



## POSITION PAPER

### **Dual Filing approach on the ADVANCE SECURITY DECLARATION in accordance with the WCO SAFE Framework of Standards**

**The International Federation of Freight Forwarders Associations (FIATA)**, was established in Vienna in 1926, and is the largest Non-Governmental Organization in the field of International Transport and logistics. Its membership includes National Freight Forwarders Associations, operating in over 100 countries, representing over 45,000 local logistics companies, employing in excess of 10 million persons. As well as individual members domiciled in over 150 countries.

Our members act as transportation intermediary for the vast majority of the commercial cargo carried internationally by air and shipping lines, they also run regular consolidated services by road, rail and inland waterways. Our responsibilities include the selection of carriers (surface and air), the booking of cargo, the carriage to and from port and airport, the verification that cargo is ready for carriage, and, when acting as consolidation contractual carriers, the accomplishment of the contractual carriage of goods in a multi-modal environment. In addition our Members accomplish customs, security, transport, banking and insurance compliance formalities. In this extensive role as facilitators our Members are faced with security requirements that are becoming more and more stringent, as well as diverse.

#### **Uniform approach**

**FIATA believes that National Governments and/or Regulators may effectively enhance security by introducing global harmonized supply chain security programs, established on common principles at global level.**

In the absence of a universal security programme at global level, in order to facilitate an integrated and secure global supply chain, National Governments and Regulators are encouraged by FIATA to proceed as swiftly as materially possible with the mutual recognition of national or regional global supply chain security programmes.

At the light of these guiding principles and with a view to ensuring the greatest compatibility of security programmes FIATA takes the view that advanced information filing plays a crucial role in developing security programmes that are effective as well as being compatible with existing trade and transport regulations and habits.

**FIATA is concerned that a non-uniform approach to the implementation of advance electronic data requirements for security could result in additional costs and less predictability for, as well as less facilitation, in all transport modes, but may affect particularly the airfreight sector.**

In this light, FIATA has obviously taken account of the recommendations made available by

#### **The World Customs Organization with the SAFE Framework of Standards – (SAFE)**

The SAFE FoS, Section 3.2/1.3 (Submission of data) distinguishes three types of advance electronic security declarations: the export goods declaration, the import goods declaration and the entry or exit cargo declaration. This distinction is based on contents in terms of data elements as well as the party in the supply chain responsible for submitting the data. The goods declaration essentially comprises of trade transaction related data, the cargo declaration essentially comprises of transport related data. The export goods declaration has to be submitted by or on behalf of the exporter, the import declaration by or on behalf of the importer, the cargo declarations by or on behalf of the carrier.

**The distinction between transport related information and trade transaction related information is in the opinion of FIATA's members of paramount importance.**

The current version of the SAFE FoS, as amended, incorporates the private sector's advice to clearly distinguish between transport related information and trade transaction related information.

In the majority of the cases trade transaction related data - like importer/exporter/buyer/seller/manufacturer - is kept confidential and would not be made available to commercial third parties, but only to governments or governmental agencies. For these reasons the physical carrier does not have, and, for reasons of commercial confidentiality and privacy, is not in a position to get this trade related information. It is normally kept within the dialogue between the trader/shipper and its representatives, i.e. freight forwarders or other logistic service providers, customs agents or other third parties that are contracted by the trader/shipper.

**FIATA is aware of the fact that some administrations would welcome the idea of streamlining the submission process. However, after careful consideration, some difficulties appeared to have been encountered, notably on the idea of creating an obligation for trade parties to exchange data so as to consolidate them in one single submission. This process is far from achieving quality data, whilst at the same time seems to put commercial confidentiality at stake. In this light FIATA informed the Chairman of the SAFE WG, Mr Th. Hesselink on 24 March 2011 about FIATA's Members' concerns about the EU's existing single filing system. Dual (or multiple) filing is seen as a better and perhaps the only useful system to achieve quality data transmission.**

FIATA believe that account of the following elements should be taken:

1. The current SAFE foresees dual filing: goods and cargo declarations may be submitted by different parties. However, in the European Union only single filing has been implemented so far. This is placing the responsibility on the carrier, even though the carrier does not have all the data elements necessary in its business processes.
2. There has been a recent significant increase in countries seeking to implement advance electronic information. As some countries may not be following the advance electronic data standards published in the SAFE, this may create confusion and additional costs in logistics, which will be faced with incompatible requirements in different areas of the world.

**Respecting Legitimate Privacy Rights**

FIATA's view is that the definition of the data-elements to be provided and the person or persons responsible for providing them cannot be artificially dissociated and manipulated without seriously impacting on the efficiency of international trade.

It is not acceptable that national authorities are led to believe that creating a legal requirement for a party to provide information that it does not hold will be conducive to effective security. Creating the conditions that would oblige different parties to exchange information that does not belong to them might substantially compromise their legitimate and long established proprietary and confidential business arrangements, but it may even have counterproductive effects on the quality of data.

The accuracy of data is certainly an issue where not all problems are solved, but a single filing system will create a distance between accuracy and ownership of data that will not be filled by any security procedure in place. It may actually produce a rush to the lowest denominator.

**FIATA members insist therefore on keeping the clear distinction between cargo and import goods advance security declarations, with distinct parties in the supply chain responsible for lodging them, as in the current version of the SAFE.**

Lodgement of advance security declarations by or on behalf of the party with direct knowledge of this information can be done without violating legitimate privacy rights, without imposing impractical burdens on commercial parties

with no business reason to have such information, and without establishing a precedent that could harm the commercial interests of traders.

### **Orderly Roll Out of Advance Electronic Security information**

**FIATA recommends that in order to have an orderly rollout of advance electronic data requirements for Customs and Security purposes, the following elements be addressed:**

- All Countries seeking to introduce advance electronic data requirements should utilize the SAFE to ensure common global standards and predictability for the industry.
- A dual (or multiple) filing process shall be deployed as foreseen in the SAFE consisting of a Goods declaration and Cargo declaration submitted by the parties that are best placed to do so; this may be the importer/exporter or its agents for the good declaration and the carrier, its agent or an intermediary for the cargo declaration.
- The data set published as an annex to the SAFE should be utilized as the maximum data set required by Customs when establishing the advance electronic data requirements.
- Any additional national Customs requirements should only be implemented after the appropriate procedure for the WCO Data Model maintenance has been completed at the WCO.
- Customs Administrations should be encouraged to seek, when appropriate, assistance from the WCO in order to seek advice, guidance and technical support in establishing advance electronic data requirements.
- Regulators should utilise filings for data required by Customs and any other governmental agency which may require it, so that the importer/exporter and/or carrier do not have to transmit the same data multiple times to the same government;
- Regulators should provide parties responsible for advance electronic data requirements with authorization to proceed or a confirmation of filing, preferably in electronic format, as soon as possible, but no later than 30 minutes after the receipt of the data;
- Regulators should consider requesting the deployment of screening procedures in order to mitigate or address risks following a positive indication;
- Regulators should provide electronic notification to declarants of incomplete or inaccurate information as soon as possible after receipt of the data;
- Regulators should provide electronic notification of a positive security indication, where possible, in order to coordinate containment; such notification should be triggered only by immediate threat to lives or critical infrastructure;
- Other Customs risks identified as a consequence of the security risk analysis that do not pose any immediate threat to lives (e.g. IPR infringements, prohibited and restricted drugs, animals or commodities) should be notified by the Customs Administration of arrival to the declarant for subsequent treatment.
- The requirement for advance electronic data requirements should only be deployed and become mandatory when the following requirements have been met:
  - The recipient of the declaration has the capability to receive the submission electronically;
  - The recipient of the declaration has the capability to respond electronically with control and release messages;
  - The recipient of the declaration does not require the same information to be re-sent in another format or in paper copy.

**FIATA and its members believe that security rules that strictly comply with the above simple principles may be adopted in harmony with the requirements of efficient logistics.**

FIATA is thankful for this opportunity to submit its views and remains at the disposal of the WCO should there be a need to clarify or explain the points made above or should it be appropriate to expand this discussion in other areas that might show connection with transport, logistics or our industry in general.