



WORKING PAPER

FACILITATION PANEL (FALP)

SEVENTH MEETING

Montréal, 22-26 October 2012

Agenda Item 5: Amendments to Annex 9

**PROPOSALS TO AMEND ANNEX 9 SARPS RELATING TO PERSONS
WITH DISABILITIES**

(Presented by the Rapporteur of the Persons with Disabilities Working Group)

SUMMARY

Section H, Chapter 8 of Annex 9 contains Standards and Recommended Practices (SARPs) that address accessibility to international air transport by persons with disabilities. The FAL Panel's Persons with Disabilities Working Group (PWD WG) has been mandated by the Panel to review and revise, as appropriate, these SARPs as part of its work on updating the existing ICAO guidelines on this matter found in Circular 274, *Access to Air Transport by Persons with Disabilities*.

Action by the FAL Panel:

The FAL Panel is invited to consider the proposals described in this paper and agree that Annex 9 be amended, as set out in the Appendix.

1. INTRODUCTION

1.1 Annex 9 – *Facilitation* to the Convention on International Civil Aviation (“Chicago Convention”) contains international Standards and Recommended Practices (SARPs) relating to persons with disabilities. Chapter 1 of Annex 9 defines “Person with disabilities” as “Any person whose mobility is reduced due to a physical incapacity (sensory or locomotor), an intellectual deficiency, age, illness or any other cause of disability when using transport and whose situation needs special attention and the adaptation to the person’s needs of the services made available to all passengers.” Section H, Chapter 8 of Annex 9 contains three Standards and fifteen Recommended Practices that address accessibility to international air transport by persons with disabilities.

1.2 The Standards oblige all Contracting States to ensure that all airport facilities and services are adapted to the needs of persons with disabilities and that persons with disabilities have adequate access to air services. The Recommended Practices set out the measures that entities including States, airports, aircraft operators, ground handling operators and travel agents should take to assist persons with disabilities along their entire journey, from the beginning to the end.

2. DISCUSSION

2.1 Following the fifth meeting of the Facilitation Panel (FALP/5, 2008), the Persons with Disabilities Working Group (PWD WG) was set up to revise the existing guidelines for persons with disabilities, found in Circular 274, *Access to Air Transport by Persons with Disabilities* (1999). A revised draft version of the guidelines was considered by the Panel at its sixth meeting, in 2010. The Panel agreed that the PWD WG should continue its work on revising the guidelines, under the direction of its Rapporteur, who would present a report at the present (FALP/7) meeting. The Panel also agreed that the Working Group should review and revise, as appropriate, the existing SARPs of Annex 9 on PWD, taking into consideration any proposals made in this regard.

2.2 During the inter-session, proposals to amend Standard 8.34 and several Recommended Practices were considered by the WG, in addition to a proposal that had been made by the United States at FALP/6 (FALP/6-WP/14 refers). These proposals are set out in the paragraphs that follow. The actual changes, agreed to by the PWD WG, are reflected in the Appendix to this paper.

2.3 **Proposal to amend Recommended Practice (RP) 8.22**

2.3.1 RP 8.22 reads as follows: *“When travelling, persons with disabilities should be provided with special assistance in order to ensure that they receive services customarily available to the general public. Such assistance includes the offering of information and directions in media that can be understood by travellers with cognitive or sensory disabilities.”*

2.3.2 The International Disability Alliance (IDA), a network of regional and global disabled people’s organizations, suggested the insertion of a new Standard requiring airport, airline and other assistance staff to preserve the dignity of PWDs. This is to ensure that the provision of such assistance preserves the dignity of PWDs. This suggestion was supported by Australia, but as an RP. However, the PWD WG is of the view that this sentiment can be accommodated within the subject matter of RP 8.22.

2.3.3 Canada suggested that the last sentence in RP 8.22, addressing the communication of information, be moved to RP 8.25. RP 8.22 speaks generally to the provision of assistance. However, the medium in which information is provided is but one of the many types of assistance that can be provided. As RP 8.25 addresses the provision of information in accessible formats, the last sentence of RP 8.22, suitably amended, would be more appropriately placed there. The WG agrees with this suggestion.

2.4 **Proposal to amend RP 8.24**

2.4.1 RP 8.24 reads as follows: *“Contracting States should take the necessary steps with aircraft operators, airports and ground handling operators to establish minimum uniform standards of accessibility with respect to transportation services for persons with disabilities, from arrival at the airport of departure to leaving the airport of destination.”*

2.4.2 The IDA felt that it is important that States publish their minimum accessibility standards, and this should be reflected in the RP. The WG agrees with this proposal because this addition will help to create awareness and promote compliance.

2.5 **Proposal to amend RP 8.25**

2.5.1 RP 8.25 reads as follows: “*Contracting States should take the necessary steps with aircraft operators, airports, ground handling operators and travel agencies to ensure that persons with disabilities are given the information they need, and should take the necessary steps to ensure that airlines, airports, ground handling operators and travel agencies are in a position to give those passengers the assistance necessary for them, depending on their needs, to help them in their travel.*”

2.5.2 As mentioned above, in paragraph 2.3.3, Canada proposed that the last sentence of RP 8.22 be amended and moved to RP 8.25. Therefore, the amended RP 8.25 would read: “. . . *persons with disabilities are given the information they need, in formats that are accessible to those with cognitive or sensory disabilities, and should take . . .*” To this, Germany suggested adding the words “where possible” before the words “in formats” as it is of the view that the proposed change would result in a need to implement extensive and cost-intensive measures along the process chain and that there is an extremely low percentage of blind and deaf passengers. However, the Rapporteur felt that the RP already encourages aircraft and airport operators to provide persons with disabilities the information they need and the amended text in RP 8.25 clarifies that the information be provided in a format which can be understood. Providing information in accessible formats can generally be accomplished by electronic means which are readily available and inexpensive. The WG agrees to retain the amendment, as is.

2.5.3 Canada, while agreeing that travel agencies should provide any necessary information to persons with disabilities to facilitate their travel plans, proposed deleting the reference to such agencies. The reason is that it is not common practice for travel agencies to provide assistance beyond the communication of information. It was also noted that RP 8.26, which addresses the provision of training to those who provide assistance does not include travel agencies. The WG agrees with this amendment.

2.6 **Proposal to amend RP 8.26**

2.6.1 RP 8.26 reads as follows: “*Contracting States should take all necessary steps to secure the cooperation of aircraft operators, airports and ground handling operators in order to establish and coordinate training programmes to ensure that trained personnel are available to assist persons with disabilities.*”

2.6.2 Proposals from Australia and Canada resulted in the following amendment of the provision, to ensure consistency with existing terminology: “. . . *secure the cooperation of aircraft operators, airports and ground handling operators . . .*” The WG agrees with this amendment.

2.7 **Proposal to amend RP 8.28**

2.7.1 RP 8.28 reads as follows: “*Contracting States should ensure that lifting systems or any other appropriate devices are made available in order to facilitate the movement of elderly and disabled passengers between the aircraft and the terminal on both arrival and departure as required where telescopic passageways are not used.*”

2.7.2 Canada suggested amending the text to create consistency and update terminology to reflect language used in Annex 9 (“persons with disabilities” instead of “elderly and disabled passengers”). The WG agrees with this suggestion.

2.8 **Proposal to amend RP 8.29**

2.8.1 RP 8.29 reads as follows: *“Measures should be taken to ensure that the hearing- and vision-impaired are able to obtain flight information.”*

2.8.2 The United States recommended that the words “service-related” should be inserted in between the words “flight” and “information”, so that the RP covers a broader scope. Germany proposed that the word “reasonable” be added before “measures.” The Rapporteur was of the view, however, that this term is subjective in nature and would thus lessen the intent of what already is a non-binding RP. The WG agrees that “service-related” should be added to the text.

2.9 **Proposal to amend RP 8.30**

2.9.1 RP 8.30 reads as follows: *“For elderly and disabled persons being set down or picked up at a terminal building, reserved points should be located as close as possible to main entrances. To facilitate movement to the various areas of the airport, access routes should be free of obstacles.”*

2.9.2 Canada suggested the provision be amended to clarify its intent and to ensure that it is the terminal as a whole, beyond the entrance areas, that should be free of obstacles. The UK advised that “designated” points be used, instead of “reserved” points, as the latter term may confuse users. The PWG WG agrees to these suggestions.

2.10 **Proposal to amend RP 8.33**

2.10.1 RP 8.33 reads as follows: *“Direct transfer from one aircraft to another of passengers, particularly elderly and disabled passengers, should be authorized, where necessary and possible, whenever this is warranted by deadlines in making connecting flights or by other circumstances.”*

2.10.2 Canada’s interpretation of this provision was that the RP was crafted to ensure that elderly and disabled passengers received assistance from changing from one flight to another as quickly as possible in order to make their connections. The reference to “authorize” may suggest allowing such persons avoiding customs or security checks, and this would not be permitted by many (or any) States. Canada therefore suggested that this RP be rewritten as follows, so as to clarify the intent of the provision: *“When assistance is provided to transfer persons with disabilities from one aircraft to another, it should be provided as efficiently as possible in order that they reach their connecting flight on time.”*

2.10.3 Australia supported this amendment, but suggested changing the portion of the text reading “in order . . . on time” to “with due regard for connecting flights,” to ensure that efforts are made to provide service in way which considers the need to reach a connecting flight, but recognizing that there are instances where it is not possible to reach a connecting flight. The WG agrees to both amendments.

2.11 **Proposal to amend Standard 8.34**

2.11.1 Standard 8.34 reads as follows: *“Contracting States shall take the necessary steps to ensure that persons with disabilities have adequate access to air services.”*

2.11.2 Canada suggested that the word “adequate” be replaced by the word “equal” as persons with disabilities should have equal access to air services. This principle is reflected in Standard 8.27 which indicates that Contracting States **shall** take the necessary steps **to ensure** that airport facilities and services **are adapted** to the needs of persons with disabilities. Australia recommended, however, that the word “equivalent” should be used, as “equal” does not reflect that, in some cases, persons with disabilities require a different (rather than an equal) level or type of access to facilitate travel. The WG agrees that reference should be made to “equivalent” access.

2.12 **Proposal to amend RP 8.35**

2.12.1 RP 8.35 reads as follows: “*Contracting States should introduce provisions by which aircraft coming newly into service or after major refurbishment should conform to minimum uniform standards of accessibility with respect to equipment on board aircraft which would include movable armrests, on-board wheelchairs, lavatories and suitable lighting and signs.*”

2.12.2 Canada suggested that the last line should be amended such that it reads: “. . . on-board wheelchair, **accessible washrooms** ~~lavatories~~ and suitable . . .” The WG agrees to this amendment.

2.13 **Proposal to amend RP 8.36**

2.13.1 RP 8.36 reads as follows: “*Wheelchairs, special apparatus and equipment required by persons with disabilities should be carried free of charge in the cabin where, in the view of the aircraft operator, space and safety requirements permit or should be designated as priority baggage. Service animals accompanying passengers with disabilities should also be carried free of charge in the cabin, subject to the application of any relevant national or aircraft operator regulations.*”

2.13.2 Canada proposed that RP8.36 be divided into two separate provisions, each dealing with a single issue. Therefore, the second sentence, dealing with service animals, would become a new RP8.36bis. As for the first sentence, Canada suggested that it be amended to expand the provision to include all disability aids and to clarify that such aids should be carried free of charge, whether taken on board in the cabin or checked-in. The UK suggested that the specific reference to wheelchairs should be deleted from the paragraph; although space may be available on board to store a personal wheelchair, there could be a demand for that space and wheelchairs should therefore be stored in the hold. Small mobility aids, such as crutches, sticks, cushions or wheelchair accessories should be carried in the passenger cabin provided they can be securely stored. The reference to wheelchairs has been struck to address the concern raised by the UK and because the broader term “disability aids” is all encompassing. The United States recommended that the phrase “in the view of the aircraft operator” should be deleted because compliance with safety requirements is an objective standard and is not subject to what the operator believes. Australia agreed that disability aids should be carried free of charge. However, as there also may be weight limitations on the carriage of such aids, it was suggested that the term “weight” be inserted after the word “space”. The WG agrees to these amendments. Germany suggested that “should” be replaced with “may:” however, in all ICAO Annexes, the word “shall” is used in Standards and “should” is used in RPs, so the requested change was not made.

2.13.3 With regard to the second sentence on service animals, Canada proposed that the provision be amended to emphasize that service animals should remain with the PWD. The WG agrees to this amendment. To Germany’s suggestion that the term “service animal” be defined, the Rapporteur is of the view that each Contracting State has different regulations regarding types of animals and levels of certification they accept. By referring broadly to service animals, without defining them, this allows each State to apply the provision to their own definition of “service animal.” Switzerland also requested that the term “service animals” be defined, or changed to “assistance dogs”. Concern was expressed that the

lack of a definition could cause conflicts where a person travels from one Contracting State that accepts a variety of service animals to another that accepts only service dogs. The Rapporteur is of the view that because of the differences in what various Contracting States accept as service animals, it is difficult to create a definition. Additionally, the term “service animals” is language that already exists in the Annex and it does not appear to have been problematic thus far. Furthermore, the concerns raised can be addressed by existing language at the end of RP 8.36 “... *subject to the application of any relevant national or aircraft operator regulations.*” This caveat would appear to allow for Contracting States or air carriers to defer to their own regulations in circumstances where a person is travelling between Contracting States which may have different views on the acceptance of service animals.

2.14 **Proposal to amend RP 8.37**

2.14.1 RP 8.37 reads as follows: “*In principle, persons with disabilities should be permitted to determine whether or not they need an escort and to travel without the requirement for a medical clearance. However, advance notice should be mandatory where assistance or lifting is required. Aircraft operators should only be permitted to require passengers with disabilities to obtain a medical clearance in cases of medical condition where it is clear that their safety or well-being or that of other passengers cannot be guaranteed. Furthermore, aircraft operators should only be permitted to require an escort when it is clear that a person with disabilities is not self-reliant and, as such, the safety or well-being of that person or that of another passenger cannot be guaranteed.*”

2.14.2 Canada recommended that both RP 8.37 and RP 8.38 be re-drafted such that 8.37 addresses the need for a medical certificate and 8.38 addresses the need for assistance and for an assistant. Portions of 8.37 have been moved to 8.38 to group assistant provisions together and the portion of 8.37 which refers to advance notice has been moved to a new RP 8.38.1. This allows each RP to address a different issue instead of having 3 issues mixed in 2 RPs. The existing wording of RP 8.37 is unclear as it asks for a certificate to be provided where it is clear that safety cannot be guaranteed. The intent of this provision is to seek medical confirmation of a person’s fitness to fly where fitness is unclear and may pose a safety risk. The re-drafted text (as in the Appendix) attempts to clarify this intent. The WG agrees to this amendment.

2.15 **Proposal to amend RP 8.38**

2.15.1 RP 8.38 reads as follows: “*If the presence of an escort is required, Contracting States should encourage aircraft operators to offer discounts for the carriage of that accompanying person.*”

2.15.2 As previously set out in 2.14.2, Canada suggested that both RP 8.37 and RP 8.38 be re-drafted such that 8.37 addresses the need for a medical certificate and 8.38 addresses the need for assistance and for an escort. Portions of RP 8.37 have been moved to 8.38 to group escort provisions together. The reference to medical clearance should be deleted from 8.38 as it is covered in RP 8.37, as amended. The Rapporteur suggested that the term “escort” be replaced with “assistant” for consistency of language with the Manual and to avoid confusion with the “escorts” that may be required in relation to inadmissible persons and deportees (Chapter 5 of Annex 9 refers).

2.15.3 The United States suggested that the term “self-reliant” be removed as the only ground to prevent a person with a disability to travel alone is that such person’s (or other passengers’) safety would be jeopardized. The WG agrees with the amended text for RP 8.38 found in the Appendix.

2.16 **Proposal to insert a new RP 8.38.1**

2.16.1 The existing text of RP 8.37 contains a sentence relating to “advance notice” (“However, advance notice should be mandatory where assistance or lifting is required”). As previously set out in 2.14.2, Canada suggested that this sentence be removed from RP 8.37 and be incorporated into a new provision of its own in order that the 3 issues addressed in 8.37 and 8.38 be addressed in their own RP for better clarity. The Rapporteur suggests that such advance notice should not be “mandatory” but “encouraged” in recognition of the fact that Contracting States may have different views on such notice. Advance notice has been elaborated upon in the draft Manual, at Sections 3.11-3.13.

2.16.2 Germany suggested that the word “strongly” be inserted into the text, before the term “be encouraged”. The WG agrees to the amended text for the new RP 8.38.1 found in the Appendix.

APPENDIX

Amend Annex 9, Chapter 8, as follows:

H. Facilitation of the transport of passengers requiring special assistance

I. General

8.22 **Recommended Practice.**— *When travelling, persons with disabilities should be provided with special assistance in order to ensure that they receive services customarily available to the general public. Assistance should be provided in a manner that respects the dignity of the individual. Such assistance includes the offering of information and directions in media that can be understood by travellers with cognitive or sensory disabilities.*

8.23 **Recommended Practice.**— *Contracting States should cooperate with a view to taking the necessary measures to make accessible to persons with disabilities all the elements of the chain of the person's journey, from beginning to end.*

8.24 **Recommended Practice.**— *Contracting States should take the necessary steps with aircraft operators, airports and ground handling operators to establish and publish minimum uniform standards of accessibility with respect to transportation services for persons with disabilities, from arrival at the airport of departure to leaving the airport of destination.*

8.25 **Recommended Practice.**— *Contracting States should take the necessary steps with aircraft operators, airports, ground handling operators and travel agencies to ensure that persons with disabilities are given the information they need, in formats that are accessible to those with cognitive or sensory disabilities, and should take the necessary steps to ensure that airlines, airports, and ground handling operators and travel agencies are in a position to give those passengers the assistance necessary for them, depending on their needs, to help them in their travel.*

8.26 **Recommended Practice.**— *Contracting States should take all necessary steps to secure the cooperation of aircraft operators, airports and ground handling operators in order to establish and coordinate training programmes to ensure that trained personnel are available to assist persons with disabilities.*

II. Access to airports

8.27 Contracting States shall take the necessary steps to ensure that airport facilities and services are adapted to the needs of persons with disabilities.

8.28 **Recommended Practice.**— *Contracting States should ensure that lifting systems or any other appropriate devices are made available in order to facilitate the movement of elderly and disabled passengers persons with disabilities between the aircraft and the terminal on both arrival and departure as required where telescopic passageways are not used.*

8.29 **Recommended Practice.**— *Measures should be taken to ensure that the hearing- and vision-impaired are able to obtain flight service-related information.*

8.30 **Recommended Practice.**— *For elderly and disabled persons being set down or picked up Designated points for the pick-up and drop off of persons with disabilities at a terminal building, reserved points should be located as close as possible to main entrances. To facilitate movement to the various areas of within the airport, access routes should be free of obstacles.*

8.31 **Recommended Practice.**— *Where access to public services is limited, every effort should be made to provide accessible and reasonably priced ground transportation services by adapting current and planned public transit systems or by providing special transport services for people with mobility needs.*

8.32 **Recommended Practice.**— *Adequate parking facilities should be provided for people with mobility needs and appropriate measures taken to facilitate their movement between parking areas and the terminal buildings.*

8.33 **Recommended Practice.**— *Direct transfer from one aircraft to another of passengers, particularly elderly and disabled passengers, should be authorized, where necessary and possible, whenever this is warranted by deadlines in making connecting flights or by other circumstances. When assistance is provided to transfer persons with disabilities from one aircraft to another, it should be provided as efficiently as possible, with due regard for connecting flights.*

III. Access to air services

8.34 Contracting States shall take the necessary steps to ensure that persons with disabilities have adequate equivalent access to air services.

8.35 **Recommended Practice.**— *Contracting States should introduce provisions by which aircraft coming newly into service or after major refurbishment should conform to minimum uniform standards of accessibility with respect to equipment on board aircraft which would include movable armrests, on-board wheelchairs, accessible washrooms lavatories and suitable lighting and signs.*

8.36 **Recommended Practice.**— *Wheelchairs, special apparatus and equipment Disability aids required by persons with disabilities should be carried free of charge in the cabin where, in the view of the aircraft operator, space, weight and safety requirements permit or should be carried free of charge and designated as priority baggage. Service animals accompanying passengers with disabilities should also be carried free of charge in the cabin, subject to the application of any relevant national or aircraft operator regulations.*

8.36bis **Recommended Practice.**— *Service animals accompanying persons with disabilities should be carried free of charge in the cabin on the floor at the person's seat, subject to the application of any relevant national or aircraft operator regulations.*

8.36.1 Contracting States that restrict the transport of battery-powered devices, including mobility aids containing spillable batteries, shall notify ICAO promptly of such restrictions so that they can be included in Doc 9284, *Technical Instructions for the Safe Transport of Dangerous Goods by Air* and ensure that aircraft operators make such information publicly available and in accordance with Chapter 2, 2.5 of Annex 18.

8.37 Recommended Practice.— *In principle, persons with disabilities should be permitted to determine whether or not they need an escort and to travel without the requirement for a medical clearance. However, advance notice should be mandatory where assistance or lifting is required. Aircraft operators should only be permitted to require passengers persons with disabilities to obtain a medical clearance in cases of a medical condition where it is not clear that they are fit to travel and could compromise their safety or well-being or that of other passengers cannot be guaranteed. Furthermore, aircraft operators should only be permitted to require an escort when it is clear that a person with disabilities is not self-reliant and, as such, the safety or well-being of that person or that of another passenger cannot be guaranteed.*

8.38 Recommended Practice.— *In principle, persons with disabilities should be permitted to determine whether or not they need an assistant. If the presence of an escort assistant is required, Contracting States should encourage aircraft operators to offer discounts for the carriage of that assistant accompanying person. Furthermore, aircraft operators should only be permitted to require an assistant when it is clear that the safety or well-being of a person with a disability or that of other passengers cannot be guaranteed.*

8.38.1 Recommended Practice.— *Advance notice should strongly be encouraged where assistance or lifting is required.*

Rapporteur's Note:

8.37 and 8.38 have been reorganized so that 8.37 addresses the need for a medical certificate and 8.38 addresses the need for assistance and for an assistant. The portion of 8.37 addressing advance notice has been moved and addressed in (new) 8.38.1.