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**United Nations Commission on
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Vienna, 9–13 December 2024**

Draft provisions for a new instrument on negotiable cargo documents

Submission from the International Federation of Freight Forwarders Associations

Note by the Secretariat

The present note contains a submission received on 27 November 2024 from the International Federation of Freight Forwarders Associations in preparation for the forty-fifth session of Working Group VI. The submission is reproduced as an annex to the present note in the form in which it was received by the Secretariat.



Annex

Introduction

1. FIATA, the International Federation of Freight Forwarders Associations, wishes to make the following submission for consideration by the UNCITRAL Working Group VI (Negotiable Cargo Documents) at its forty-fifth session to be held on 9–13 December 2024 in Vienna. The submission intends to address concerns raised by the Comité Maritime International (CMI) in its [submission](#) to the Working Group dated 23 August 2024.
2. As the oldest and widest representation of freight forwarders and logistics providers worldwide, FIATA considers that the new draft instrument on Negotiable Cargo Documents (NCDs) has the potential to provide significant benefits for global trade, by providing a harmonized international legal regime to support negotiable documents for unimodal and multimodal transport. Freight forwarders play a crucial role in facilitating the efficient cross-border movement of goods across different transport corridors, with the expertise and know-how to be adaptable and agile across routes and transport modes in the face of disruption.
3. Accordingly, FIATA wishes to reiterate the importance of ensuring that the new draft instrument, where parties opt for it to apply, can cover all modes of transport as appropriate. The following submission provides further information for the consideration for the Working Group and seeks to address the concerns raised by the CMI without hindering the scope or intention of the draft instrument.

Multimodality and “dual track” approach

4. The recurrence of supply chain disruptions, particularly in recent years, has demonstrated the importance of multimodality as an indispensable part of supply chain planning, and highlighted the importance of multimodal transport documents such as the FIATA Multimodal Transport Bill of Lading (FBL). Documents such as the FBL are issued by a freight forwarder in respect of its shipper client to cover the whole transportation journey. Meanwhile, the forwarder is mandated by its shipper client to organize the transportation from origin to destination, irrespective of the route or transport modes used. In line with the “dual track” approach, the forwarder then acts as the “shipper” vis-à-vis the actual carriers and ensures compliance with any necessary transportation documentation requirements under the relevant laws and regulations for the various modes of transport.
5. This practice provides certainty for the shipper, which has a single point of contact – the freight forwarder – that is responsible for the entire movement. It further allows micro-, small- and medium-sized enterprises (MSME) and traders in developing countries to more easily access global supply chains, as forwarders have the ability to offer either full-load or consolidated shipments, allowing shippers to access more competitive prices and contributing to a more level playing field.
6. It is crucial that the new draft instrument support such industry practice according to the existing “dual track” approach by providing legal support for the negotiability of a single document corresponding to the contract of carriage and which can also serve as a document of title. This not only helps importers wishing to apply for trade financing, but also enables exporters to control their rights over the goods. The importance of multimodality in international trade and transport highlights the need for the draft instrument to provide a permissive and flexible legal regime that does not exclude maritime or any other specific transport mode, noting that many transport routes necessarily include a maritime leg within its remit. Excluding any specific transport mode would likely result in confusion and extra documentary requirements within the industry, contrary to its intended purpose.

Addressing CMI's concerns regarding possible conflict with other conventions

7. FIATA understands that CMI's submission to the Working Group is rooted in concern regarding possible conflicts between the new draft instrument and other existing international conventions. FIATA considers that such concerns can be addressed through the draft instrument's existing provisions, namely in Article 1, which already states:

Article 1. Scope of application

[...]

2. This Convention does not affect the application of any international convention or national law relating to the regulation and control of transport operations.

3. Other than as explicitly provided for in this Convention, this Convention does not modify the rights and obligations of the transport operator, consignor and consignee and their liability under applicable international conventions or national law.

8. Accordingly, Art. 1 already states explicitly that the NCD draft instrument does not impact the application of other applicable international conventions or national laws, nor does it impact the rights and obligations afforded under such conventions. Therefore, the possible issues regarding conflicts between conventions are already dealt with in Art. 1(2)–(3). In addition, it is noted that Art. 3(1) requires agreement between the transport operator and the consignor in order for the provisions of the draft instrument to apply. However, to the extent that there remains ambiguity in this regard, FIATA would welcome further discussion within the Working Group to further strengthen these provisions in order to resolve possible legal conflicts.

Conclusion

9. Based on FIATA's understanding that CMI's submission pertains to concerns regarding conflicts with other international conventions, FIATA considers that the above solution will ensure possible conflicts are effectively overcome, whilst maintaining the fully multimodal application of the NCD instrument and the title effect of the NCD with a door-to-door scope.