



**NOTA DE ESTUDIO**

**GRUPO DE EXPERTOS SOBRE FACILITACIÓN (FALP)**

**SÉPTIMA REUNIÓN**

**Montreal, 22 – 26 de octubre de 2012**

**Cuestión 5 del  
orden del día: Enmiendas del Anexo 9**

**RETIRO DE PERSONAS DEPORTADAS:  
PROPUESTAS PARA ENMENDAR EL ANEXO 9 – FACILITACIÓN**

(Nota presentada por Canadá en nombre de IATA/CAWG)

*Por falta de recursos, sólo se han traducido el resumen y el apéndice.*

**RESUMEN**

Aunque en el Anexo 9, Capítulo 5, figuran normas y métodos recomendados para que los Estados contratantes tomen medidas respecto al retiro de personas deportadas, los explotadores de aeronaves siguen experimentando complicaciones relacionadas con dicha operación, cuando se deniega la entrada de personas deportadas en el Estado (o Estados) de tránsito o destino final. Por consiguiente, el Grupo de trabajo de autoridades de control (IATA/CAWG) de la IATA trata de obtener que se enmiende el Anexo 9 a fin de mejorar las comunicaciones entre las autoridades públicas y los explotadores de aeronaves, destacar la responsabilidad de los Estados contratantes para notificar con antelación el movimiento de una persona deportada hacia un Estado (o Estados) de tránsito o destino final y reconocer el derecho del explotador de aeronaves de denegar el transporte de una persona deportada a bordo de determinado vuelo por motivos de seguridad operacional o seguridad de la aviación.

Reconociendo la importancia de una comunicación oportuna entre las autoridades públicas y los explotadores de aeronaves en relación con aspectos que no se limiten al mero transporte de las personas deportadas, IATA/CAWG también invita al grupo de expertos FALP a considerar la introducción de nuevas disposiciones en el Capítulo 1 – Definiciones y principios generales, encaminadas a alentar a los explotadores de aeronaves y las autoridades públicas a intercambiar información de contacto para tratar todas las cuestiones relacionadas con la facilitación.

**Medidas propuestas al grupo de expertos FALP:**

Se invita al grupo de expertos FALP a examinar las propuestas descritas en la presente nota y convenir en que se enmiende el Anexo 9 como se indica en el apéndice adjunto.

## 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 with a representative from a national airline from each State are presently represented on the IATA/CAWG.

1.2 Based on analysis of existing national policies relating to deportation and removal processes adopted by the various Contracting States that began in 1998, IATA/CAWG identified significant inconsistencies in the processes employed to support deportee removals. In an effort to respond to these inconsistencies, and to provide best practice guidance to both aircraft operators and public authorities, IATA/CAWG developed and adopted its Guidelines for the Removal of Deportees (“Removal Guidelines”) in October, 1999. This document has been periodically reviewed to ensure continued relevance, with the third revision agreed in May, 2010.

1.3 IATA/CAWG believes that existing provisions within Annex 9 that pertain to deportees and their removal are no longer entirely sufficient, and that additions to and modifications of those provisions is warranted as to address process inconsistencies identified at the national level. Accordingly, IATA/CAWG approved the creation of a working group, comprised of both government agency and aircraft operator representatives<sup>1</sup>.

1.4 The working group initially evaluated the Removal Guidelines to determine which of its principles were not adequately represented in Annex 9, Chapter 5, and which might therefore be recommended for incorporation into the Annex as standards or recommended practices.

1.5 The working group subsequently has agreed that the following provisions contained in IATA/CAWG’s Removal Guidelines should form the basis for changes to Annex 9 that are being recommended in Annex 1.

- a) Definition: Escort means a person authorised by the departing State to accompany a deportee (DEPA) during the removal. [APPENDIX Chapter 1 - Definitions and General Principles – Escorts]
- b) Aircraft operators should establish and provide contact numbers for arrangements and policy questions relating to the removal of deportees, both at headquarters and local or regional offices. Departing States agree to direct any matters regarding deportation arrangements to these contact numbers wherever possible.[APPENDIX 5.XX.1 -New Recommended Practice] & [APPENDIX Chapter 1 General Principles - 1.xx.x]
- c) The departing State should provide a 24-hour contact concerning deportee situations. Departing States should also provide contact information for an official or office to which questions of policy interpretation can be addressed. [APPENDIX 5.XX.1 -New Recommended Practice]

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<sup>1</sup> 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.

- d) The departing State should inform the aircraft operator, to the extent legally allowed, of the results of its risk assessment to facilitate the aircraft operator's own evaluation and notification process. [APPENDIX 5.19.XX – New Standard]

## 2. DISCUSSION

2.1 The "Removal Guidelines" contain a recommendation that, when official en-route supervision of a deportee is warranted based on the results of risk assessment, the departing State should ensure that the escort(s) travelling with the deportee possess all travel documents required by destination and transit States, unless alternative arrangements have been approved by those States. The group determined that Annex 9 sufficiently reflects this obligation. However, the term "Escort" is not defined in Chapter 1 of the Annex. The group recognized that an escort may be used for the removal of both inadmissible passengers and deportees, and that aircraft operators may employ, or require the use of an escort depending on the situation, and therefore decided to expand the definition found in the "Removal Guidelines" to more accurately reflect the circumstances where use of an escort might be warranted.

2.2 The group discussed the two provisions contained in the "Removal Guidelines" relating to the need for exchange of contact information between aircraft operators and Deportee States, particularly as relates to deportees and their transportation. Based on those discussions, the Working Group is proposing a new recommended practice to be added to Chapter 5, C. Deportees.

2.3 The group also discussed the relevance of a provision in Chapter 1, General addressing the need for Aircraft Operators and Public Authorities to exchange appropriate contact information in order to facilitate more effective communication and coordination in all matters relating to Facilitation. This suggested provision is broader than that addressed in 2.2 above. The proposed text for this new provision is reflected in the Appendix to this Working Paper.

2.4 The group then addressed the issue of Contracting States providing aircraft operators with risk assessments for the acceptance of a deportee, comparing provisions contained in the "Removal Guidelines and those found in Annex 9. While Annex 9 does contain have specific provisions speaking to this issue, the Working Group determined that more specific language, particularly addressing the aircraft operator's right to refuse transport based on perceived threats to the safe operation of the flight or when such transport is contrary to the aircraft operator's policies, was warranted. A new standard is being proposed in the Appendix to this paper (5.19) that specifically addresses this point, and additionally, speaks to the need for cooperation in determining appropriate alternative flights and/or acceptable methods for transportation of the person in question.

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## APÉNDICE

*Enmiéndese* el Anexo 9 de la manera siguiente:

### Capítulo 1 - Definiciones y principios generales

#### A. Definiciones

**Escolta** – *Persona autorizada por un Estado contratante o un explotador de aeronaves para acompañar a personas no admisibles o personas deportadas que se retiran de dicho Estado contratante.*

#### B. Principios generales

1.6 **Método recomendado.**— *Los Estados contratantes y los explotadores de aeronaves deberían intercambiar información relativa a puntos de contacto apropiados a los que deberían dirigirse las consultas relativas a control fronterizo y aduanas.*

### Capítulo 5. Personas no admisibles y deportadas

#### C. Personas deportadas

**5.XX.1 Método recomendado.**— *Los Estados contratantes y los explotadores de aeronaves deberían, cuando sea posible, intercambiar información relativa a los puntos de contacto de 24 horas a los que deberían dirigirse las consultas relacionadas con personas deportadas.*

**5.19.XX** El explotador de aeronaves o el piloto al mando tendrán derecho de denegar el transporte de una persona deportada a bordo de determinado vuelo cuando existan inquietudes razonables relacionadas con la seguridad operacional o la seguridad del vuelo en cuestión, o cuando el número de personas deportadas en dicho vuelo sea superior a lo dispuesto en las políticas del explotador de aeronaves.

*Nota 1.— El Estado contratante consultará con el explotador de aeronaves respecto al vuelo más conveniente u otro método de transporte.*

*Nota 2.— Se hace referencia al Manual de seguridad de la aviación (Doc 8973) de la OACI, párrafos 12.2.1.3 y 12.2.1.6.*