



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**

**PERSONAS IDENTIFICADAS COMO TITULARES DE DOCUMENTOS
DE VIAJE FRAUDULENTOS O FALSIFICADOS –
PROPUESTAS DE ENMIENDA DEL ANEXO 9 – FACILITACIÓN**

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

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

RESUMEN

En el Anexo 9, Capítulo 3, se proporciona a los Estados contratantes normas y métodos recomendados (SARPS) para asistir a los explotadores de aeronaves en la evaluación de los documentos de viaje presentados por los pasajeros y, cuando sea posible, retirar documentos de viaje de la circulación. Dado que existen discrepancias entre las responsabilidades de los Estados contratantes en los puntos de salida y tránsito y las que se aplican a la llegada, el Grupo de trabajo de autoridades de control (IATA/CAWG) de la IATA trata de obtener que se enmiende el Anexo 9 para aclarar que los Estados contratantes no exigirán que los explotadores de aeronaves se incauten de documentos de viaje o transporten a un pasajero que se sepa sea titular de un documento fraudulento, falsificado o imitado o sea un impostor que lleva un documento de viaje válido. IATA/CAWG propone también que, cuando sea posible, los Estados contratantes traten de incautarse de los documentos de viaje fraudulentos, falsificados o imitados, según lo dispuesto en la Norma 3.46, o de los que tenga en su poder un impostor en los puntos de salida y tránsito. Además, considerando que el término “impostor” figura en el Anexo 9, pero no está definido, IATA/CAWG solicita al Grupo de expertos sobre facilitación que considere la posibilidad de añadir su definición en el Capítulo 1 del mencionado Anexo.

Medidas propuestas al Grupo de expertos FALP:

Se invita al Grupo de expertos FALP que examine las propuestas descritas en la presente nota y adopte las enmiendas propuestas para el Anexo, 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 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

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.

being fraudulent, or 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.

APÉNDICE

Enmiédese el Anexo 9 como sigue:

Capítulo 1 – Definiciones y principios generales

Impostor. Persona que se presenta pretendiendo ser el titular legítimo de un documento de viaje auténtico.

Capítulo 3 – Entrada y salida de personas y de su equipaje

3.XX.1 Nueva norma – Los Estados contratantes no exigirán que los explotadores de aeronaves se incauten de los documentos mencionados en la Norma 3.46.

3.XX.2 Nueva norma – Los Estados contratantes no exigirán que un explotador de aeronaves transporte a un pasajero desde un punto de salida o tránsito cuando el Estado haya determinado que el documento de viaje presentado por dicho pasajero es fraudulento, falsificado o imitado o está en poder de una persona que no es el titular legítimo.

Nota.— Nada en esta disposición deberá interpretarse en el sentido de impedir el regreso de pasajeros inadmisibles cuyos documentos de viaje sean fraudulentos, falsificados o imitados o estén en poder de un impostor y hayan sido confiscados por un Estado contratante, de conformidad con la Norma 3.46, y que viajen con una carta de envío emitida de conformidad con la Norma 5.7.

3.46 (norma existente) – Se propone su traslado a la Sección I – Inspección de documentos de viaje.

— FIN —