



NOTE DE TRAVAIL

GROUPE D'EXPERTS DE LA FACILITATION (FALP)

SEPTIÈME RÉUNION

Montréal, 22 – 26 octobre 2012

Point 5 : Amendement de l'Annexe 9

**PROPOSITIONS D'AMENDEMENT DE L'ANNEXE 9 — FACILITATION :
PERSONNES TROUVÉES EN POSSESSION DE DOCUMENTS
DE VOYAGE FRAUDULEUX OU FALSIFIÉS**

(Note présentée par le Canada au nom du CAWG de l'IATA)

(Faute de ressources, seuls le sommaire et l'appendice ont été traduits.)

SOMMAIRE

Le Chapitre 3 de l'Annexe 9 contient des normes et pratiques recommandées (SARP) destinées aux États contractants pour aider les exploitants d'aéronefs à évaluer les documents de voyage présentés par les passagers et, si possible, pour les retirer de la circulation. Or, il existe des contradictions entre les responsabilités d'un État contractant au départ et aux points de correspondance d'une part et celles qui doivent être exercées à l'arrivée. C'est pourquoi le Groupe de travail des services de contrôle de l'IATA (IATA/CAWG) souhaite que l'Annexe 9 soit modifiée pour y préciser que les États contractants ne doivent pas exiger des exploitants d'aéronefs qu'ils saisissent les documents de voyage ni obliger un exploitant d'aéronefs à transporter un passager trouvé en possession d'un document frauduleux, falsifié ou faux ou qui est un imposteur en possession d'un document de voyage valide. Le CAWG propose aussi que, si possible, les États contractants s'efforcent de saisir les documents de voyage frauduleux, falsifiés ou faux en application de la norme 3.46 ou ceux qui sont en possession d'un imposteur aux points de départ et de correspondance. De plus, le terme « imposteur » apparaît bien dans l'Annexe 9 mais il n'y est pas défini et c'est pourquoi le CAWG demande au Groupe d'experts de la facilitation d'envisager d'insérer une définition de ce terme au Chapitre 1 de l'Annexe.

Suite à donner par le Groupe d'experts FAL :

Le Groupe d'experts FAL est invité à examiner les propositions de la présente note et d'adopter les modifications proposées à cette Annexe qui figure en appendice à la présente note.

1. INTRODUCTION

1.1 The IATA/Control Authorities Working Group (IATA/CAWG) was established in 1987, primarily as a forum for on-going dialogue between Airlines and Immigration officials in respect of the control of illegal migration. Whilst the original focus was on inadmissible passengers, IATA/CAWG now deals with many key areas of passenger facilitation. Twenty-one (21) Contracting states, along a representative from a national airline from each State, are presently represented in the IATA/CAWG.

1.2 Based on analysis by members of the IATA/CAWG, the group determined that inconsistencies in the manner with which Contracting States respond to persons holding fraudulent, falsified or counterfeit travel documents or a person impersonating the rightful holder of the travel document (imposter). Therefore, in order to guide both aircraft operator and public authorities in the Contracting States, IATA/CAWG developed and publically released its "*Guidelines Relating to Persons Identified as Holding Fraudulent or Falsified Travel Documents*" ("the Guidelines") in December 2010. While not binding on any entity, these guidelines are fully aligned with existing Annex 9 SARPS and designed to clarify points of order not fully described in the Annex itself.

1.3 The members of IATA/CAWG are of the opinion that the provisions of Annex 9 relating to the handling of persons identified as holding fraudulent or falsified travel documents require additional clarification, with particular emphasis being placed on processes by public authorities to assist aircraft operators in evaluating travel documents and taking those found by the Contracting State to be fraudulent, falsified, entirely counterfeit or held by an imposter out of circulation as stipulated in Standard 3.46.

1.4 An IATA/CAWG Working Group¹ was selected to review the Guidelines and to compare its agreed provisions with existing Annex 9 SARPs, and from that review to develop recommendations for consideration by the Seventh ICAO Facilitation Panel.

1.5 The group subsequently agreed that the following issues warranted additional consideration, with recommendations concerning each and proposed additions to or amendments of Annex 9 described in the Appendix to this Working Paper:

- a) While used in the Annex, the term "Imposter" is not clearly defined. A definition of this term added to Chapter 1- Definitions and General Principles will help to ensure a consistent interpretation and lead to a more globally aligned approach to this type of inadmissible person.
- b) Questions are frequently raised and national differences noted relating to persons whose documents are identified as questionable either 1) at check-in or prior to entering into an airport sterile airside area, or 2) once in an airport's sterile airside area (i.e. in an airport transit area and identified by en route). IATA/CAWG is recommending that a new standard, as presented in the Appendix to this Working Paper, be adopted and inserted in Chapter 3 of the Annex.
- c) Cases continue to be reported where aircraft operators are obliged to board and transport individuals even after their travel documents have been identified as being fraudulent, or

¹ The working group was comprised of representatives from Austrian Federal Minister of the Interior, Australia Department of Immigration and Citizenship, Canada Border Service Agency, Netherlands Immigration and Naturalization Service, Swedish National Police Board and the UK Border Agency, Air Canada, Austrian Airlines, QANTAS, KLM, Scandinavian Airlines and the National Airlines Council of Canada.

held by a person other than the legitimate bearer (i.e. and imposter). IATA/CAWG is suggesting that a new standard, as presented in the Appendix to this Working Paper, be adopted and inserted in Chapter 3 of the Annex.

2. DISCUSSION

2.1 A review of Annex 9 determined that the term imposter appears in Appendix 9, and in Chapter 3, there is a statement indicating Contracting States should seize documents from a person who is impersonating a rightful holder of a travel document; however, as there is no definition within Annex 9 that defines an imposter, the group would like to recommend that the definition of an imposter be added to Annex 9.

2.2 Although existing Standard 3.31 obliges Contracting States to “assist aircraft operators in the evaluation of travel documents presented by passengers, in order to defer fraud and abuse” (an obligation reflected in the IATA/CAWG “Guidelines”), aircraft operators continue to experience incidences where Contracting States do not provide direct assistance at airports of origin and/or at transit locations. Other incidences have been reported in which the Public Authorities request (or require) that the aircraft operator confiscate fraudulent, falsified or counterfeit travel documents or those held by an imposter rather than an official of that State making the seizure. Discussion amongst the Working Group resulted in a request for a new standard to Annex 9, Chapter 3 as set forth in the Appendix, to indicate Contracting States shall not request aircraft operators to confiscate other Contracting States travel documents.

2.3 To supplement the new proposed standard referred to in 2.2 above, and to further clarify Standard 3.46’s intent, the Working Group suggests that existing Standard 3.46 should be moved to Section I – Inspection of Travel Documents. This would then more clearly indicate to Contracting States that this provision (assisting in travel document verification for the purpose of deferring fraud and abuse) should be applied at any point during the journey, including at the point of departure (origin) and at transit points.

2.4 As discussed in 1.5 c) above, the Working Group has also identified situations where public authorities in some Contracting States continue to require aircraft operators to board and transport persons known to be holding fraudulent documents or who are known to be an imposter. Given the serious nature of these incidents, and the potentially negative impact that these actions can have on aircraft operators and other Contracting States, the Working Group is recommending that the Facilitation Panel consider and adopt a new Standard, as set forth in the Appendix to this Working Paper, for inclusion in Chapter 3.

2.5

APPENDICE

Amender l'Annexe 9 comme suit :

Chapitre 1 – Définitions et principes généraux

Imposteur. Personne qui se fait passer pour le titulaire légitime d'un document de voyage authentique.

Chapitre 3 – Entrée et sortie des personnes et de leurs bagages

3.XX.1 Nouvelle norme — Les États contractants n'exigeront pas des exploitants d'aéronefs qu'ils saisissent les documents dont il est fait mention dans la Norme 3.46.

3.XX.2 Nouvelle norme — Les États contractants n'exigeront pas d'un exploitant d'aéronefs qu'il transporte un passager depuis un point de départ ou de correspondance quand il est établi que le document de voyage présenté par ce passager est frauduleux, falsifié ou faux ou que ce document est en possession d'une personne autre que celle à laquelle il a été légitimement délivré.

Note — Rien dans la présente disposition ne doit être compris comme empêchant de refouler des passagers non admissibles dont le ou les documents de voyage sont frauduleux, falsifiés ou faux ou qui sont en possession d'un imposteur et qui ont été saisis par un État contractant conformément à la norme 3.46, et des passagers qui sont en possession d'une lettre explicative délivrée conformément au § 5.7.

3.46 (norme actuelle) — Il est suggéré de la transférer à la Section I – Inspection des documents de voyage.

— FIN —