



FIATA Congress: Advisory Body Legal Matters

Presented By: Marina Comninos, COO & General Counsel



100%

Paperless Trading

1,750+

Corporate Users from
FORTUNE 500
to innovative SMEs

63

CargoDocs™ Countries

5

Global Reach: offices in
London, Singapore, Athens, Malta, New York

Used in

4

shipping modes: Bulkers, Tankers, Barges &
Containers

3

Trade Finance Solutions: eUCP
Presentation, eDocumentary Collection,
Bank Payment Obligation (BPO)



FIATA eFBL Trial

Successfully Concluded in June 2014

- Proved that eFBL concept works and CargoDocs has the functionality required to facilitate paperless trade for FIATA members worldwide
- Engaged with 7 National Associations; contacted and educated each along with the Freight Forwarder and Shippers nominated
- Responses from forwarders was very favourable – they liked the solution and consider it to be viable. Comments included:
 - *"This system is excellent! If it were up to me I would want to use it from tomorrow!"*
 - *"It saves us time, is a lot more efficient and saves on all the couriering costs."*
 - *"CargoDocs™ is a no brainer."*



FIATA eFBL Trial

Next Steps

- Trial has been open for operational use since June

- Need to engage Shippers and their Banks for operational use
 - Ideally want to find 2-3 high volume routes, to prove benefits and use as base for a benefits whitepaper
 - Short sea financed (max. 10 days sailing time) and short sea open account (3 days) trades show greatest benefits

- Joint Marketing, including explanatory material on legal and technical matters which may be of concern to members



Legal Background

Legal Hurdles

- Lack of treaties: eB/Ls governed by international treaties which do not allow for electronic transfer of title
- IG Approval: eB/Ls must be approved by the International Group of P&I Clubs (which insure around 93% of the global shipping fleet), so allowing shipowners to use them
- eSignatures: while widespread, each state applies its own rules for validity and enforceability, making it very difficult for providers of cross-border solutions to rely on them



Legal Solution: The Club

- Legal framework has gained widespread support in the industry (1,750+ signatories)
- The principal agreement which underpins essDOCS CargoDocs™ Services is the ESS-Databridge™ Services & Users Agreement (DSUA)
- The DSUA is a multilateral agreement between all Users of the Exchange and between each User and essDOCS which:
 - Regulates how Users conduct business within the Exchange
 - Outlines the service level and security obligations of essDOCS as the Exchange operator
 - Ensures that:
 - all participants are committed to treating electronic documentation as the functional and legal equivalent of paper documents
 - essDOCS eB/Ls incorporate all necessary treaties/convention and replicate the 3 core functions of a paper B/L



Legal Solution: Approvals

- The DSUA has been reviewed and revised over four years to ensure legal and commercial acceptability.
Reviewed by:
 - International Group of P&I Clubs (Michael Collett QC and Holland & Knight)
 - One of only 2 companies with P&I Club approval: this took 5 years to obtain, and without it a carrier cannot use an eB/L
 - TT Club (freight forwarders)
 - ITIC (ships agents)
 - LEAP (for traders, oil companies and banks – Bernard Eder QC)
 - Stakeholder Reviews



Insurance

DSUA: Liability and Insurance

- Liability: essDOCS is required to maintain insurance:
 - for eRisks with a limit of US\$20 million for any one eB/L
 - for other liabilities arising under the DSUA with a limit of US\$1 million
- eRisks comprise:
 - eFailure: risks of losses caused by the internal operation of the Exchange including a failure which results in the misissuance or misdelivery of an eDoc or the inability to access an eDoc
 - eCrime: risks external to the operation of the Exchange which may result in a fraudulent interaction with an eDoc, for example, hacking



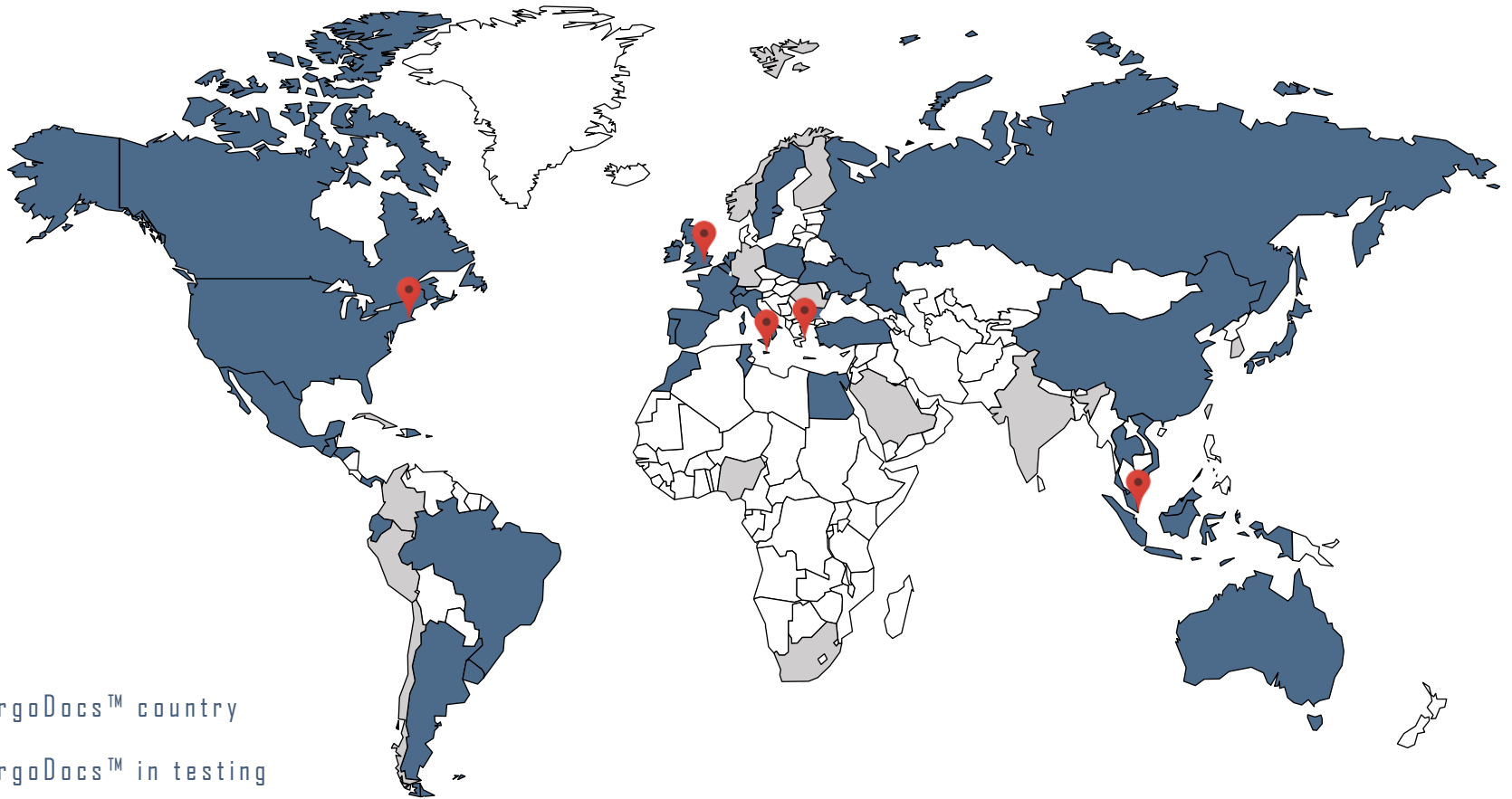
Customs / Tax / Government

Commenced a project in 2011 to ensure global eDocs acceptance by Customs / Tax / Health Authorities

- **Short Term Approach:** This involves an immediate solution which can be accepted either as a paper or PDF output
 - Active in 63 countries: have always found acceptable output for Customs and Tax Authorities
- **Long Term Approach:** This is a 5-10 year approach working with a coalition of companies and Non-Governmental Organizations to have Customs, Tax and Health Authorities accept eDocs and/or data as a substitute for paper documents



CargoDocs™ Map



-  CargoDocs™ country
-  CargoDocs™ in testing
-  essDOCS Offices



Security

Security is a core element of the Exchange

- Authentication:
 - Two factor authentication (similar to eBanking)
 - Full authorisation and audit trail: ensures that only authorized individuals can sign/transfer eB/Ls
- ISO certified data centers
- Audits:
 - Annually audited for external penetration testing and internal vulnerability assessments by PriceWaterhouseCoopers
 - Client Audits: have never failed a client IT Audit



Adoption

essDOCS follows a tried and tested process for quickly and seamlessly onboarding new customers

- Sign DSUA
- Training and period of familiarization
 - Training remotely individually or in groups
 - eLearning being developed
- Web based solution
 - Interface is possible, and probable as volumes increase



CargoDocs™ Q&A





Thank You

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