



# AIR CARGO SECURITY POLICY NEWSLETTER

International Air Cargo Security - Statements at US Government Hearings

Mar 14, 2011

This issue of the newsletter reports on testimony at a hearing before the Committee on Homeland Security, Subcommittee on Transportation Security, of the US House of Representatives. The subject of this hearing was “Securing Air Cargo from the Threat of Terrorism”

Extracts are included from statements delivered by:

- John Sammon, TSA Assistant Administrator for Transportation sector Network Management (TSNM); and
- Steve Lord, Homeland Security and Justice Issues, US Government Accountability Office (GAO) entitled “Progress made but Challenges Persist in Meeting the Screening Mandate for Air Cargo”.

Comments about international co-operation, related to the goal of achieving 100% screening for all air cargo entering the USA by 31<sup>st</sup> December 2011, are highlighted.



An appendix to the newsletter provides a copy of a TSA presentation from February 2011, entitled 100% Cargo Screening Legislation: Post-August 1<sup>st</sup> 2010.

The TSA presentation lists the top 20 Countries that represent 84% of total US inbound PAX volume; describes the two fold international approach of TSA (changes to Air Carrier Security Programs and to National Country Security Programs (based on six evaluation criteria); and indicates the NCSP Recognition process adopted by TSA. It further describes new proposed US air cargo security legislation.

### **Comments made at the Hearing**

*“Al Qaeda in the Arabian Peninsula (APAQ) has declared war on US aviation”, asserted John Sammon at the hearing last week, “We are in a deadly serious fight. It’s no longer hypothetical; it’s real,” he commented.*

*“APAQ continued its efforts, started on Christmas Day, 2009, with an attempt to smuggle explosives into printing supplies on US-bound cargo flights in October 2010”*

*“That is real; we have to deal with it,” said Sammon. “We have to make sure whether its UPS, American Airlines, or Federal Express, that we have protocols in place so that we don’t lose the plane.”*

TSA has recently disseminated new security protocols, developed in conjunction with US intelligence authorities and the air carriers, in legal documents that *“may be confusing at first glance”, Sammon stated. In addition, they may generate some confusion because they contain a separate set of rules specifically for cargo planes carrying mail only, as requested by shippers such as the US Postal Service.*

*“They are focused, measured, and directed to what we perceive to be the current intelligence-based risk,” Sammon said of the protocols.*

*“TSA does not have the authority to establish a similar program overseas”, said Steve Lord, director of Homeland Security and Justice Issues at the Government Accountability Office (GAO). “Inspection of air cargo originating overseas must have the cooperation of foreign nations, who may be reluctant to comply with US mandates”.*

*“In cooperation with foreign partners, however, TSA has begun a review of their National Country Security Programs (NCSP) to certify them as carrying a level of security commensurate with US security measures”, Lord testified.*

Presently TSA inspects about 80 percent of US-bound cargo on international passenger flights, Lord estimated. The remaining 20 percent presents a tremendous challenge as it includes cargo that is inherently difficult to screen, such as fresh food.

*US-bound air cargo originates mostly from 20 countries, which ship 90 percent of imports to US cities”, Lord commented. “The United States can sidestep sovereignty issues and other objections by attempting to engage those countries directly in joint inspections and other friendly overtures”.*



**Extract from the prepared statement of Assistant Administrator Sammon – relating to the screening of international air cargo.**

*“.....All high-risk cargo on international flights bound for the United States is prohibited from being transported on passenger aircraft. All high risk cargo goes through enhanced security procedures before being shipped on all-cargo aircraft. Nevertheless, complex challenges exist in reaching 100 percent screening of cargo loaded on passenger aircraft inbound to the United States.”*

*“ Since passenger air carriers began providing detailed reports on inbound screening percentages in June 2010, it is apparent that more cargo is being screened than TSA had earlier estimated. Many air carriers, including a high number of wide-body operators, are already at or close to 100 percent screening of air cargo inbound to the United States. However, we recognize that closing the final gap poses some operational challenges for airlines. More importantly, TSA does not have the same inspection and compliance authorities overseas that it has in the United States. While TSA can inspect and aggressively pursue enforcement action in the U.S. under the Interim Final Rule, any inspection of air cargo screening overseas requires the full voluntary cooperation of our foreign partners”.*

*“To address these challenges, TSA will continue to review other countries’ National Country Security Programs (NCSP) to determine whether their programs provide a level of security commensurate with the level of security provided by existing U.S. air cargo security programs”.*

*“ TSA’s recognition of other countries’ NCSPs will provide us with government oversight of the supply chain and screening process. We are aware that many country programs support a supply chain approach similar to our CCSP. Since we cannot establish a CCSP program overseas, the NCSP approach is a key element in helping industry to accomplish the 100 percent screening goal while also enabling TSA to ensure that inspections and compliance actions are well established by the host government programs and commensurate with U.S. security standards. We are renewing our efforts to ensure broader international awareness of TSA’s Congressional screening mandate, and to encourage countries to share their NCSPs with us for review”.*

*“In addition, air carriers will be able to use Authorized Representatives to perform screening on their behalf. Authorized Representatives will allow for cargo to be screened by entities such as freight forwarders, operating under the airline program, enabling them to screen the cargo at various points in the supply chain”.*

The full statement by Assistant Administrator Sammon is at:

[http://www.dhs.gov/ynews/testimony/testimony\\_1299695667821.shtm](http://www.dhs.gov/ynews/testimony/testimony_1299695667821.shtm)



## Extracts from the GAO Publication

### AVIATION SECURITY

#### Progress Made, but Challenges Persist in Meeting the Screening Mandate for Air Cargo

#### **TSA is working with foreign governments to draft international air cargo security standards and to harmonize<sup>1</sup> standards with foreign partners.**

*“According to TSA officials, the agency has worked with foreign counterparts over the last 3 years to draft Amendment 12 to the International Civil Aviation Organization’s (ICAO) Annex 17, and to generate support for its adoption by ICAO members. The amendment, which was adopted by the ICAO Council in November 2010, will set forth new standards related to air cargo such as requiring members to establish a system to secure the air cargo supply chain (the flow of goods from manufacturers to retailers). TSA has also supported the International Air Transport Association’s (IATA) efforts to establish a secure supply chain approach to screening cargo for its member airlines and to have these standards recognized internationally.*

*“...In November 2010, TSA officials stated that the agency is coordinating with foreign countries to evaluate the comparability of their air cargo security requirements with those of the United States. According to TSA officials, the agency has developed a*

*program, the National Cargo Security Program (NCSP), that would recognize the air cargo security programs of foreign countries if TSA deems those programs provide a level of security commensurate with TSA’s programs. TSA plans to coordinate with the top 20 air cargo volume countries, which, according to TSA officials, export about 90 percent of the air cargo transported to the United States on passenger aircraft. According to officials, TSA has completed a review of one country’s air cargo security program and has determined that its requirements are commensurate with those of the United States. TSA considers air carriers adhering to NCSP approved programs as being in compliance with TSA air cargo security requirements, according to TSA officials.”*

*“As of February 2011, TSA continues to evaluate the comparability of air cargo security programs for several other countries. TSA officials stated that although the December 31, 2011, deadline to achieve 100 percent screening is independent of this effort, the agency plans to recognize as many commensurate programs as possible by the deadline”.*

#### **TSA implemented additional security measures following the October 2010 Yemen air cargo bomb attempt.**

*“On November 8, 2010, DHS announced security measures in response to the Yemen incident. TSA banned cargo originating from Yemen and Somalia from transport into the United States; banned the transport of cargo deemed high risk on passenger aircraft; prohibited the transport of toner and ink cartridges weighing 16 ounces or more on passenger aircraft in carry-on and checked*

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<sup>1</sup> Harmonization, as defined by DHS, refers to countries’ efforts to coordinate their security standards and practices to enhance security as well as the mutual recognition and acceptance of existing security standards and practices aimed at achieving the same security outcome.



*luggage; and required additional screening of high-risk cargo prior to transport on an all-cargo aircraft. In addition, TSA is working closely with CBP, industry and international partners to expedite the receipt of advanced cargo data for international flights to the United States prior to departure in order to more effectively identify and screen items based on risk and current intelligence. Further, in December 2010, TSA, CBP, and the air cargo industry launched a new joint technology pilot project referred to as the air cargo advance screening program to enhance the sharing of electronic shipping information to improve the identification of high-risk cargo. In February 2011, TSA officials stated that this effort is currently focused on all-cargo carriers and will expand to passenger carriers in the future”.*

*“Even with these steps to improve the security of inbound air cargo, as we previously reported in June 2010, TSA faces challenges that could hinder its ability to meet the 9/11 Commission Act screening mandate as it applies to inbound cargo.”*

#### **TSA lacks a mechanism to verify data on screening conducted on inbound air cargo.**

*”....As we reported in June 2010, questions exist about the reliability of TSA’s reported screening data for inbound cargo because TSA does not have a mechanism to verify the accuracy of the data reported by industry. In June 2010, we reported that TSA’s screening percentages were estimated based on screening requirements of certain countries and were not based on actual data collected from air carriers or other entities, such as foreign governments. In this report, we recommended that TSA develop a*

*mechanism to verify the accuracy of all screening data through random checks or other practical means and obtain actual data on all inbound screening. TSA concurred in part with our recommendation and issued changes to air carriers’ standard security programs that required air carriers to report inbound cargo screening data to TSA. However, these requirements apply to air carriers and the screening that they conduct or that may be conducted by a foreign government, but does not reflect screening conducted by other entities throughout the air cargo supply chain. As of March 2011, TSA officials stated that current screening percentages are based on actual data reported by air carriers, but stated that it is difficult to verify the accuracy of the screening data reported by air carriers. Given that TSA now plans to meet the 9/11 Commission Act screening mandate as it applies to inbound air cargo by December 2011, it will be important for TSA to have complete and accurate data in hand to verify that this mandate is being met.”*

#### **TSA has limited authority to regulate foreign governments or entities.**

*”TSA may require that foreign air carriers with operations to, from, or within the United States comply with any applicable requirements, including TSA-issued emergency amendments to air carrier security programs, but foreign countries, as sovereign nations, generally cannot be compelled to implement specific aviation security standards or mutually accept other countries’ security measures. International representatives have noted that national sovereignty concerns limit the influence the United States and its foreign partners can*



*have in persuading any country to participate in international harmonization efforts, or make specific changes in their screening procedures. Thus, TSA authority abroad is generally limited to regulating air carrier operations, including the transport of cargo, into the United States. It has no other authority to require foreign governments or entities to, for example, screen a certain percentage of air cargo or screen cargo using specific procedures.”*

**No technology is currently approved or qualified by TSA to screen cargo once it is loaded onto a unit-load device.**

*“As we noted earlier for domestic air cargo, TSA has not approved any equipment to screen cargo transported on unit-load device (ULD) pallets or containers—both of which are common means of transporting air cargo on wide-body passenger aircraft—on both domestic and inbound aircraft. As a result, questions remain about air carriers’ ability to effectively and efficiently screen air cargo bound for the United States. This is particularly important because, as we reported in June 2010, about 96 percent of inbound air cargo arrives on wide-body aircraft, and TSA has limited authority to oversee the screening activities of foreign governments or entities. We will be examining these issues as part of our ongoing review of TSA’s efforts to secure inbound air cargo for the House Committee on Homeland Security and Senate Committee on Homeland Security and Governmental Affairs. We plan to issue the final results later this year.”*

The full GAO report (GAO-11-413T) is at <http://www.gao.gov/new.items/d11413t.pdf>

**100% Cargo Screening Legislation: Post-August 1<sup>st</sup> 2010**

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The full TSA presentation can be viewed at:

<http://www.ndtahq.com/documents/BaltimoreChapterPresentation17Feb2011.pdf>

