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## The Hearsay Portal: part 1 of 2

Dr. Jim Giermanski & Chris Giermanski  
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*Dr. Jim Giermanski (Chairman, Powers Global Holdings, Inc.) and Chris Giermanski (Director of International Operations, Transportation Services, Inc.) weigh in on the balance between facilitating trade and guaranteeing cargo identity and quantity - and what CPB needs to do to achieve just that.*



*Jim Giermanski*



*Chris Giermanski*

### **Automated Commercial Environment (ACE)**

Modernizing the flow of Customs data and improving security began many years ago. One aspect of this modernization process in the United States was the creation of the International Trade Data System (ITDS), a product of Vice President Gore's National Performance Review in 1995. Codified in the SAFE Port Act in 2006, the ITDS establishes a single portal system operated by the CBP for the collection and distribution of standard electronic import and export data required by all participating federal agencies. ACE will become the repository of electronic trade information mostly generated by the e-manifest. As a "single window" to facilitate collection and distribution of electronic import and export data, ACE provides a secure data portal (SDP) through which electronic manifests and entry summary data may be transmitted to Customs and Border Protection (CBP), modernizing the old document-bound system of information transmission. ACE thereby enhances trade processing which serves CBP, particular government agencies (PGAs), and the trade community.

However, there seems to be a fundamental weakness in both the ACE and e-manifest system regarding the accuracy of cargo information, especially with respect to commercial truck crossings of international cargo from Mexico into the United States. In May of 2012, CBP acknowledged one of weaknesses in ACE: the accuracy of data transmitted. In fact CBP stated “New edits in ACE will provide safeguards to facilitate the filing of accurate data (emphasis added) based on the edits available in the legacy environment,” whatever those edits may be. Critical fixes to the system are also indicated in the same document. One of these critical fixes is the e-manifest. It is clear that CBP correctly considers “accurate data” as essential to security and specifically spelled out in this same document. “The ACE Program also brings this enterprise-wide approach to planning, defining, developing, and implementing new business processes, designed to increase national security through accurate, available data (emphasis added) and promote a seamless trade processing and collection of duties, taxes and fees.” These admissions seem to suggest that at this time there is no method adopted by CBP to improve the accuracy of data passing through ACE. The truth is that data about cargo are not known to those who submit the cargo’s identification and quantity through the e-manifest.

### **Truck e-manifest**

Truck carriers can record and track account details related to drivers, trucks, (conveyances), equipment, shippers and consignees via ACE. This eliminates the need to repetitively send this data via EDI or re-enter the data on each manifest, resulting in reduced errors during submission. In the e-manifest, there are required data called “master data.” This set of master data included the following:

1. *Drivers/Crew;*
2. *Conveyance (power units);*
3. *Equipment (trailers, containers, chassis etc.);*
4. *Shipper (names and addresses); and*
5. *Consignee (names and addresses).*

It makes perfect sense that these master data are known to the motor carrier and constitutes first-hand knowledge since the motor carrier makes the decision to use certain drivers and equipment. Therefore, the “master data,” should be accurate, especially if the filer is a C-TPAT (Customs Trade Partnership Against Terrorism) trusted carrier. CBP, then, should be satisfied with the data’s accuracy. However, what about the cargo?

On September 13, 2006 Customs and Border Protection published a general notice in the Federal Register (FR) at 68 FR 68175 that specified the data elements that would be required as mandatory, conditional or optional in an e-manifest that would be filed by a land border carrier. With respect to cargo, the requirement is quite clear. Element Numbers 7, 8, and 9 are specific:

7. *The numbers and quantities for the cargo laden aboard the truck as contained in the bill(s) of lading (this means the quantity of the lowest external packaging unit; numbers*

*referencing only containers and pallets do not constitute acceptable information; for example, a container holding ten pallets with a total of 200 cartons should be described as 200 cartons).*

*8. The weight of the cargo, or, for a sealed container, the shipper's declared weight of the cargo.*

*9. A precise description of the cargo and/or the Harmonized Tariff Schedule (HTS) numbers to the 6-digit level under which the cargo will be classified. (Generic descriptions, specifically those such as Freight of All Kinds (FAK), general cargo, and Said To Contain (STC) are not acceptable.).*

### **The Motor Carriage in Mexico and Cargo Problem**

Due to the evolution of the transportation industry in North America certain practices have become common place. Because of this, there is actually less knowledge of what is being moved into and even out of the United States. It used to be common for shippers to request the pick-up of a load which meant a driver would take an empty container or trailer to the shipper's location and verify freight and piece count as it is loaded. This was done for liability purposes because the carriers assumed full responsibility for damages or missing freight. However, because of the of time commercial drivers are allowed to drive in the United States, due mostly to Hours of Service regulations of the Federal Motor Carrier Safety Administration (FMCSA), the time it takes to load the conveyance is considered on-duty time and counted against the driver's allowed daily working limit. Therefore, the shipper ensured that the cargo was loaded and ready to be carried when the driver arrived.

Also because of the need for increased efficacy, shippers have requested equipment "pools" at these locations which allows the shipper to preload cargo and store it at their facility until the carrier has a driver ready to pick it up. As a by-product of this increased efficiency, much of the cargo liability of the carrier, and carrier's ability to verify freight are lost. This meant that the shipper instead of the motor carrier filled out a bill of lading (the contract for carriage) certifying that the information contained in it is correct. The driver simply signs the B/L acknowledging receipt of cargo and agreeing to carry it to a location.

In Mexico this standard practice has continued, not because of any Hours of Service issue in Mexico, but because of the lack of liability coverage and the abundance of U.S. carrier-based equipment in the region. Mexican carriers utilize U.S.-based trailers for the majority of all international freight moves. Because of the influx of trailers many Mexican carriers use the "pool" system to provide efficiency but also to control the Mexican shipper's costs of housing the foreign trailer pool. As a result of the increase of trailer pools and the elimination of the carriers' right or responsibility to verify and count freight, there is little, if any, real knowledge of actual cargo. In many cases major carriers only conduct audits and verify the integrity of shippers to ensure that the cargo bound for the United States is legitimate. That said, the only person who can really

verify what was loaded at the point of origin the person or persons loading the trailer.

Another contributing factor to the lack of overall cargo knowledge is the paperwork process in Mexico. It is common practice to send a driver with no information, no commercial invoice, or bill of lading to the shipper. In most cases information given to the driver only marginally describes the actual cargo. It may contain only part numbers, or descriptions such as one trailer load, not including an accurate piece count. Shippers will send only slightly more accurate information to the carrier via EDI, email or fax. The carrier and shipper will, in many cases not sign a bill of lading or shipping contract specifying the freight and quantity for the load tendered.

This lack of cargo information can also be contributed to the lack of liability insurance, lack of regulation and oversight and the current security situation in many areas of Mexico. Other issues affecting cargo security involve poor cellular coverage utilized by many of the tracking devices in current operation. Additionally, the lack of proper rest areas for commercial vehicles and lack of police coverage in key areas lead to theft opportunities of “premium” or High Risk freight. In many cases shippers are concerned of the driver’s knowledge of the freight being hauled. They are also concerned that if the driver is stopped, that paperwork should not demonstrate the cartage of High Risk freight.

- **Part 2 and conclusions (Thursday, 5 July on Marinelink):** *The motor carrier, rail carrier, or vessel carrier simply don’t know what is in an already loaded, sealed conveyance. The authors tell you why and what to do about it.*
- **About the Authors:**

Chris Giermanski is Director of International Operations for Transportation Services, Inc., a major U.S. motor carrier involved with North American cross-border operations. Prior to his tenure at Transportations Services, Inc. he has served 11 years in the transportation industry for major national and international carriers. His experience includes administration, operations, safety, security, risk management and loss prevention. Motor carrier assignments included the design and implementation of motor carrier security programs in the United States, and the design and implementation of safety and security programs for Mexican operations. He was responsible for overseeing safety/security for 9 trucking terminals within the United States and Mexico. Under his leadership, these programs significantly exceeded current industry standards and C-TPAT minimum security requirements involving risk assessments and C-TPAT compliance audits of carriers, shippers, receivers, and brokers in the United States and Mexico. Finally, as a motor carrier staff member, he served as chief administrator for OSAC (Bureau of Diplomatic Security, U.S. Department of State) and C-TPAT in Mexico. He is also an Iraqi war veteran.

Dr. Jim Giermanski is Chairman, Powers Global Holdings, Inc., an international transportation security company. He has authored over 175 articles and is currently writing a global supply chain security book.