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FIATA STATEMENT

NON-PROLIFERATION RISKS

GOVERNANCE AND COMPLIANCE MANAGEMENT

DIALOGUE WITH INDUSTRY IN SUPPORT OF

UN SECURITY COUNCIL RESOLUTION 1540 (2004)¹

Marco Sorgetti – Director General of FIATA

Thank you, Chair, for giving us the floor.

Let me first start by thanking the German Federal Government, the United Nations Office for Disarmament and the EU Outreach in Export Control of Dual Use items for inviting me to join this group of distinguished decision makers. I want to congratulate our organisers for establishing a great event with this ambitious agenda. I am very pleased to have the opportunity to speak in front of you all as you represent a critical sector in the area of transport safety and security, which has witnessed unprecedented developments in the freight forwarding sector in the last few years. It cannot be overlooked that security related measures have impacted logistics in the last couple of decades more than they had done in a long time beforehand. We are now celebrating the 10th anniversary of the adoption of Resolution 1540 and the organisers must be fully commended for taking this action, which perfectly fits point 9 (promote dialogue and cooperation) 11 (monitor closely) and 12 (remain seized of the matter).

Risk is there and it seems to be there to stay. We are obliged to recognize it, devise and implement measures that reduce it and remain vigilant that our procedures ensure the best compliance with the rules in place. When we look at the resolution we know that the expression “gravely concerned” has been used twice in the resolution and it enlightens the new scope of the issue of proliferation, it is no longer an issue of states, but it is now a risk widely spread to “non-State actors”. In other words we are more exposed than ever before and we are exposed to a more confused and dangerous threatening situation.

FIATA has a long history since its inception in 1926 and suffered severely the damages of WWII. In a way it has long known the importance of doing its part to ensure compliance, as best practice and compliance are the reasons why it was founded. In recent times achieving a compliant, secure and safe supply chain is de-facto the goal of most of our members for their customers, security plays such a crucial role in freight forwarding that FIATA’s Membership, which consists of 40 000 logistics firms across 164 countries has designed statutes which empower a dedicated FIATA Advisory Body Safety Security (ABSS) to collaborate closely with our Customs Affairs Institute, which is the natural policy recipient of all rules applicable in

¹ [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1540%20\(2004\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1540%20(2004))

Customs, as these are for the most part. With the rise and concerns of WMDs, FIATA and our industry as a whole is working around the world to champion and comply with non-proliferation policies to prevent the spread of Chemical Biological Radiological and Nuclear weapons and ballistic missiles, as well as dealing with other risks and threats to the secure supply chain we are aiming at. Speaking of compliance, Members are bound by the Compliance and Business Integrity Statement² which was re-affirmed with a wider scope in 2013. In particular art. 2.4 speaks rather clearly and stipulates that *FIATA and FIATA's Association Members protect the good reputation of the Industry by implementing appropriate measures to promote good practice among all employees, directors and external collaborators, who should be alerted on the importance of abiding by existing rules and of abstaining from practices that actually or potentially violate or elude local, regional or international laws and/or agreements.*

This mirrors precisely the expectation that is created by the stipulations contained at point 2 of the Resolution, which creates the obligation for States to *“adopt and enforce appropriate, effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery”*. The obligation is therefore clear and impossible to ignore.

Looking back governments have come a long way, from a high of 68,000 active weapons in 1985, to some 4,000 active nuclear warheads and some 16,400 total nuclear warheads in the world in 2014.³ On the positive side, the number of times we could kill the entire human race has diminished, but in reality this can happen only once and it would be sufficient forever. While the international treaty regimes and export controls arrangements have slowed the spread of WMDs and their delivery systems, we are all still at risk that these weapons can be unlawfully acquired, assembled and utilised. One could even argue that we are more at risk today than in the past as the global dimension of our activities has made proliferation easier, at least in principle, not more difficult.

In the Freight forwarding industry, it is the forwarder who is at the shippers' service with expertise and information helping them to uphold compliance standards and therefore it is the shippers which are ultimately responsible for implementing compliance. This in turn places the freight forwarder in the vulnerable state of being misused by proliferation networks for diversion of dual-use or restricted goods to bypass export sanctions. Our industry is working constantly to raise awareness and we could say that the well-known principle of “know your customer” is rather effective.

A recent May 2014 case revealed the importance of spreading awareness to forwarders. A U.N. panel report highlighted Iran's methods of evading UN sanctions based on amended Council Decision 2014/205/CFSP.⁴ The report includes a photo of 10 prohibited titanium tubes snugly fitted and hidden inside steel piping. In three cases inspected, names of freight forwarders were recorded on shipping documentation in the place of consignors or consignees to Iran. Despite Freight Forwarders being involved, the Panel noted that FIATA had issued a notice to its members warning about the increased use of counterfeit Bills of Lading in connection with shipments to and from Iran.⁵ FIATA's efforts were successful in informing the majority of forwarders of the existence of risk, but the issue remains open on how a perfectly working collaborative environment can be established with shippers and other SC stakeholders, such as airlines, shipping companies and land transport carriers. This is a crucial point where only close collaboration and full respect for the crucial role of logistics service providers would

² <http://fiata.com/uploads/media/FIATA - Business Integrity Statement and Code of Conduct.pdf>

³ <http://fas.org/issues/nuclear-weapons/status-world-nuclear-forces/>

⁴ http://www.hellenic-fiu.gr/index.php?option=com_content&view=article&id=84%3A2011-04-29-06-20-59&catid=1%3Alatest-news&lang=en

⁵ <http://www.reuters.com/article/2014/05/12/us-iran-nuclear-sanctions-idUSBREA4B0BG20140512>

ensure greater compliance. Many administrations still privilege the “quick fix” of looking at the physical carrier for compliance, a situation that often cannot produce the result as carriers are seldom in a position to handle the required information. Enhanced security compliance is a long and winding road and we should not avoid recognising the difficulties, even though issues of capacity building might entail.

Over the years the issue of proliferation has been raised by FIATA in repeated occasions. One key publication sticks out in the May 2012 edition of the FIATA Review which contained an informative article on restrictions, sanctions and risks thereof emphasising the need to be compliant. The same year at the FIATA World Congress in Los Angeles, the UN Panel of experts on Iran delivered a key note speech in the opening session.

FIATA stays updated and seeks to inform and encourage its membership to comply irrespective of the ever increasing complexity of sanctions and restrictions. It is no longer a question of a UN resolution only. Different measures are making the trade facilitation landscape more furrowed and it is no secret that the forwarding industry is heavily affected. On Aug 7th, the US Department of Commerce’s Bureau of Industry and Security (BIS) announced a policy denying export of certain items for use in Russia’s energy sector. US sanctions came after the EU’s amended Council Decision 2014/265/CFSP adding new restrictive measures, imposing an embargo on trade in arms and establishing an export ban for dual-use goods for military end users. The latest round of EU and US sanctions against Russia heavily affected forwarders involved in the oil and gas sector and shipments of ‘dual-use’ equipment, while measures introduced against Crimea’s two leading commercial ports, Sevastopol and Kerch also suffering drastic impacts. A large multinational, which has offices in Kiev and at the city’s airport, as well as in Odessa and Illichovsk, remains fully compliant with the restrictions, but has seen its operations slow down.

In this light, FIATA’s message to the industry is and will always be to highlight that developing efficient strategic trade controls to prevent proliferation can even benefit economic development as long as information and instructions are clear.⁶ Clearly defined procedures for strategic trade can facilitate trade operations for companies resulting in more transparency and more efficiency.

Challenges remain very daunting, in particular in the varying levels of resources and expertise throughout countries in the area of implementing domestic WMD proliferation control. Regional security as a whole can potentially suffer as a result of this inconsistency, with some countries implementing advanced proliferation controls meanwhile their neighbours struggling to even get started. FIATA believes that a cooperative regional strategy, in which countries in the region assist each other, must be adopted when implementing sanctions and non-proliferation policies. This seems to be perfectly in line with action 7 of the resolution, where it stipulates that “some States may require assistance”. Agreements like the Trans-Pacific Partnership (TPP) have greater impacts on the international trading environment and therefore targeted non-proliferation policies specifically for members in the TTP that take into account the TTP is critical to assure industry can fully adopt it. In order to encourage regional cooperation, FIATA has witnessed the impacts of regional forums as an excellent approach to collecting region-specific information so countries can benefit from each other’s expertise. The Association of Southeast Asian Nations (ASEAN) hosts discussions on issues directly pertinent to WMD non-proliferation with the goal to further raise awareness of challenges in the Asia-Pacific region.⁷ Such regional forums could prove to be beneficial in the discussion to implement WMD non-proliferation policy if conducted more readily. FIATA has a Memorandum of Understanding in place with the World Bank and it is not impossible that greater awareness could be also achieved through

⁶ <http://www.stanleyfoundation.org/publications/pab/KassenovaPAB611.pdf>

⁷ <http://aseanregionalforum.asean.org/>

enhanced cooperation in the area of capacity building and training with the assistance of institutional donors.

In closing, FIATA is fully aware of the importance of non-proliferation and its contribution to the world's safety and security. Logistics has a significant impact to contain proliferation and comply with existing sanctions. It is often a question of awareness and capacity building in both the private and public sectors. Diligence exercised by logistics companies can significantly reduce the burden on governments that are already stretched thin, but authorities must understand that the private sector does not have a miracle cure and should be assisted, principally by listening to its expert advice when it is available. The more companies are able to comply with governments' export control regulations, the less governments have to spend on investigating and penalising violations. However compliance does not come easy and should be made possible by keeping the interdiction criteria as simple as possible. Importantly, companies can act as the first line of defence against proliferation, as they are in the best position to recognise suspicious orders. However the changing patterns of modern trade are rapidly breaking the dimensional barriers to trade access, thus making it even more important to "know your customer".

In the field of security FIATA enjoys a very constructive cooperation with the public sector, with regular and frequent consultation with bodies such as ICAO, WCO, WTO, UN agencies and other industry representatives. We shall continue our work in this area and remain at the disposal of all stakeholders to assist in fighting proliferation and ensuring safety and security in trade. I shall also not spare my personal support in this errand as I have done for a number of years.

Thanks for your attention.

Frankfurt, Nov 21st 2014.