

Via e-mail to: traderelations@customs.treas.gov

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Comments of the International Federation of Freight Forwarder Associations (FIATA)

To Proposals by the U.S. Customs Service in respect to the Development of Regulations Regarding Mandatory Advanced Collection of Electronic Information – Air Cargo

Introduction

The International Federation of Freight Forwarders Associations (FIATA) established in 1926 and based in Zurich, Switzerland, represents the global freight forwarding industry. Its membership includes 93 National Freight Forwarding Associations in 85 countries, as well as over 2650 individual members, giving rise to representation in 140 countries. In addition the Airfreight Institute of FIATA (AFI) advocates on behalf of the more than 5000 IATA accredited air cargo agents.

FIATA appreciates the opportunity to provide our comments to the United States Customs Service in respect to the January 14, 2003 public meeting in respect to Mandatory Advance Electronic Information for Air Cargo.

The forwarding industry recognises the obligation of Governments to develop and implement security regulations. Our industry has worked diligently in cooperation with others in the global supply chain to support initiatives that seek to secure and facilitate international cargo movements. However, with respect to this initiative, various aspects of your proposed program, give rise to concern within the air transport industry.

General Comments

FIATA was heartened to hear in the meeting's opening remarks that it is the desire of the U.S. Customs to develop smart regulations allowing for enhanced security measures but that will not slow trade. However, after careful consideration of your proposals it is our opinion that the proposals presented during the January 14th meeting will, without significant modification, cause serious operational difficulties for all parties involved in international trade. Thus it is essential that a balance is struck between what can be achieved and the burden that may be placed on industry which depends on speed to meet the needs posed by just-in-time inventory controls, perishable product movements, and critical-parts replacement.

We continue with specific comments as follows;

Timeframe

Firstly as all air cargo is time sensitive it is imperative that any regulations maintain a level playing field. It is our opinion that any data submission requirement, hold all types of air cargo to the same standard in terms of hours prior to lading. As to reporting of data 8 or 12 hours prior to lading, such a timeframe will mean major adjustments to freight acceptance closeout times, expanding the window from today's 1 to 4 hours prior to departure to not less than 14 hours. Implementing such timeframes would require that goods be held in airport warehouse facilities that were not designed to accommodate high-volume longer-term storage. Further, regardless of security systems put into place by the operator, goods tendered further in advance of departure, and goods subject to customs hold, could potentially become susceptible to pilferage, damage and increased security risks.

Inbound and Outbound Reporting

The proposal calls for two separate systems – AAMS for inbound and AES for outbound reporting. As many countries have or are undergoing the reengineering of their cargo reporting systems in response for enhanced security considerations, we believe there is merit in seeking to harmonise any proposed U.S. program with programs existing or proposed in other countries, such as the EU, Canada and Switzerland.

We also question the value of separate inbound and outbound reporting procedures, with respect to goods transiting the U.S. Under the Services' proposal, both systems would be required to report the movement for those in-transit consignments, and their movement could conceivably be delayed prior to transport to the United States and then again when they are being carried beyond US territory by the very same aircraft.

Data provision

At present carriers and forwarders generally have access only to shipment information which is required to transport the goods, and very often that information is specific to the role played within the global supply chain. As a carrier we may only have the Master Air Waybill information, as a consolidator only the House Air Waybill information. Commercial information often is not provided. For competitive reasons commercial or house level information is not freely shared with the carrier and /or forwarder and this must be accepted as a fundamental fact of life in today's business environment. Changing the relationship between the various parties, which is often based upon competitive concerns, will take years to accomplish – far more time than the proposal would allow.

Data accuracy

The proposal does not elaborate on Customs' position related to manifest data accuracy. It is FIATA's position that the responsibility to provide and liability for the accuracy of required data, should rest with the owner of the goods, and should not normally be assessed against the forwarder or carrier.

Up-line transhipped cargo:

In today's air cargo environment, goods are frequently tendered for transport from one location to another prior to lading on the conveyance destined to the U.S. (or beyond). In these cases, the originating transporter can and does provide limited information concerning the goods to the downline, or U.S.-bound transporter. Frequently the connection time between the inbound and outbound movement is limited to no more than three hours. Under the Services' proposal, such interline movement of goods would all but disappear. In most cases, the carrier accepting the goods for transport to the US would be forced to limit transshipment to transfer consignments with connecting times exceeding 16-18 hours. Practically speaking, most carriers would likely be forced to establish minimum connecting times for transhipped goods of 24 hours or greater

In-transit goods

The Straw Man proposal provides no guidance as to Customs' intentions with respect to goods carried through the U.S. en-route to a third country. In any interim or final rule must fully elaborate on policies related to goods that are in-transit.

Customs holds

Under the proposal, Customs indicates that it would notify the parties concerned, if any goods should not be boarded or for which additional information is required. We believe that this policy is deficient. Holding goods in an airfreight facility for a period of time and then being advised that the goods may represent a risk after they have been tendered, exposes the facility to potential undue security risks.

Furthermore, that the Customs proposal is to grant authority to board goods – through a lack of a negative response – is unacceptable, the parties concerned must receive a positive response to lade goods for each individual consignment. For the forwarder the timeframe for this response must be a minimum of four (4) hours prior to scheduled delivery of cargo to the air carrier. As the forwarder must be assured that cargo tendered, especially consolidation, be able to move as booked.

Additionally if, under the procedure the forwarder or carrier is required to provide all information concerning the consignment, the Service would then be forced to seek additional information, not available to the forwarder or carrier, as required, from the owner of the goods. This will only slow the process even further, and in many cases, guarantee that those goods will not be transported as planned.

Transition Strategy

Under the CSI – 24 rule, U.S. Customs took advantage of existing licensing and bonding programs which have been in place for ocean freight consolidators, for several decades. No such programs exist for the air mode and thus significant resources – including hardware acquisition, programming and development, staff training, and public education – will be required across the

industry prior to final implementation. We estimate that, following publication of a final rule on this issue, that many forwarders will need not less than six months to bring their individual programs on line. For some modifying their existing, highly-integrated automated systems could require 12 to 14 months of work.

We have major concerns over the ability of U.S. Customs itself to support the new procedures. There are many technical and procedural questions that need to be addressed. Any Customs final rule must fully consider the impact of the rule on all aspects of our business transactions, including consolidation, interline, intermediate transfers, inter-modal, off-loads, short shipments, etc. Whilst we also have major concerns over development resources and costs, it is the business process changes and time scales that are the real issue.

Recommendations

Various points raised in the Customs proposal have merit, however the comments we have raised in the proceeding section lead us to believe that an alternative solution must be found. Where the Service proposal calls upon the air transport industry to provide the vast majority of data following tender of goods, we believe that a more effective approach would be a system that encourages data provision by all partners in the supply chain. It is our opinion that such a system will provide the service with far more accurate consignment data, much further in advance of movement, than that afforded by the procedures outlined in the Straw Man proposal. The ultimate goal of this initiative is, after all, to enhance security. The Service must also ensure through its regulation that negative impacts on the trade and commerce are kept to a minimum.

The following is our recommendation for such a system, and is presented for your consideration.

- ?? Any new system should be harmonised with other government initiatives (e.g. EU, Switzerland and Canada) to the extent practicable, and should support data provision requirements for both import and export operations.
- ?? The system we envisage would need to be accessible to all members of the supply chain. The system must be designed to encourage and to accept information on goods in phases, and which the various supply chain partners could supply into a single consignment movement record.
- ?? In order to meet the needs of the trade, and to reduce unnecessary delays as the goods move through the system, we believe that this system must be based upon a series of pre-movement authorisation messages. For example:

~~✍~~ A Manufacturer has goods it knows will be transported to the U.S. in seven days. The manufacturer would enter full details concerning this movement, absent specific transport information, into the system. The Service would then review this information, along with details concerning the manufacturer. Upon an initial approval, the system would generate a return message (or a notation to the electronic record of the movement) granting the pre-movement authorisation – likely in the form of a formatted authorisation number.

- ✍✍As part of this proposal, each party to the supply chain would be required to develop a business case and decide its own policy concerning acceptance of goods that have not received pre-authorization. In some cases, the company may elect to refuse to accept non-authorized consignments (for security reasons, etc.). In other cases the company might elect to accept those same goods from known trading partners and offer to obtain authorization as a commercial service.
- ✍✍When tendering the consignment to the next partner in the supply chain (broker, consolidator, transporter), the owner of the goods would need to provide the authorization number, thereby showing that pre-authorization has been received.
- ✍✍The receiver of the consignment would then be required to add any additional elements, particularly those related to the actual movement to the US, to the pre-movement data record. We envisage that the pre-movement authorization number would serve as the file identifier, and could be used to retrieve records from the system.
- ✍✍Ultimately the transporter, while preparing the Master AWB and prior to loading the goods would verify that all individual consignments were pre-authorized under the system by confirming the presence of the authorising number. Any goods not pre-authorized could then be segregated and held pending completion of necessary reporting formalities.

We believe that a system based on pre-authorization, granted in stages as goods move through the system, offers much more flexibility with far less operational impact than what has been proposed by the Service. Pre-authorization at the consignment level and prior to tender at the airport will, in most cases, eliminate customs holds in the transporter's warehouse. Since the movement would be authorized prior to goods' delivery, and while still in the possession of the partner having access to the greatest amount of information, such an approach would enable the Service to more easily and effectively obtain additional information required for a final determination of acceptability.

Conclusions

We appreciate that the U.S Customs Service has sought the opinions of, and will work closely with, the air transport industry on this matter. It is through such dialogue, that we can ensure systems are designed that deliver the benefits and the results demanded in the legislation. While at the same time, allowing the Trade to raise its own concerns over impacts on business processes and to provide information concerning what we practically can and cannot do.

FIATA is ready to carry on with this dialogue, and hope that at its conclusion, we will have designed a new system for advance cargo reporting that does in fact enhance security and facilitate the movement of goods by air.

Respectfully submitted by,

William Gottlieb
Chairman
Airfreight Institute - FIATA