

FACILITATION PANEL (FALP)

(Third Meeting, Montreal, 12 to 16 February 2001)

Agenda Item 2: Cargo facilitation – Chapters 1 and 4 of Annex 9

REVISION OF ANNEX 9 STANDARDS AND RECOMMENDED PRACTICES (SARPS) — CHAPTER 1. DEFINITIONS AND APPLICABILITY

(Presented by the Secretary)

1. SECRETARIAT COMMENTS

1.1 General

1.1.1 At the last meeting of the Facilitation (FAL) Panel in January 1999 it was proposed that, in revising and updating Annex 9 – *Facilitation* to the Chicago Convention, it would be useful to set out in a revised Chapter 1 some general principles which could be accepted by Member States and provide a basis for the subsequent chapters dealing in greater detail with specific aspects of air transport.

1.1.2 The revised draft in the attachment to this paper divides a new Chapter 1 into two sections: “A - Definitions” and “B - General Principles” and proposes a new title “Definitions and General Principles” to reflect that approach. In considering the draft it is important to take into account the following two considerations.

1.1.3 First, as regards the Definitions, it would be logical to regard them as being of general application wherever they are used in the Annex. The suggested amendments and additions relate to what it is felt is needed in the context of the revised Chapter 4 in particular. Those responsible for redrafting other chapters can be expected to put forward their own proposals for amendments, additions and deletions in respect of Chapter 1. It is also felt that some terms such as “risk assessment” may have different applications and meanings in the different chapters of the Annex and there may, therefore, be a need for certain definitions to appear in individual chapters with a meaning which relates specifically to the chapter in which they are set out.

1.1.4 Second, the General Principles set out in Section B of the draft revised Chapter 1 contain principles that are applied generally to all the Standards and Recommended Practices (SARPs) of the Annex.

1.2 Detail

1.2.1 It is proposed to insert four new Definitions which are important in the context of dealing with air cargo being imported or exported. These derive from the revised Kyoto Convention of the World Customs Organization (WCO) and relate to “clearance”, “export duties and taxes”, “import duties and taxes”

and “release of goods”. These should add useful clarity to the text. In particular, the distinction between “release” and “clearance” is an important concept in modern Customs procedures and use of the terms will provide a basis on which to give explanations in the new Manual.

1.2.2 The current lengthy definition of “free zone” has been replaced by the much more concise text in the Kyoto Convention. There are various types of “free zone” and the procedures applied to them in different countries are by no means the same. It is suggested that a shorter, less detailed text, supported by explanations in the Manual would be the preferable way to deal with what is a quite complicated subject.

1.2.3 The existing definition of “stores” has been replaced by the Kyoto texts, which are longer and more detailed, but aircraft stores are an important element in the treatment of international air services and in this instance, the more detailed definitions have advantages. Moreover, it is open to doubt that the current text is actually correct – are all stores for sale on board aircraft of a readily consumable nature? If it agreed that they are not, then the existing text would exclude some articles currently carried for sale to passengers on aircraft.

1.2.4 In drafting the General Principles for the revised Chapter 1, it is important not to enter into technical detail regarding how the basic aims (principles) are to be achieved in practice – such detail can best be provided by supporting provisions in Chapter 4 and by explanations in the Manual.

1.2.5 In other words, a three stage presentation is envisaged with fundamental aims in Chapter 1, more detailed provisions in Chapter 4 and technical advice/comment in the Manual. The proposed Manual (as was the case with the introduction of Guidelines to the revised Kyoto Convention) makes it possible to keep the legal texts themselves shorter and simpler.

1.2.6 Five Standards are proposed for Chapter 1. Standard 1.1 is of general application (the current provision on applicability). Standard 1.2 sets out four underlying aims for the facilitation of air transport. Standards 1.3 and 1.4 are basic facilitation measures. Standard 1.5 is a general policy statement concerning necessary control measures such as aviation security.

1.2.7 These General Principles will either be supported by more detailed provisions in Chapter 4, or described and explained in detail in the new Manual.

1.2.8 The proposed text for Chapter 1 is submitted in the Attachment to this working paper.

ATTACHMENT

PROPOSED TEXT FOR CHAPTER 1 OF ANNEX 9

CHAPTER 1. DEFINITIONS AND ~~APPLICABILITY~~ **GENERAL PRINCIPLES**

A. Definitions

When the following terms are used in the Standards and Recommended Practices on Facilitation, they have the following meanings:

Aircraft equipment. Articles, **including first-aid and survival equipment and in-flight service items and other commissary supplies, other than but not spare parts and** stores and spare parts of a removable nature, for use on board an aircraft during flight, ~~including first-aid and survival equipment.~~

Airline. As provided in Article 96 of the Convention, any air transport enterprise offering or operating a scheduled international air service.

Airline and operators' documents. Air waybills/consignment notes, passenger tickets and boarding passes, bank and agent settlement plan documents, excess baggage tickets, miscellaneous charges orders (M.C.O.), damage and irregularity reports, baggage and cargo labels, timetables, and weight and balance documents, for use by airlines and operators.

Authorized agent. A ~~responsible~~ person who represents an operator and who is authorized by or on behalf of such operator to act on all formalities connected with the entry and clearance of the operator's aircraft, crew, passengers, cargo, mail, baggage or stores.

Baggage. Personal property of passengers or crew carried on an aircraft by agreement with the operator.

Cargo. Any property carried on an aircraft other than mail, stores and accompanied or mishandled baggage.

Clearance of goods. **The accomplishment of the Customs formalities necessary to allow goods to enter home use, to be exported or to be placed under another Customs procedure.**

Crew member. A person assigned by an operator to duty on an aircraft during ~~flight time~~ **a flight duty period.**

Direct transit area. A special area established in connection with an international airport, approved by the public authorities concerned and under their direct supervision, for accommodation of traffic which is pausing briefly in its passage through the Contracting State.

Direct transit arrangements. Special arrangements approved by the public authorities concerned by which traffic which is pausing briefly in its passage through the Contracting State may remain under their direct control.

Attachment

Revised

Disembarkation. The leaving of an aircraft after a landing, except by crew or passengers continuing on the next stage of the same through-flight.

Disinsecting. The operation in which measures are taken to kill the insect vectors of human disease present in aircraft and in containers (International Health Regulations (1969), Third Annotated Edition (1983), Part I, Article 1).

Embarkation. The boarding of an aircraft for the purpose of commencing a flight, except by such crew or passengers as have embarked on a previous stage of the same through-flight.

Export duties and taxes. Customs duties and all other duties, taxes or charges which are collected on or in connection with the exportation of goods. Not included are any charges which are limited in amount to the approximate cost of services rendered or collected by the Customs on behalf of another national authority.

Flight crew member. A licensed crew member charged with duties essential to the operation of an aircraft during flight time—a flight duty period.

Free airport. ~~An international airport at which, provided they remain within a designated area until removal by air to a point outside the territory of the State, crew, passengers, baggage, cargo, mail and stores may be disembarked or unladen, may remain and may be trans-shipped, without being subjected to any customs charges or duties and to any examination, except for aviation security or for appropriate narcotics control measures.~~ An international airport which is designated as, or is located within, a free zone.

Free zone. ~~An area where merchandise, whether of domestic or foreign origin, may be admitted, deposited, stored, packed, exhibited, sold, processed or manufactured, and from which such merchandise may be removed to a point outside the territory of the State without being subjected to customs duties, internal consumer taxes or to inspection except for aviation security or for appropriate narcotics control measures. Merchandise of domestic origin admitted into a free zone may be deemed to be exported. When removed from a free zone into the territory of the State, the merchandise is subjected to customs and other required entry procedures.~~ A part of the territory of a Contracting State where any goods introduced are generally regarded, insofar as import duties and taxes are concerned, as being outside the Customs territory.

General aviation operation. An aircraft operation other than a commercial air transport operation or an aerial work operation.

Ground equipment. Articles of a specialized nature for use in the maintenance, repair and servicing of an aircraft on the ground, including testing equipment and cargo- and passenger-handling equipment.

Import duties and taxes. Customs duties and all other duties, taxes or charges, which are collected on or in connection with the importation of goods. Not included are any charges which are limited in amount to the approximate cost of services rendered or collected by the Customs on behalf of another national authority.

Inadmissible person. A person who is or will be refused admission to a State by its authorities.

Infected area. Defined on epidemiological principles by the health administration reporting the disease in its country and need not correspond to administrative boundaries. It is that part of its territory which, because of population characteristics, density and mobility and/or vector and animal reservoir potential, could support transmission of the reported disease (International Health Regulations (1969), Third Annotated Edition (1983), Part I, Article 1).

A list of infected areas notified by health administrations is published in the World Health Organization's Weekly Epidemiological Record.

International airport. Any airport designated by the Contracting State in whose territory it is situated as an airport of entry and departure for international air traffic, where the formalities incident to customs, immigration, public health, animal and plant quarantine and similar procedures are carried out.

Lading. The placing of cargo, mail, baggage or stores on board an aircraft to be carried on a flight, except such cargo, mail, baggage or stores as have been laden on a previous stage of the same through-flight.

Mail. Dispatches of correspondence and other ~~objects~~ **items** tendered by and intended for delivery to postal administrations **in accordance with the rules of the Universal Postal Union (UPU).**

Mishandled baggage. Baggage involuntarily, or inadvertently, separated from passengers or crew.

Narcotics control. Measures to control the illicit movement of narcotics and psychotropic substances by air.

Operator. A person, organization or enterprise engaged in or offering to engage in an aircraft operation.

Operators' documents. (See "airline and operators' documents").

Person with disabilities. 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.

Pilot-in-command. ~~The pilot responsible for the operation and safety of the aircraft during flight time designated by the operator, or in the case of general aviation, the owner, as being in command and charged with the safe conduct of a flight.~~

Public authorities. The agencies or officials of a Contracting State responsible for the application and enforcement of the particular laws and regulations of that State which relate to any aspect of these Standards and Recommended Practices.

Release of goods. **The action by the Customs to permit goods undergoing clearance to be placed at the disposal of the persons concerned.**

Relief flights. Flights operated for humanitarian purposes which carry relief personnel and relief supplies such as food, clothing, shelter, medical and other items during or after an emergency and/or disaster and/or are used to evacuate persons from a place where their life or health is threatened by such emergency and/or disaster to a safe haven in the same State or another State willing to receive such persons.

Security equipment. Devices of a specialized nature for use, individually or as part of a system, in the prevention or detection of acts of unlawful interference with civil aviation and its facilities.

Spare parts. Articles, **including engines and propellers**, of a repair or replacement nature for incorporation in an aircraft, ~~including engines and propellers.~~

Attachment

Revised

State of Registry. The State on whose register the aircraft is entered.

~~**Stores.** Articles of a readily consumable nature for use or sale on board an aircraft during flight, including commissary supplies.~~

Stores means: a) **Stores for consumption; and**
b) **Stores to be taken away.**

Stores for consumption. Goods intended for consumption by the passengers and the crew on board aircraft, whether or not sold; and goods necessary for the operation and maintenance of aircraft including fuel and lubricants.

Stores to be taken away. Goods for sale to the passengers and the crew of aircraft with a view to being landed.

Temporary visitor (visitor). Any person, who disembarks and enters the territory of a Contracting State other than that in which that person normally resides; remains there lawfully as prescribed by that Contracting State for legitimate non-immigrant purposes, such as touring, recreation, sports, health, family reasons, ~~study~~; religious pilgrimages, or business; and does not take up any gainful occupation during his stay in the territory visited.

Through-flight. A particular operation of aircraft, identified by the operator by the use throughout of the same symbol, from point of origin via any intermediate points to point of destination.

Unaccompanied baggage. Baggage which is transported as cargo and may or may not be carried on the same aircraft with the person to whom it belongs.

Unclaimed baggage. Baggage which arrives at an airport and is not picked up or claimed by a passenger.

Unidentified baggage. Baggage at an airport with or without a baggage tag which is not picked up by or identified with a passenger.

Unit load device. *Any type of freight container, aircraft container, aircraft pallet with a net or aircraft pallet with a net over an igloo.*

Note 1.—An overpack is not included in this definition.

Note 2.—A freight container for radioactive materials is not included in this definition.

Unlading. The removal of cargo, mail, baggage or stores from an aircraft after a landing, except cargo, mail, baggage or stores continuing on the next stage of the same through-flight.

Visitor. (See temporary visitor.)

B. Applicability—General Principles

1.1 The provision of ~~these~~ the Standards and Recommended Practices **in this Annex shall** apply to all categories of aircraft operation except where a particular provision ~~specifically~~ refers **specifically** to **only** one type of operation ~~without mentioning other types of operations.~~

1.2 Contracting States shall establish by legislation, regulation and/or contractual arrangements, the procedures and practices necessary to ensure that:

- the time required for the accomplishment of border controls in respect of persons and for the release/clearance of goods is kept to the minimum;
- any inconvenience caused by the application of administrative and control requirements is kept to the minimum;
- exchange of relevant information between Contracting States, operators and airports is fostered and promoted to the greatest extent possible; and
- optimal levels of security and compliance with the law are attained.

1.3 Contracting States shall use risk assessment in the application of custom's control of persons and the procedures for the release/clearance of goods.

1.4 Contracting States shall develop effective information technology to increase the efficiency and effectiveness of their procedures at airports. When information relating to persons or goods is supplied or lodged in advance by the operator or other appropriate party, the Contracting State shall process that information on receipt in order to facilitate and expedite the entry and clearance of such persons or goods.

1.5 The provisions of the Annex shall not preclude the application of national legislation with regard to aviation security measures or other necessary controls.

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