



## **FACILITATION PANEL (FALP)**

### **SIXTH MEETING**

**Montréal, 10-14 May 2010**

#### **Agenda Item 6: Amendments to Annex 9**

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

(Presented by the European Civil Aviation Conference (ECAC)<sup>1</sup>)

#### **SUMMARY**

Following the 9/11 attacks, regulatory requirements, including Customs requirements, that are applicable to air cargo, have increasingly incorporated a security dimension. This led to new 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 WCO SAFE Framework incorporates a set of standards and guidelines providing for such harmonisation.

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

Action by the FALP is in paragraph 3.

#### **1. INTRODUCTION**

1.1 The air transport changed after the terrorist attacks in the United States in September 2001. Likewise the Customs environment changed and, in the role of protecting society Customs was, from then on, also involved in protecting national security. Customs had to adapt to their new role and new security requirements were introduced, which could bring the relation between control and facilitation out of balance.

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<sup>1</sup> Albania, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Turkey, Ukraine and the United Kingdom.

1.2 Although ICAO Annex 9 already covers some of these new requirements, such as risk management, it became apparent that Annex 9 did not cover all of them.

1.3 A number of initiatives have resulted in new facilitation measures connected with the new requirement related to security. This made it possible for Customs, other governmental agencies and the trade, to adapt to the new security environment that also satisfied 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 (SAFE Framework). The SAFE Framework contains Standards and Guidelines which cover and promote, amongst other things, pre-arrival/pre-departure cargo information requirements, risk management based on the provision of advance declaration, and is focused on export controls, including outbound inspections and benefits for legitimate trade based on the concept of the Authorised Economic Operators (AEO).

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

1.5 A number of new Customs concepts, which are not only related to security, have been developed such as the developments in the field of information technology leading to new automated applications. With all the new measures Annex 9 will ensure again a balance between the different functions of Customs, namely providing facilitation for legitimate trade while exercising appropriate controls for the protection of society. A number of these items have already been included in the Recommendations of the United Nations, and 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**

### ***Advanced cargo information requirements***

2.1 The first item is advanced cargo information (Pre-arrival/pre-departure information). In Annex 9 reference could be made to standardised data sets developed at the WCO (SAFE Framework) and the EU levels.

### ***Single Window and One Stop Shop***

2.2 An important concept to facilitate the exchange of information between business and competent authorities, including Customs, is the Single Window. The Single Window makes it possible that all information required by regulatory agencies dealing with cross border movement of goods, including Customs, can 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 not work without 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).

*Authorised Economic Operator*

2.3 The AEO is an important instrument to facilitate international trade as counterpart for the new strengthened security requirements. An AEO has a high degree of security standards in respect of its role 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.

*Data standardisation and harmonisation*

2.4 A more specific reference to the use of relevant international accepted standards for the standardisation and harmonisation of data elements could be considered, for example a reference to the UN standards and the WCO Data Model.

*Airport Community Systems*

2.5 In a number of countries the airline industry introduced electronic systems which allow for the exchange of information between all parties at the airport. Annex 9 could support these initiatives by making reference to them and encouraging all parties involved.

*Other items to be considered*

2.6 In the past years, other items than the above mentioned ones were reviewed, and their possible inclusion in Annex 9 could be considered, such as:

- a) The mutual recognition of AEO programmes; and
- b) Non-intrusive inspections.

2.7 Accordingly, ECAC proposes to amend Annex 9 as presented in the **Appendix**.

3. **ACTION BY THE FALP**

3.1 The FALP is invited to:

- a) agree that there is a need to review and update the provisions in Annex 9 relating to the facilitation of air cargo, to take account of international developments and the increasing use of information technologies.
- b) consider and agree on the proposed amendments to Annex 9 presented in the **Appendix**.

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## APPENDIX

### PROPOSED AMENDMENTS TO ANNEX 9

**Note:** for ease of reference, the following typographic convention has been adopted: current text of Annex 9 is in normal (Standards) or *italics* (Recommended Practices) font. Proposed deletion is ~~stroked~~ and proposed insertion is underlined.

#### Advance cargo information

1. At **Chapter 4, Section B. Information required by the public authorities**, to insert the following two new Recommended Practices, before **4.9.** :

4. xx *Recommended Practice.- Contracting States should provide for the electronic submission of cargo information prior to the arrival or departure of cargo.*

4. xx *Recommended Practice.— Contracting States should, for the purposes of advance cargo information processing:*

- a) *Limit the data requirements to those necessary to identify the aircraft, the quantity and nature of the goods at arrival, including safety and security data in order to perform 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) *Waive the requirement for a separate general declaration and cargo manifest when at least the safety and security data elements contained in these documents are included in the advance cargo information. Public authorities may require a separate statement that the goods have arrived in the country of destination.*
- c) *Refrain from requiring the submission of the inbound advance cargo information before take off of the aircraft from the country of departure;*
- d) *Consider:*
  - i) *The development of automatic data processing systems for the submission of advance cargo information;*
  - ii) *Where feasible, the use of the available advance cargo information in subsequent procedures for the release/clearance of the goods.*

2. At **Chapter 1, section B, General Principles**, to delete standard **1.5**, and, at **Chapter 4, Section A. General**, to insert, immediately after standard **4.3**, the following new standard, which text consists in an amendment of the current text of standard 1.5, to read:

4. xx Contracting States shall develop procedures for the pre-arrival and pre-departure lodgement of an import and export goods declaration data so as to enable expeditious release/clearance of the goods.

### Single Window

3. At **Chapter 4, Section B. Information required by the public authorities**, to insert a new Recommended Practice immediately after **4.15**:

*4.xx 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, persons and cargo, to a single entry point (Single Window).*

### One Stop Shop

4. For consistency of wording, to add “release/” before “clearance” at the second occurrence of the latter word in Standard **4.4**, to read:

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 endeavour 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 release/clearance is coordinated and, if possible, carried out simultaneously and with a minimum of delay.

### Authorised Economic Operator (AEO)

5. At **Chapter 4, Section A. General**, to insert after Standard **4.8**, two new Recommended Practices:

*4.xx Recommended Practice.- Contracting States should consider the introduction of programs for Authorised Economic Operators, allowing for specific control measures relating to safety and security and simplified procedures. 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.xx Recommended Practice.- Contracting States should encourage the establishment of agreements/arrangements for mutual recognition of their respective Authorised Economic Operator programs.*

### Simplified procedures

6. At **Chapter 4, Section D, Release and clearance of import cargo**, to amend **4.28** to read:

*4.28 Recommended Practice.— For authorized traders ~~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 simplified procedures, based on the advance cargo supply of information, which provide for the expedited immediate release of goods. on arrival.~~

7. To insert the following new Recommended Practice, immediately after **4.28**:

4.xx Recommended Practice.- Simplified 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 and other authorised person's premises or another place authorised by Customs;
- c) lodgement of a goods declaration based on the entry into the records of the Authorised trader and other 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;
- e) transit procedures based on the use of cargo manifest or master air waybill.

8. In the current **4.29** Recommended Practice, to amend the reference to simplified or special procedures to include reference to the new Recommended Practice.

### **Non-Intrusive Inspections**

9. To delete **4.6** and to replace it by the following standard:

~~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.~~

4.6 Contracting states shall make available Non-Intrusive Inspection (NII) equipment and radiation detection equipment, preferably in accordance with risk assessment, for conducting inspections of high-risk cargo quickly without, where possible, disrupting the flow of legitimate trade.

### **Data standardisation and harmonisation**

10. At **Chapter 4, Section B, Information required by the public authorities**, to amend standards **4.14** and **4.15** to read:

4.14 Where public authorities allow documents for the importation, exportation or transit of goods to be 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, 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.~~

4.15 ~~To facilitate ensure trade facilitation and the application of security measures,~~ Contracting States shall, for the purpose of standardisation and harmonisation of

electronic data interchange, encourage all parties concerned, whether public or private, to implement compatible systems and to use the appropriate internationally accepted standards and protocols.

### **Airport Community systems**

11. At **Chapter 4, Section B, Information required by the public authorities**, to insert, immediately after **4.15**, the following new Recommended Practice:

*4.xx 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.*

### **Amending other provisions from Annex 9**

12. At **Chapter 4, Section B. Information required by the public authorities**, to amend Standard **4.13** to read:

4.13 Where a Contracting State has requirements for additional documents for import, export or transit formalities, such as commercial invoices, declaration forms, import licences and the like, it shall not make it the obligation of the aircraft 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 the declarant himself or is acting on his behalf or has specific legal responsibilities.

13. At **Chapter 4, Section C. Release and clearance of export cargo**, to amend Standard **4.23** to read:

4.23 Contracting states shall not require evidence of the arrival of exported goods for import, export or transit formalities as a matter of course.

— END —