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

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: and includes, where national law permits, a third party authorized to handle cargo on the aircraft.

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.

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.

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

Declarant. Any person who makes a goods declaration or in whose name such a declaration is made.

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.

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~~ **services 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.

Risk analysis. A system of analysis by which the public authorities determine which goods, including means of transport, should be examined and the extent of the examination.

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.

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.

Note.— Cette définition correspond aux ‘produits d’avitaillement’ au sein de la Convention de Kyoto révisée. Annexe J, Chapitre IV.

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 admission. The Customs procedure under which certain goods can be brought into a Customs territory conditionally relieved totally or partially from payment of import duties and taxes; such goods must be imported for a specific purpose and must be intended for re-exportation within a specified period and without having undergone any change except normal depreciation due to the use made of them.

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 take necessary measures 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 management in the application of border control 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.

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

1.6 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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PROPOSED TEXT

**CHAPTER 4. ENTRY AND DEPARTURE
OF CARGO AND OTHER ARTICLES**

4.1 [Definitions moved to Chapter 1).

GENERAL PRINCIPLES RELATING TO CHAPTER 4

4.2 In order to facilitate and expedite the release and clearance of goods carried by air, Contracting States shall adopt regulations and procedures appropriate to the air transport environment, and shall apply them in such a manner as to prevent unnecessary delays.

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4.2 bis **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.*

4.3 When introducing or amending regulations and procedures for the release and clearance of goods carried by air, Contracting States shall consult with operators and other parties concerned, with the aim of accomplishing the actions set forth in Standard 4.2.

4.4 Where the nature of a consignment could attract the attention of different public authorities, e.g. the Customs, veterinary or sanitary controllers, Contracting States shall endeavor to delegate authority for release/clearance to Customs or one of the other agencies or, where that is not feasible, take all necessary steps to ensure that clearance is coordinated and, if possible, carried out simultaneously and with a minimum of delay.

4.5 Contracting States shall not normally require the physical examination of cargo to be imported or exported, and shall use risk assessment to determine which goods shall be examined and the extent of that examination.

4.6 Where practicable, in order to improve efficiency, modern screening or examination techniques shall be used to facilitate the physical examination of goods to be imported or exported.

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4.6a **Recommended Practice.**— *In connection with international airports, Contracting States should establish and either develop and operate themselves, or permit other parties to develop and operate, free zones and/or ~~warehousing facilities~~ **customs warehouses** and should publish detailed regulations as to the types of operations which may or may not be performed therein.*

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- 4.6b In all cases where free zone facilities and/or ~~warehousing facilities~~ **customs warehouses** are not provided in connection with an international airport but have been provided elsewhere in the same general vicinity, Contracting States shall make arrangements so that air transport can utilize these facilities on the same basis as other means of transport.

INFORMATION REQUIRED BY THE PUBLIC AUTHORITIES

4.7 Contracting States shall limit their data requirements to only those particulars, which are deemed necessary by the public authorities to release or clear imported goods or goods intended for exportation.

4.8 Contracting States shall provide for the collection of statistical data at such times and under such arrangements so that the release of imported goods or those intended for exportation is not delayed thereby.

4.9 Documents for the importation or exportation of goods shall be accepted when presented:

~~subject to the technological capabilities of the Contracting States, in electronic form transmitted to an information system of the public authorities;~~

~~in paper form, produced or transmitted electronically; or~~

~~in paper form, completed manually.~~

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.

4.10 The production and presentation of the cargo manifest and the air waybill(s) shall be the responsibility of the operator or his authorized agent. The production and presentation of the other documents required **for the clearance of the goods** shall be the responsibility of ~~the owner, the importer or exporter or another person acting as the declarant.~~

4.11 ~~The operator or his authorized agent shall be responsible for the completeness, accuracy and timely submission of the data provided in the cargo manifest and the air waybill(s). They shall not be responsible, however, for inaccuracies in the data provided by third parties if they had no reason to believe that the information so provided was incorrect.~~

Where a Contracting State has requirements for documents such as the commercial invoice, declaration forms, import licence and the like, it shall not make it the obligation of the operator to ensure that these documentary requirements are met, nor shall the operator be held responsible, fined or penalized for inaccuracies or omissions of facts shown on such documents, unless he is, or is acting for, the importer or exporter.

4.12 When documents for the importation or exportation of goods are presented in paper form, the format shall be based on the UN layout key, as regards the goods declaration, and on the format of Appendix 3 to Annex 9, as regards the cargo manifest. When such documents are submitted in electronic form, the format

shall be based on international standards for the exchange of electronic information.

- 4.13 To facilitate electronic data interchange, Contracting States shall encourage all parties concerned, whether public or private, to implement compatible systems and to use the appropriate internationally accepted standards and protocols.
- 4.14 **Recommended Practice.**— *Electronic information systems for the release and clearance of goods should cover their transfer between air and other modes of transport.*
- 4.15 Contracting States, which require supporting documents such as licenses and certificates for the importation or exportation of certain goods, shall publish their requirements and establish convenient procedures for requesting the issue or renewal of such documents.
- 4.16 **Recommended Practice.**— ~~Contracting States should permit supporting documents to be submitted by electronic means.~~ *, to the greatest extent possible, remove any requirement to manually produce supporting documents and should establish procedures whereby they can be produced by electronic means.*
- 4.17 Contracting States shall not require consular formalities or consular charges or fees in connection with documents required for the release or clearance of goods.

CLEARANCE OF EXPORT CARGO

- 4.18 Contracting States, which require documents for export clearance, shall normally limit their requirement to a simple export declaration.
- 4.19 Contracting States shall provide for ~~clearance~~ **release** at export to be performed up to the time of departure of an aircraft.
- 4.20 Contracting States shall allow goods to be exported , to be presented for clearance at any Customs office designated for that purpose. Transfer from that office to the airport from which the goods are to be exported shall be carried out under the procedures laid down in the laws and regulations of the Contracting State concerned. Such procedures shall be as simple as possible.
- 4.21 ~~When goods have been exported from a Contracting State, evidence of their arrival abroad shall only be required by that State in particular circumstances. In such cases, the public authorities concerned shall accept, as evidence of arrival, a statement to that effect certified by the Customs in the State of destination.~~ **Contracting States shall not require evidence of the arrival of exported goods as a matter of course.**
- 4.22 **Recommended Practice.**— *When the public authorities of a Contracting State require goods to be examined, but those goods have already been loaded on a*

departing aircraft, the operator, or where appropriate the operator's authorized agent, should normally be permitted to provide security to the Customs for the return of the goods rather than delay the departure of the aircraft.

RELEASE AND CLEARANCE OF IMPORT CARGO

4.23 Contracting States shall make arrangements whereby animals, perishable goods and goods which the public authorities accept are required urgently, are released or cleared immediately upon arrival: **subject to national prohibitions and restrictions.**

4.24 Consignments declared as personal effects and transported as unaccompanied baggage shall be cleared under simplified arrangements.

4.25 Contracting States shall provide for the release or clearance of goods under simplified customs procedures provided that:

- the goods are valued at less than a maximum value below which no import duties and taxes will be collected; or
- the goods attract import duties and taxes that fall below the amount that the State has established as the minimum for collection; or
- the goods are valued at less than specified value limits below which goods may be released or cleared immediately on the basis of a simple declaration and payment of, or the giving of security to the Customs for any applicable import duties and taxes; or
- the goods are imported by an authorized person and are goods of a specified type.

4.26 **Recommended Practice.**– *For authorized importers who meet specified criteria including an appropriate record of compliance with official requirements and a satisfactory system for managing their commercial records, Contracting States should establish special procedures, based on the advance supply of information, which provide for the immediate release of goods on arrival.*

4.27 **Recommended Practice.**– *Goods not afforded the simplified or special procedures referred to in provisions 4.23 to 4.27 above should be released or cleared promptly on arrival, subject to compliance with Customs and other requirements. Contracting States should establish as a goal the release of all goods, which do not need any examination, within 3 hours of their arrival and the submission of the correct documentation. Public authorities, and operators and importers or their authorized agents, should coordinate their respective functions to ensure that this goal is met.*

4.28 **Recommended Practice.**– *Contracting States should process requests for the release of part consignments when all information has been submitted and other requirements for such part consignments have been met.*

- 4.29 Contracting States shall allow goods, which have been unladen from an aircraft at an international airport to be transferred to any designated Customs office in the State concerned for clearance. The Customs procedures covering such transfer shall be as simple as possible.
- 4.30 When, because of error, emergency or inaccessibility upon arrival, goods are not unladen at their intended destination, a Contracting State shall not impose penalties, fines or other similar charges provided:
- a) the operator or his authorized agent notifies the Customs of this fact, within any time limit laid down;
 - b) a valid reason, acceptable to the Customs, is given for the failure to unload the goods; and
 - c) the cargo manifest is duly amended.
- 4.31 When, because of error or handling problems, goods are unladen at an international airport without being listed on the cargo manifest, a Contracting State shall not impose penalties, fines or other similar charges provided:
- a) the operator or his authorized agent notifies the Customs authorities of this fact, within any time limit laid down;
 - b) a valid reason, acceptable to the Customs, is given for the non-reporting of the goods;
 - c) the manifest is duly amended; and
 - d) the goods are placed under the appropriate Customs arrangements.

Where applicable the Contracting State shall, subject to compliance with its requirements, facilitate the forwarding of the goods to their correct destination.

- 4.32 If goods are consigned to a destination in a Contracting State, but have not been released for home use in that State and subsequently are required to be returned to the point of origin or to be redirected to another destination, the Contracting State shall allow the goods to be re-forwarded without requiring import, export or transit licenses—**if no contravention of the laws and regulations in force is involved.**
- 4.33 A Contracting State shall absolve the operator, or where appropriate his authorized agent, from liability to import duties and taxes when the goods are placed in the custody of the public authorities or, with the latter's agreement, transferred into the possession of a third party who has furnished adequate security to the Customs.

OR EXPORTED BY OPERATORS IN CONNECTION WITH INTERNATIONAL SERVICES

- 4.34 Stores and in-flight service items and other commissary supplies imported into the territory of a Contracting State for use on board aircraft in international service shall be relieved from import duties and taxes, subject to compliance with the Customs regulations of the State.
- 4.35 **Recommended Practice.**– *Contracting States should not require supporting documentation (such as certificates of origin or consular or specialized invoices) in connection with the importation of stores and in-flight service items and other commissary supplies.*
- 4.36 **Recommended Practice.**–*Contracting States should permit the sale and use of in-flight service items, stores for consumption and other commissary supplies on board aircraft without payment of Customs duties and other taxes in the case where aircraft, engaged in international flights:*
- a) *stop at two or more international airports within the territory of a Contracting State without intermediate landing in the territory of another State; and*
- b) *do not embark or disembark any domestic passengers.*
- 4.37 **Recommended Practice.**– *Subject to compliance with its regulations and requirements, a Contracting State should allow relief from import duties and taxes in respect of ground and security equipment and their component parts, instructional material and training aids imported into its territory, by or on behalf of an operator of another Contracting State for the use by the operator, or his authorized agent, within the boundaries of an international airport or at an approved off-airport facility.*
- 4.38 Contracting States shall grant prompt release or clearance, upon completion of simplified documentary procedures by the operator or his authorized agent, of aircraft equipment and spare parts which are granted relief from Customs duties, taxes and other charges under Article 24 of the Chicago Convention.
- 4.39 Contracting States shall grant prompt release or clearance, upon completion of simplified documentary procedures by the operator or his authorized agent, of ground and security equipment and their replacement parts, instructional material and training aids imported or exported by an operator of another Contracting State.
- 4.40 Contracting States shall allow the loan, between operators of other Contracting States or their authorized agents, of aircraft equipment, spare parts and ground and security equipment and their replacement parts, which have been imported with conditional relief from import duties and taxes.

- 4.41 **Recommended Practice.**– *Contracting States should provide for the admission free of import duties and taxes of operators' documents as defined in Chapter 1 of this Annex, to be used in connection with international air services.*

CONTAINERS; ~~AND~~ PALLETS ~~AND OTHER UNIT LOAD DEVICES~~

- 4.42 Subject to compliance with their regulations and requirements, Contracting States shall grant the operators of other Contracting States temporary admission of containers; ~~and~~ pallets ~~and other unit load devices~~– whether or not owned by the operator of the aircraft on which they arrive – provided they are to be re-exported ~~or used on an outbound international service~~– **or otherwise re-exported.**
- 4.43 **Recommended Practice.**– *Contracting States should require a temporary admission document for ~~unit load devices~~ **containers and pallets** only when they consider it essential for the purposes of Customs control.*
- 4.44 **Recommended Practice.**– *Where proof of the re-exportation of ~~unit load devices~~ **containers and pallets** is required, the Contracting State should accept the appropriate usage records of the operator or his authorized agent as evidence thereof.*

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4.44 bis Each Contracting State shall make arrangements to allow operators, under supervision of the public authorities concerned, to ~~disassemble trans-shipment cargo, including shipments~~ **unload transit cargo arriving** in containers and pallets, so that they may sort and reassemble shipments for onward carriage without examination, ~~except for reasons of aviation security or in special circumstances, and subject only to simple documentation where required~~ **having to undergo clearance for home use.**

- 4.45 ~~Unit load devices~~ **Containers and pallets** imported into a Contracting State under the provisions of Standard 4.43 shall be allowed to leave the boundaries of the international airport for the release or clearance of imported loads, or for export lading, under simplified documentation and control arrangements.
- 4.46 Where circumstances so require, Contracting States shall allow the storage of temporarily admitted ~~unit load devices~~ **containers and pallets** at off-airport locations.
- 4.47 Contracting States shall allow the loan between operators of ~~unit load devices~~ **containers and pallets** admitted under the provisions of Standard 4.43 without payment of import duties and taxes, provided they are to be used only ~~for international services~~– **on an outbound international service or otherwise re-exported.**
- 4.48 Contracting States shall allow temporarily admitted ~~unit load devices~~ **containers and pallets** to be re-exported through any designated Customs office.

- 4.49 Contracting States shall allow the temporary admission of replacement parts when they are needed for the repair of ~~unit load devices~~ **containers and pallets** imported under the provisions of Standard 4.43.

MAIL DOCUMENTS AND PROCEDURES

- 4.50 Contracting States shall carry out the handling, forwarding and clearance of mail and shall comply with the documentary procedures as prescribed by the Acts in force of the Universal Postal Union.

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