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

2.4.2 During the course of its discussions on Section B (General Principles), the Panel agreed that:

- a) the first sentence of paragraph 1.2 should be replaced with the following text:

“Contracting States shall take necessary measures to ensure that:”

and a comma should be placed after the word “security”, in the fourth (indented) sentence, in order to clarify that the word “optimal” did not refer to the term “compliance with the law”;

- b) in paragraph 1.3, the word “assessment” should be replaced with the word “management” and that the phrase “customs’ control of persons” replaced with the phrase “border control procedures.” The term “risk management” should be described in the FAL Manual; and

- c) the second sentence of paragraph 1.4 should be deleted and replaced with the following Kyoto Convention-aligned text, which would form a new paragraph 1.5:

“Contracting States shall develop procedures for the pre-arrival lodgement of data so as to enable expeditious release/clearance.”,

with the Manual to explain the meaning and difference between the release and clearance processes.

- 2.5 WP/3 (Revised), presented by the Secretariat, set out the proposals of the CDG with regard to Chapter 4 of Annex 9.

2.5.1 During the course of its discussions on the proposed text for Chapter 4, the Cargo Working Group recommended that:

- a) in the second definition in paragraph 4.1, the word “assessment” should be replaced by the word “analysis,”, to align the term with the provisions of the Kyoto Convention;

- b) the three definitions found in paragraph 4.1 should be placed in Chapter 1;

- c) the text of paragraph 4.9 should be replaced with the following text, in order to encourage Contracting States to employ electronic interchanges to the greatest extent possible:

“Subject to the technological capabilities of the Contracting States, documents for the importation or exportation of goods, including the cargo manifest and/or air waybills, shall be accepted when presented in electronic form transmitted to an information system of the public authorities”;

- d) in paragraph 4.10, the phrase “for the clearance of the goods” should be inserted between the words “required” and “shall”, and that the phrase “the owner, the importer or exporter or another person acting as” should be deleted. The Manual would explain the responsibilities of the parties involved in the production and presentation of the documents with regard to the shipment of air cargo;
- e) with regard to paragraph 4.10, and other paragraphs with made mention of the term “authorized agent,” the Panel agreed that, in order to cover all situations that may arise with regard to the production and presentation of documents for the shipment of air cargo, the definition of “authorized agent,” found in Chapter 1 of the Annex, should be expanded by the addition of the following text at the end of the definition:

“and includes, where national law permits, a third party authorized to handle cargo on the aircraft”;

- f) paragraph 4.11 should be deleted and replaced with the existing text, found in paragraph 4.41, of Annex 9;
- g) paragraph 4.14 should be made a Recommended Practice;
- h) paragraph 4.16 should be deleted and replaced with the following text, as a Recommended Practice:

“Recommended Practice.— *Contracting States should, to the greatest extent possible, remove any requirement to manually produce supporting documents and establish procedures whereby they can be produced by electronic means”;*

- i) in paragraph 4.19, the word clearance should be replaced by the word “release”;
- j) paragraph 4.21 should be deleted and replaced by the following text of the Kyoto Convention:

“Contracting States shall not require evidence of the arrival of exported goods as a matter of course.”;

The operational aspect of this provision should be detailed in the FAL Manual;

- k) the application of paragraph 4.22 should be explained in the FAL Manual;
- l) the phrase, “subject to national prohibitions and restrictions,” should be inserted at the end of paragraph 4.23;
- m) the last indented paragraph of paragraph 4.25 should be explained in the FAL Manual;
- n) the clause, “if no contravention of the laws and regulations in force is involved” should be inserted at the end of paragraph 4.32;

- o) the following new definition for “commissary supplies” should be added to the Annex, to explain the nature of this term, particularly in relation to provisions such as paragraphs 4.35 and 4.36:

“Commissary supplies. Commissary supplies are those items, either disposable or intended for multiple use, that are used by the operator for provision of services during flights. Such items include glassware, dishware, cutlery, paper products, blankets, pillows and other similar items.”;

- p) the FAL Manual should clarify the intent of paragraph 4.36, especially with regard to the European Union;
- q) the FAL Manual should explain what is meant by “simplified documentary procedures,” particularly in relation to provisions such as paragraphs 4.38 and 4.39;
- r) all references to “unit load device(s)” found in the penultimate section of Chapter 4, containing paragraphs 4.42 through 4.49, including the title, should be deleted, and reference made only to “containers and pallets,” and the paragraphs amended, as appropriate; and
- s) the provisos contained in paragraphs 4.42 and 4.47 should be amended such that they read as follows:

“... provided they are to be used on an outbound international service or otherwise re-exported.”

2.6 The discussions that took place with regard to WP/2 and WP/3, were supplemented by WP/14, presented by Australia, which made specific suggestions on the draft texts for Chapters 1 and 4 of Annex 9 that had been presented by the Secretariat.

2.7 WP/16, presented by the Secretariat, set out recommendations concerning cargo-related SARPs of Chapter 5 of Annex 9.

2.7.1 After a brief discussion, the Cargo Working Group recommended that:

- a) Standard 5.6 should be amended, as recommended, and moved to Chapter 4, but after having replaced the phrase “undergoing formalities for entry to the State” with the phrase “having to undergo clearance for home use,” and the operational aspects of this provision should be detailed in the FAL Manual;
- b) Standard 5.7 should be deleted, as recommended;
- c) Standard 5.9 should be deleted, as recommended;
- d) Standard 5.10 should be deleted, and replaced with the following new Recommended Practice, to be placed in Chapter 4:

“Recommended Practice.— *With respect to cargo moving by both air and surface transport under an air waybill, Contracting States should apply the same regulations and procedures and in the same manner as they are applied to cargo moving solely by air.*”

The Panel also agreed that although there was support for the basic premise set out in this provision, there was some hesitation about not using standardized procedures for surface transport. However, the exhaustive Annex amendment process would give States enough time to reflect on the matter and inform ICAO of that concern, if any;

- e) Recommended Practice 5.11 should be deleted, as recommended, and that if the term “free airport” did not appear anywhere in the Annex, its definition, in Chapter 1, should also be deleted;
- f) Recommended Practice 5.12 should be amended, as recommended, and moved to Chapter 4;
- g) Recommended Practice 5.13 should be amended, as recommended, and moved to Chapter 4; and
- h) Standard 5.14 should be deleted.

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