district due to location, cost of living, etc. There is little practical reason for this requirement other than to have a person available for customs to contact locally. Since CBP developed the Remote Location Filing Program (RLF), there is even less reason for this outdated requirement, and we can accomplish the same objective without having a licensed broker in each district. Having one national permit without local district permit qualifiers will have no impact on broker responsibilities or liability.

Another important step would be to authorize the sharing of brokerage information between related, fully integrated companies, specifically from the licensed brokerage company to related business units within a single corporate entity and with third party service providers. The current regulations on this issue are antiquated in light of the significant changes that have occurred in modern business practices, and actually do not allow the brokerage unit of a company to share information with the security unit. Importers expect their logistics providers to provide integrated, end-to-end business solutions that encompass services in addition to customs brokerage, while also ensuring a high level of supply chain security without imposing burdensome and unnecessarily bureaucratic requirements for them to provide information to different parties within the company or written permissions. Legislation needs to allow sharing brokerage information both internally and externally to develop new products, provide a full range of services to customers, or outsource certain administrative tasks such as billing and/or collections.

E. Funding ACE

Achieving all the trade facilitation and modernization goals outlined above depends critically on one action: implementation of the Automated Commercial Environment (ACE) must be adequately funded. Budget cuts in recent years have reduced ACE to a maintenance mode where new functionality is not being created. CBP has significantly improved its management of the program over the past two years, which has been recognized by OMB. Despite the reduced resources, sea and rail manifest capabilities are being successfully implemented. The management problems that plagued ACE development in the past seem to be under control.

In March this year a business coalition supporting increased ACE funding, organized by the U.S. Chamber of Commerce, sent a letter to Secretary of Homeland Security Napolitano highlighting the need to increase funding for ACE. The 27 year old Automated Commercial System which ACE will replace is at the limit of its capabilities and requires significant maintenance support. ACE will not only improve government security processes and allow integration of other government agencies' requirements into a single technological framework, but also is a required capability to improve the international competitiveness of the U.S. trade community.

Congress should authorize incremental, carefully managed increases to ACE funding to achieve discrete improvements in system capabilities. The first such step should be providing an additional \$80 million in the FY2013 budget to fund the development of the cargo release module. The Simplified Entry program is providing the operational concept for cargo release, and this capability will allow the initial integration of other government agencies into a single release process.

III. The 2020 Border

In the best of all possible worlds, what should the border clearance process look like by the end of this decade? The government should look at the border as a business entity that needs to be managed and develop all the capabilities needed to do so most efficiently and safely. With sufficient political will, I believe it is possible to create the following environment over the next eight years:

- Government information requirements will be met by a single transmission of the minimum data elements necessary, submitted as early as possible in the supply chain, which satisfies security, trade compliance, product safety and other regulations.
- Information requirements will be tailored to product and mode of transportation.
- No paper documents will be required as part of the clearance process.
- Based on a consolidated risk assessment process, all government agencies will coordinate to issue a single release prior to the goods arriving at the port of entry.
- ACE will be fully operational and will be the only U.S. trade clearance system.
- Centers of Excellence and Expertise will exist for all certified importer products and will have the authority to resolve any anomalies or unique issues with clearing goods on a real time basis.
- The U.S. Government will have a single trusted trader program, in which all agencies with border authorities participate, with a single application and validation process.

- Penalties will not be issued to members of the trusted trader program, and their bond requirements will be reduced to the minimum necessary.
- Members of the U.S. trusted trader program will be full members of any foreign program mutually recognized by the United States, without the need for additional application and validation procedures, and will receive benefits comparable to the U.S. program.
- Information requirements will be harmonized with our closest trading partners so required export data from one country will satisfy the import requirements of the receiving country.
- The U.S. de minimis level will be at least \$1000 and will be automatically adjusted for inflation without the need for additional regulatory or legislative action.

This concept of the 2020 border represents an ambitious proposal. The building blocks to create each of these capabilities are in place today, but bringing them to realization requires a Congressional oversight and management process that transcends narrow jurisdictional concerns and treats the effort as a single project. Nothing less than the international competitiveness of U.S. industry, and ultimately U.S. jobs, are at stake.

I deeply appreciate the opportunity to appear before the Subcommittee on Trade and look forward to discussing these issues with you.

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