To: Association Members
Delegates, Airfreight Institute (AFI)

cc: Presidency
Extended Board
Delegates, Airfreight Institute (AFI)
Honorary Members of the Board
Honorary Members of FIATA
CLECAT

From: Daniel Bloch, Manager Airfreight Institute (AFI),
on behalf of Rodolfo Sagel, Chairman Airfreight Institute (AFI)

Subject: Industry Confusion
– China’s New Transport of Dangerous Goods by Air Regulations
– Effective March 1, 2014

Circular – Immediate Release – Circular

Last week in Geneva forwarder and airline representatives met under the auspices of the IATA /FIATA Consultative Council, to study the above new regulations. Initial reviews of the available unofficial translation suggest the potential for disruption to China’s air cargo supply chain, if detailed information is not available.

The roles and liability of Shipper, Forwarder, Ground Handler and Air Carrier seem to be affected by the new rules. The unofficial translation provided to FIATA seems not to adhere to ICAO standards.

For your convenience, we attach a Key Issue Document, based on the available IATA communication, which outlines possible consequences affecting the efficiency of Chinese air cargo.

FIATA has just been informed that the Civil Aviation Administration of China (CAAC) held a series of workshops for air carriers in late 2013, to advise them of the revision to China’s regulations on the transport of dangerous goods by air. These new regulations (CCAR-276, Rev.1) had been made available only in Chinese till mid-January, when the unofficial English translation was released by the China Academy of Space Technology (CAST). We attach both the official regulations in Chinese and the unofficial English translation for your reference. (Annexes I & II)

We have also recently been informed that CAAC has expressed an interest to meet with IATA, in order to discuss the new regulations. To date this meeting has not taken place. On February 11th CAAC held a meeting in Shanghai with some airlines, and indicated some provisions may be subject to a transition period until June 1, 2014.

FIATA appreciates the efforts of the air carriers and IATA in their quest for appropriate clarification. An active and direct line also exists with our Association Member in China. FIATA remains obviously available to receive information and input from all its constituents all over the world, if they believe that the regulation [unofficial translation] requires further attention.

This being said, FIATA will continue to inform all its members, as soon as further information becomes available.

Sincerely;

Rodolfo Sagel
Chairman - Airfreight Institute
Key Issues

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Key issues identified by industry, in the unofficial English translation of CCAR-276, Rev.1; as affecting the forwarder, which lack a clear understanding of their application or intent;

Article 4 – Definitions:

Shipper: The definition in the document refers to the person or enterprise that signs the contract of carriage with the operator and signs the air waybill. This will cause significant problems in application as in almost all circumstances the person that signs the air waybill will be the cargo agent/freight forwarder. ICAO in the Technical Instructions does not have a definition for shipper. There is a definition of “consignor” (which is synonymous with “shipper”) in the UN Model Regulations. This definition reads: “any person, organisation or government which prepares a consignment for transport.” Further, in all references to the shipper and shipper’s responsibilities the reference to documentation is not to the air waybill, but to the dangerous goods transport document. For these reasons the definition for shipper is inappropriate.

Cargo sales agent: The question here is, is this an accurate translation of the original Chinese document. If it is, then there appears to be some ambiguity as to whether this is a “sales” agent, or a “cargo” agent. This term is not defined in the ICAO Technical Instructions. The term defined in the Technical Instructions is “freight forwarder”. There is concern that by adopting this definition that parties that perform functions related to dangerous goods will not be properly addressed in the regulations.

Chapter 4 – Article 41: Provision of information in the operator’s dangerous goods manual to a cargo sales agent. This is inappropriate as the cargo sales agent has no operational responsibilities with respect to the acceptance of dangerous goods. There is a lack of clarity as to just who or what this “cargo sales agent” is and as a consequence the need for the provision of operators manuals is not understood.

Article 51: 4th paragraph, when is it necessary for the shipper to provide a MSDS or an “identification report”? The paragraph is not clear. Who or what is a “dangerous goods identification organization”? What is the expectation in the operator “accepting” this entity? What are the criteria for this approval? Further, a MSDS (SDS) is not a transport document it is a document for supply and use and worker protection and generally does not contain appropriate information on classification for air transport.

Article 54 & 55: Who or what is the shipper’s agent? Is this the forwarder / cargo agent, see issue related to Article 4 – definition of cargo sales agent? May the forwarder issue dangerous goods documents? When does the shipper’s agent act on behalf of the shipper?

Article 58(3): While it is a condition that the shipper must be trained, reference to the operator not accepting dangerous goods unless the dangerous goods transport document has been signed by a person who has been trained and has successfully completed the test implies that the operator must verify the shipper has been trained. This is not in accordance with the ICAO Technical Instructions. The sentence should simply require that the dangerous goods transport document is signed by the shipper.

Article 59: Requires the operator to use a checklist for cargo with hidden hazards, this appears to require operator to use a checklist even for general cargo. This is not in accordance with the provisions of the ICAO Technical Instructions. In addition an acceptance checklist is not required for some dangerous goods, e.g. dangerous goods in excepted quantities, radioactive, excepted packages, Section II lithium batteries.

Article 71: When is the operator required to request the identification report from the shipper? (see also comment against Article 51). What is the dangerous goods identification organization? The operator needs to check if the organization fulfills the requirements set by the CAAC. What are these requirements? Furthermore it looks like operator becomes directly or indirectly involved with the classification and in addition becomes liable. This is inconsistent with the general principles in the ICAO Technical Instructions, which are that the shipper is responsible for the correct classification and then the preparation of the dangerous goods for transport in accordance with the requirements for the assigned classification.
**Article 74**: Cargo Sales Service Agreement. There appears to be some confusion about the activities of the different entities in the supply chain. Based on the definition of “cargo sales agent” this appears to be what is commonly called a “general sales agent” (GSA). GSA are purely a sales entity and do not perform any operational functions. The entities that perform an operational function are:

(a) shippers:
(b) forwarders;
(c) ground handling agents; and
(d) operators.

The text as shown in Article 74 (2) and (3) implies that this article is addressing forwarders who may be considered as cargo sales agents.

What agreement is expected between an operator and cargo sales agents (or forwarder)? As many airlines will have dealings with the same cargo agent / freight forwarder which training programme is the cargo agent / forwarder expected to complete.

This too is not consistent with the provisions of the ICAO Technical Instructions where dangerous goods training is the responsibility of the entity concerned. Paragraph (7), the cargo sales agents do not act under authorization of the airline with respect to shipping or accepting dangerous goods.

**Article 75**: Inspection of dangerous goods by cargo sales agent? The cargo sales agent does not accept dangerous goods on behalf of the operator. As previously stated “cargo sales agents”, i.e. GSA do not perform any operational function related to the actual offering, acceptance or carriage of dangerous goods. The only entity accepting dangerous goods will be the airline or the ground handling agent of the airline. If it is intended that the forwarders do some inspection then that should be stated.

**Article 77 and 78**: roles of the cargo sales agent? It is not well understood as to just which entity is considered as the “cargo sales agent”.

**Article 96**: There is no reference to dangerous goods training programmes for freight forwarders. However the Technical Instructions requires that personnel employed by freight forwarders must be trained. This appears to reinforce that “cargo sales agents” as defined and as referred to through the regulations should instead refer to “freight forwarder”.

Last paragraph makes mention that the “client” must accept the dangerous goods training program. Who is this “client”, if not the enterprise or organization whose employees are being trained?

**Article 99**: training of cargo sales agents shall be approved by the operator. This means that operators appear to be required to individually review, request adjustments and finally approve the training. Furthermore this is not an operator responsibility. In addition many operators will use the same cargo agent / forwarder. Which operator will be held responsible for this task?

**Article 121**: Responsibility for cargo sales agent and shipper with respect to dangerous goods aboard aircraft? These entities won’t know about dangerous goods aboard aircraft.

**Article 133**: Item (5), while it may be appropriate for the ground handling agent of the airline to have a copy of the operator’s dangerous goods manual, if this is actually required, it is not appropriate for a cargo sales agent (or freight forwarder). These entities do not actually accept dangerous goods on behalf of the operator. Their role is as an intermediary that is largely acting on behalf of the shipper.