



## **FACILITATION PANEL (FALP)**

### **SEVENTH MEETING**

**Montréal, 22 to 26 October 2012**

#### **Agenda Item 5: Amendments to Annex 9**

### **PROPOSED AMENDMENTS TO ANNEX 9 IN THE FIELD OF FACILITATION OF AIR CARGO**

(Presented by the European Civil Aviation Conference (ECAC))

#### **SUMMARY**

Regulatory requirements, including Customs requirements, that are applicable to air cargo have increasingly incorporated a security dimension. This has also led to related facilitation measures being developed that enable Customs, other State entities and the trade to adapt to the new security environment, and to the need for harmonised procedures and practices. In particular, the SAFE Framework of Standards to secure and facilitate Global Trade of the World Customs Organization incorporates a set of standards and guidelines providing for such harmonisation.

It is proposed that Annex 9 be updated to include these facilitative measures. Draft amendments to Annex 9 have been developed by the ECAC Facilitation Working Group, and are presented at Appendix.

#### **Action by the FAL Panel:**

The FAL Panel is invited to consider the proposals described in this paper and agree that Annex 9 be amended, as set out in the Appendix.

## **1. INTRODUCTION**

1.1 Air transport has changed in recent years after the introduction of increased security measures in the aftermath of the attacks of September 2001. So too has the Customs environment and in their role as protectors of society Customs agencies have also become involved in protecting national

security. Customs had to adapt to their new role and new security requirements were introduced, which could put the relation between control and facilitation out of balance.

1.2 Although during the ICAO 6th Facilitation Panel meeting in May 2010 (FALP/6) some related facilitative measures were included in Annex 9, discussion on other such proposed measures could not be finalised. These proposals are included in this paper with the aim of including them in Chapter 4, *Entry and Departure of Cargo and Other Articles*, of Annex 9 to the Chicago Convention.

1.3 A number of initiatives have resulted in new facilitation measures connected with the requirement related to security. This has made it possible for Customs, other governmental agencies and the trade, to adapt to the security environment that also satisfies the needs for harmonised procedures and practices. The World Customs Organization (WCO) adopted in 2005 the SAFE Framework of Standards to Secure and Facilitate Global Trade (WCO SAFE Framework). This contains Standards and Guidelines which cover and promote, amongst other items, pre-arrival/pre-departure cargo information requirements, risk management based on the provision of advance information, a renewed focus on export controls, including outbound inspections and benefits for legitimate trade based on the concept of the Authorised Economic Operator (AEO).

1.4 Most of the standards included in the SAFE Framework, although developed from a security viewpoint, also cover the facilitation aspects related to these security measures. Consideration should be given to incorporating these facilitation measures into Annex 9.

1.5 A number of new Customs concepts, which are not directly related to security, have been introduced, such as the developments in the field of information technology leading to new automated applications. With the introduction of these concepts, Annex 9 will again ensure that a balance is struck between the different functions of Customs agencies, namely exercising appropriate controls for the protection of society while providing facilitation for legitimate trade. A number of these concepts have already been included in the Recommendations of the United Nations, and in the facilitation instruments of both the International Maritime Organization and the European Civil Aviation Conference.

1.6 The following measures, concepts and practices could be usefully included in Annex 9.

## 2. SUGGESTED AMENDMENTS TO ANNEX 9

### *Advance cargo information requirements*

2.1 The first item is advance cargo information (Pre-arrival/pre-departure information). During FALP/6 standard 4.4 with a general statement on advance cargo information was introduced. Further details on advance cargo information, specifically with regards to advance security information, are now desirable. In this context, complete and reliable advance data are essential to ensure the conduct of an effective security risk analysis. The outcome of such analysis should benefit from appropriate and secure handling arrangements in order to avoid any unauthorised use of information it contains. In Annex 9 reference could be made to standardised security data sets developed by the WCO in the SAFE Framework. In December 2011 the Policy Commission of the WCO agreed on a resolution on air cargo security with the statement that advance information for security purposes should be available at least at the time of loading the aircraft in the country of departure. Currently, pilots are implemented for the further development of advance security cargo information in the United States and the European Union for express air cargo consignments, and at a later stage for the traditional air cargo consignments. These pilots are work in progress, risk analyses for security purposes are carried out on the bases of raw` data which is available at an early stage in the logistical chain. This however, would not affect the more

general facilitative measures covered by the proposal to include more details related to advance cargo information in Standard 4.4 of Annex 9.

### ***Single Window***

2.2 An important concept in facilitating the exchange of information between business and competent authorities, including Customs, is the Single Window. The Single Window makes it possible for all information required by regulatory agencies dealing with cross border movement of goods, including Customs, to be lodged at a single point and at the same time. The Single Window is an effective tool for the streamlining of the required information, but it will only work with the necessary data harmonisation. The Single Window would enable cross border regulatory agencies to make arrangements for coordinated risk management and coordinated controls (One Stop Shop).

2.3 A common definition of the term "single window" is:

*"A facility that allows parties involved in trade and transport to lodge standardized information and documents with a single entry point to fulfil all import, export, and transit-related regulatory requirements. If information is electronic then individual data elements should only be submitted once."* (Recommendation nr. 33 from UN/CEFACT)

2.4 This concept is already recognised and promoted by international organisations in relation to trade facilitation. The United Nations Economic Commission for Europe (UN/ECE) and its Centre for Trade Facilitation and Electronic Business (UN/CEFACT) has developed a number of recommendations on the Single Window concept, which is introduced in UN/CEFACT Recommendation nr. 33. Other international organizations, such as the International Maritime Organization (IMO), the World Customs Organisation (WCO) and the Association of Southeast Asian Nations (ASEAN) have recognized the Single Window concept, the inclusion of which in Annex 9 would bring ICAO alongside the other international organizations.

### ***Authorised Economic Operator***

2.5 The AEO is an important instrument for facilitating international trade in the face of strengthened security requirements. An AEO maintains high security standards in discharging its role and responsibilities in the international supply chain. It will, among other benefits, in return provide for the faster clearance of goods by Customs, for example through reduced examination rates. As one of the other benefits an AEO may receive early notifications, before the arrival of the aircraft in the country of destination, that goods have been selected for physical inspections. This will prevent delays in the logistical chain caused by administrative procedures, and eliminate waiting times for responses from authorities.

### ***Special procedures for authorized traders***

2.6 In addition to the current Recommended Practice 4.30, a new Recommended Practice is suggested, in order to specify a number of possible special procedures for authorized traders. These special procedures are in line with the special procedures mentioned in Transitional Standard 3.32 of the WCO Revised Kyoto Convention and include the release of goods based on minimum information, the

clearance of goods at the trader's premises, the lodgement of a goods declaration based on an entry in the records of the authorized trader and the lodgement of a periodical goods declaration. In the current Recommended Practice 4.30, the reference to the supply of advanced cargo information should then be deleted, since this is not a part of the suggested special procedures mentioned in the new Recommended Practice.

### *Airport Community Systems*

2.7 In a number of countries the airline industry has introduced electronic systems which allow for the exchange of information between all parties involved in the air cargo supply chain at the airport. Annex 9 could support these initiatives by making reference to them and promoting them to all of the parties involved. These could also include border authorities, such as Customs. An Airport Community System might be established in addition to a (government) Single Window; alternatively, it might include the functions of a government Single Window in case of public-private community systems which serve as trusted third parties and facilitate multiple filing, while at the same time providing valuable information, e.g. shipments status and performance indicators to the respective parties in the chain. These Airport Community Systems should as a matter of course be interconnected, and be able to multiply file detailed information on a shipment from all parties involved in the picking, packing, loading, transportation, unloading and unpacking process. Every party in the air cargo chain is a source of specific information, and the System should enable all parties in the chain to refer to each other's data, e.g. a carrier may refer to the AWB data provided by a forwarder, while a forwarder sends information which refers to the packing lists, commercial invoices and electronic certificates he received from the shipper or consignor. Even the latter may refer to a purchase order uploaded by the consignee or the forwarder at the final destination, which in return may get pre-clearance benefits.

2.8 Accordingly, ECAC proposes to amend Annex 9 as presented at Appendix.

-----

## APPENDIX

*Amend Annex 9 as follows:*

### CHAPTER 4: ENTRY AND DEPARTURE OF CARGO AND OTHER ARTICLES

#### Authorised Economic Operator (AEO)

1. At **Chapter 4, Section A. General**, insert after Standard **4.9**, two new Recommended Practices:

*4.9.1 Recommended Practice.- Contracting States should consider the introduction of programmes for Authorised Economic Operators, allowing for specific control measures relating to security. Specific control measures should be based on the information provided to the public authorities in advance and allow for, based on risk assessment, a reduced level of physical inspections or other specific control measures.*

*4.9.2 Recommended Practice.- Contracting States should encourage the establishment of agreements/arrangements for mutual recognition of their respective Authorised Economic Operator programs.*

#### Advance cargo information

2. In **Chapter 4, Section B. Information required by the public authorities**, insert the following new Recommended Practice, after **4.10**:

*4.10.1 Recommended Practice.— Contracting States should, for facilitation purposes of advance cargo information processing:*

*a) Limit the data requirements to those necessary to identify the quantity and nature of the goods at arrival, including safety and security data in order to perform security risk analysis. This information may be ascertained from commercial documents. These data requirements should be based on international standards, specified in national legislation and determined in co-operation with all parties involved in the transport and handling of air cargo;*

*b) Consider, where feasible, the use of the available advance cargo information in subsequent procedures for the release/clearance of the goods.*

#### Single Window

3. At **Chapter 4, Section B. Information required by the public authorities**, insert a new Recommended Practice after **4.17**:

*4.17.1 Recommended Practice.—Contracting States should consider the introduction of arrangements to enable all parties involved in air cargo operations to submit all the information required by Public authorities, including advance cargo information, in connection with arrival, stay and departure of an aircraft and cargo, to a single entry point (Single Window).*

## Airport Community systems

4. At **Chapter 4, Section B, Information required by the public authorities**, insert after **4.17** the following new Recommended Practice:

**4.17.2 Recommended Practice.** - *Contracting States should encourage all participants in the transport, handling and clearance of air cargo to simplify relevant procedures and documents and to co-operate or participate directly in the development of airport electronic community systems using internationally agreed standards and other means with a view to enhancing the exchange of information relating to such traffic and assuring inter-operability between the systems of all participants.*

## Special procedures for authorized traders

5. At **Chapter 4, Section D, Release and clearance of import cargo**, amend **4.30** to read:

**4.30 Recommended Practice.**— *For authorized ~~importers~~ traders 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 cargo supply of information~~, which provide for the immediate release of goods. ~~on arrival.~~*

6. To insert the following new Recommended Practice, after **4.30**:

**4.30.1 Recommended Practice.** - *Special procedures for Authorised traders and other authorised persons may include:*

- a) *release of the goods on the provision of the minimum information necessary to identify the goods and permit the subsequent completion of the final goods declaration;*
- b) *clearance of the goods at the Authorised trader's or other authorised person's premises or at another place authorised by Customs;*
- c) *lodgement of a goods declaration based on the entry into the records of the Authorised trader or another authorised person;*
- d) *lodgement of a single goods declaration for all imports or exports in a given period where goods are imported or exported frequently by the same person.*

7. In the current Recommended Practice **4.31**, amend the reference to simplified or special procedures to include reference to the new Recommended Practice.

— END —