



EUROPEAN UNION

THE EUROPEAN PARLIAMENT

THE COUNCIL

Strasbourg, 21 April 2004

2002/0014 (COD)
C5-0062/2004
LEX 526

PE-CONS 3616/1/04
REV 1

AVIATION 28
CODEC 144

DIRECTIVE 2004/36/EC OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL ON THE SAFETY OF THIRD-COUNTRY AIRCRAFT USING
COMMUNITY AIRPORTS

**DIRECTIVE 2004/36/EC OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL
of 21 April 2004**

on the safety of third-country aircraft using Community airports

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission ¹,

Having regard to the Opinion of the European Economic and Social Committee ²,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ³, in the light of the joint text approved by the Conciliation Committee on 26 February 2004,

¹ OJC 103 E, 30.4.2002, p. 351.

² OJ C 241, 7.10.2002, p. 33.

³ Opinion of the European Parliament of 3 September 2002 (OJ C 272 E, 13.11.2003, p. 343), Council Common Position of 13 June 2003 (OJ C 233 E, 30.09.2003, p.12) and Position of the European Parliament of 9 October 2003 (not yet published in the Official Journal).
European Parliament legislative resolution of 1 April 2004 and Council Decision of 30 March 2004 .

Whereas:

- (1) The Resolution on the air disaster off the coast of the Dominican Republic adopted by the European Parliament on 15 February 1996 ¹ highlights the need for the Community to take a more active stance and develop a strategy to improve the safety of its citizens travelling by air or living near airports.
- (2) The Commission has issued a Communication to the European Parliament and the Council entitled "Defining a Community Aviation Safety Improvement Strategy".
- (3) That Communication clearly states that safety may be effectively enhanced by ensuring that aircraft comply fully with the international safety standards contained in the Annexes to the Convention on International Civil Aviation, signed in Chicago on 7 December 1944 ("the Chicago Convention").
- (4) In order to establish and maintain a high uniform level of civil aviation safety in Europe, a harmonised approach to the effective enforcement of international safety standards within the Community should be introduced. To that end, it is necessary to harmonise the rules and procedures for ramp inspections of third-country aircraft landing at airports located in the Member States.

¹ OJ C 65, 4.3.1996, p. 172.
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- (5) A harmonised approach to the effective enforcement of international safety standards by the Member States will avoid distortions of competition. A common stance on third-country aircraft that fail to comply with international safety standards will be of benefit to the position of the Member States.
- (6) Aircraft landing in the Member States should undergo an inspection when it is suspected that they do not comply with international safety standards.
- (7) Inspections may also be carried out in accordance with a spot-check procedure in the absence of any particular suspicion, provided that Community and international law is observed. In particular, the inspections should be carried out in a non-discriminatory way.
- (8) Inspections could be stepped up in the case of aircraft in which defects have already been identified frequently in the past, or on aircraft belonging to airlines whose aircraft have frequently attracted attention.
- (9) Information gathered in each Member State should be made available to all the other Member States and the Commission in order to ensure the most efficient monitoring of the compliance of third country aircraft with international safety standards.
- (10) For these reasons there is a need to establish, at Community level, a procedure for the assessment of third-country aircraft and related cooperation mechanisms between the competent authorities of the Member States to exchange information.

- (11) The sensitive nature of safety-related information requires that Member States should take necessary measures, in accordance with their national law, to ensure appropriate confidentiality of the information received by them.
- (12) Without prejudice to the public's right of access to the Commission's documents as laid down in Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ¹, the Commission should adopt measures for the dissemination to interested parties of such information and the associated conditions.
- (13) Aircraft on which corrective measures are required should, where the identified deficiencies are clearly hazardous to safety, be grounded until the non-compliance with international safety standards has been rectified.
- (14) The facilities in the airport of inspection may be such that the competent authority will be obliged to authorise the aircraft to transfer to an appropriate airport, provided that conditions for a safe transfer are complied with.
- (15) In order to carry out its tasks under this Directive, the Commission should be assisted by the committee instituted by Article 12 of Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation ².

¹ OJ L 145, 31.05.2001, p. 43.

² OJ L 373, 31.12.1991, p. 4. Regulation as last amended by Regulation (EC) No 1592/2002 of the European Parliament and of the Council (OJ L 240, 7.9.2002, p. 1).

- (16) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ¹.
- (17) The Commission should place at the disposal of the committee instituted by Article 12 of Regulation (EEC) No 3922/91 statistics and information collected in compliance with other Community measures concerning specific incidents that could be relevant to uncovering deficiencies representing a threat to civil aviation safety.
- (18) It is necessary to take into account the cooperation and information exchanges occurring within the framework of the Joint Aviation Authorities (JAA) and the European Civil Aviation Conference (ECAC). Moreover, the greatest possible use should be made of existing expertise in procedures of Safety Assessment of Foreign Aircraft (SAFA).
- (19) Account should be taken of the role of the European Aviation Safety Agency (EASA) in civil aviation safety policy, including the establishment of procedures that aim to establish and maintain a high uniform level of civil aviation safety in Europe.
- (20) Arrangements for greater cooperation over the use of Gibraltar airport were agreed in London on 2 December 1987 by the Kingdom of Spain and the United Kingdom in a joint declaration by the Ministers of Foreign Affairs of the two countries, and such arrangements have yet to come into operation,

HAVE ADOPTED THIS DIRECTIVE:

¹ OJ L 184, 17.7.1999, p. 23.
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Article 1

Scope and objective

1. Within the framework of the Community's overall strategy to establish and maintain a high uniform level of civil aviation safety in Europe, this Directive introduces a harmonised approach to the effective enforcement of international safety standards within the Community by harmonising the rules and procedures for ramp inspections of third-country aircraft landing at airports located in the Member States.
2. This Directive shall be without prejudice to the Member States' right to carry out inspections not covered by this Directive and to ground, ban, or impose conditions on any aircraft landing at their airports in accordance with Community and international law.
3. State aircraft, as defined in the Chicago Convention, and aircraft of a maximum take-off weight of less than 5 700 kg not engaged in commercial air transport are excluded from the scope of this Directive.
4. The application of this Directive to the airport of Gibraltar is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to the dispute over sovereignty over the territory in which the airport is situated.
5. The application of this Directive to Gibraltar airport shall be suspended until the arrangements in the Joint Declaration made by the Foreign Ministers of the Kingdom of Spain and the United Kingdom on 2 December 1987 have come into operation. The Governments of Spain and the United Kingdom will inform the Council of such date of entry into operation.

Article 2
Definitions

For the purpose of this Directive:

- (a) "grounding" means the formal prohibition of an aircraft to leave an airport, and the taking of such steps as are necessary to detain it;
- (b) "international safety standards" means the safety standards contained in the Chicago Convention and its Annexes, as in force at the time of the inspection;
- (c) "ramp inspection" means the examination of third-country aircraft in accordance with Annex II;
- (d) "third-country aircraft" means an aircraft which is not used or operated under the control of a competent authority of a Member State.

Article 3
Collection of information

Member States shall put in place a mechanism to collect any information deemed useful for the fulfilment of the objective stated in Article 1, including:

- (a) important safety information accessible, in particular, through:

- pilot reports,
 - maintenance organisation reports,
 - incident reports,
 - other organisations, independent from the competent authorities of the Member States,
 - complaints;
- (b) information on action taken subsequent to a ramp inspection, such as:
- aircraft grounded,
 - aircraft or operator banned from the Member State concerned,
 - corrective action required,
 - contacts with the operator's competent authority;
- (c) follow-up information concerning the operator, such as:
- corrective action implemented,
 - recurrence of discrepancy.

This information shall be kept, using a standard report form containing the items described, in the form set out in Annex I.

Article 4

Ramp inspection

1. Each Member State shall put in place the appropriate means to ensure that third-country aircraft suspected of non-compliance with international safety standards landing at any of its airports open to international air traffic shall be subject to ramp inspections. In implementing such procedures, particular attention shall be given by the competent authority to aircraft:

- where information has been received indicating poor maintenance condition or obvious damage or defects;
- which have been reported as performing abnormal manoeuvres since entering the airspace of a Member State such as to give rise to serious safety concerns;
- in respect of which a previous ramp inspection has revealed deficiencies which give rise to serious concern that the aircraft does not comply with international safety standards and where the Member State is concerned that the defects may not have been corrected;
- where there is evidence that the competent authorities of the country of registration may not be exercising proper safety oversight; or
- where information collected under Article 3 gives cause for concern about the operator or where a previous ramp inspection of an aircraft used by the same operator has revealed deficiencies.

2. Member States may establish rules in order to carry out ramp inspections in accordance with a spot-check procedure in the absence of any particular suspicion, provided that such rules comply with Community and international law. Such a procedure shall, however, be carried out in a non-discriminatory way.
3. Member States shall ensure that appropriate ramp inspections and other surveillance measures as decided within the framework of Article 8(3) will be implemented.
4. The ramp inspection shall be performed in accordance with the procedure described in Annex II and using a ramp inspection report form containing at least the items described in the form set out in Annex II. On completion of the ramp inspection, the commander of the aircraft or a representative of the aircraft operator shall be informed of the ramp inspection findings and, if significant defects have been found, the report shall be sent to the operator of the aircraft and to the competent authorities concerned.
5. When performing a ramp inspection under this Directive, the competent authority concerned shall make all possible efforts to avoid an unreasonable delay of the aircraft inspected.

Article 5

Exchange of information

1. The competent authorities of the Member States shall participate in a mutual exchange of information. Such information shall, at the request of a competent authority, include a list of airports of the Member State concerned that are open to international air traffic with an indication, for each calendar year, of the number of ramp inspections performed and the number of movements of third-country aircraft at each airport on that list.

2. All standard reports referred to in Article 3 and the ramp inspection reports referred to in Article 4(4) shall be made available without delay to the Commission and, at their request, to the competent authorities of the Member States and to the European Aviation Safety Agency (EASA).

3. Whenever a standard report shows the existence of a potential safety threat, or a ramp inspection report shows that an aircraft does not comply with international safety standards and may pose a potential safety threat, the report will be communicated without delay to each competent authority of the Member States and the Commission.

Article 6

Protection and dissemination of information

1. Member States shall, in accordance with their national legislation, take the necessary measures to ensure appropriate confidentiality of the information received by them under Article 5. They shall use this information solely for the purpose of this Directive.

2. The Commission shall publish yearly an aggregated information report available to the public and the industry stakeholders containing an analysis of all information received in accordance with Article 5. That analysis shall be simple and easy to understand and shall indicate whether there exists an increased safety risk to air passengers. In the analysis, the source of that information shall be disidentified.

3. Without prejudice to the public's right of access to the Commission's documents as laid down in Regulation (EC) No 1049/2001, the Commission shall adopt, on its own initiative and in accordance with the procedure referred to in Article 10(2), measures for the dissemination to interested parties of the information referred to in paragraph 1 and the associated conditions. These measures, which may be general or individual, shall be based on the need:

- to provide persons and organisations with the information they need to improve civil aviation safety;
- to limit the dissemination of information to what is strictly required for the purposes of its users, in order to ensure appropriate confidentiality of that information.

4. Whenever information concerning aircraft deficiencies is given voluntarily, the ramp inspection reports referred to in Article 4(4) shall be disidentified regarding the source of such information.

Article 7

Grounding of aircraft

1. Where non-compliance with international safety standards is clearly hazardous to flight safety, measures should be taken by the aircraft operator to rectify the deficiencies before flight departure. If the competent authority performing the ramp inspection is not satisfied that corrective action will be carried out before the flight, it shall ground the aircraft until the hazard is removed and shall immediately inform the competent authorities of the operator concerned and of the State of registration of the aircraft.

2. The competent authority of the Member State performing the ramp inspection may, in coordination with the State responsible for the operation of the aircraft concerned or the State of registration of the aircraft, prescribe the necessary conditions under which the aircraft can be allowed to fly to an airport at which the deficiencies can be corrected. If the deficiency affects the validity of the certificate of airworthiness for the aircraft, the grounding may only be lifted if the operator obtains permission from the State or States which will be overflown on that flight.

Article 8

Safety improvement and implementation measures

1. Member States shall report to the Commission on the operational measures taken to implement the requirements of Articles 3, 4 and 5.

2. On the basis of the information collected under paragraph 1, the Commission may, in accordance with the procedure referred to in Article 10(2), take any appropriate measures to facilitate the implementation of Articles 3, 4 and 5 such as:

- establish the list of information to be collected;
- detail the content of, and procedures for, ramp inspections;
- define the format for the storage and dissemination of data;
- create or support the appropriate bodies for managing or operating the tools necessary for the collection and exchange of information.

3. On the basis of the information received under Articles 3, 4 and 5, and in accordance with the procedure referred to in Article 10(2), a decision may be taken on appropriate ramp inspection and other surveillance measures, in particular those of a specific operator or of operators of a specific third country, pending the adoption by the competent authority of that third country of satisfactory arrangements for corrective measures.
4. The Commission may take any appropriate measures to cooperate with and assist third countries to improve their aviation safety oversight capabilities.

Article 9

Imposition of a ban or conditions on operation

If a Member State decides to ban from its airports or impose conditions on the operation of a specific operator or operators of a specific third country pending the adoption by the competent authority of that third country of satisfactory arrangements for corrective measures:

- (a) that Member State shall notify the Commission of the measures taken, and the Commission shall transmit the information to the other Member States;
- (b) the Commission, acting in accordance with the procedure referred to in Article 10(3), may issue such recommendations and take such actions as it considers necessary; it may, moreover, extend the measures notified under (a) to the whole Community following the submission of a draft of the measures to be taken in accordance with the procedure referred to in Article 10(2).

Article 10

Committee procedure

1. The Commission shall be assisted by the committee set up by Article 12 of Regulation (EEC) No 3922/91.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

4. The Committee shall adopt its rules of procedure.

5. The Committee may furthermore be consulted by the Commission on any other matter concerning the application of this Directive.

Article 11

Implementation

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by^{*}. They shall forthwith inform the Commission thereof.

* Two years after the entry into force of this Directive.
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When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

Article 12

Amendment of Annexes

The Annexes to this Directive may be amended in accordance with the procedure referred to in Article 10(2).

Article 13

Report

By * the Commission shall submit a report to the European Parliament and the Council on the application of this Directive, and in particular on Article 9, which, inter alia, takes into account developments in the Community and in international fora. The report may be accompanied by proposals for an amendment of this Directive.

Article 14

Entry into force

This Directive shall enter into force on the day of its publication in the Official Journal of the European Union.

* Four years after the entry into force of this Directive.
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Article 15

This Directive is addressed to the Member States.

Done at Strasbourg,

For the European Parliament

The President

For the Council

The President



National Aviation Authority (*Name*)

(*State*)

SAFA

Standard Report

¹No:

²Source: SR

³Date:

⁴Place:

⁵ (Unused)

⁶Operator:

⁷AOC number:

⁸State:

⁹Route: from

¹⁰Flight number:

¹¹Route: to

¹²Flight number:

¹³Chartered by Operator*:

¹⁴Charterer's State:

* (where applicable)

¹⁵Aircraft Type

¹⁶Registration mark

¹⁷Construction number

¹⁸Flight crew: State of licensing:

¹⁹Remarks:

.....:

.....:

.....:

.....:

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²⁰Action taken:

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.....:

²¹ (Unused)

²²National Coordinator's name

²³Signature

- I. The ramp inspection should cover all or a selection of the following aspects, according to the time available.
1. Check for presence and validity of the documents necessary for international flights such as: registration certificate, log book, certificate of airworthiness, crew licences, radio licence, list of passengers and freight.
 2. Check that flight crew composition and qualifications comply with the requirements of Annex 1 and Annex 6 to the Chicago Convention (ICAO annexes).
 3. Check of operational documentation (flight data, operational flight plan, technical log), and of flight preparation necessary to show that the flight is prepared in accordance with ICAO Annex 6.
 4. Check for presence and status of items required for international navigation in accordance with ICAO Annex 6.
 - Air operator certificate
 - Noise and Emission Certificate
 - Operation manual (including Minimum Equipment List) and flight manual
 - Safety equipment

- Security cabin equipment
 - Equipment necessary for the specific flight including radio communication and radio navigation equipment
 - Flight data recorders.
5. Check that the condition of the aircraft and its equipment (including damage and repairs) ensures continuous compliance with ICAO Annex 8 standards.

II. An inspection report must be drawn up after the ramp inspection and must include standard general information described above and a list of items checked, together with an indication of any deficiencies found for each of these items and/or any specific remark that may be necessary.



National Aviation Authority (*Name*)

(*State*)

SAFA

Ramp Inspection Report

¹No:

²Source: RI

³Date:

⁴Place:

⁵Local time:

⁶Operator:

⁷AOC number:

⁸State:

⁹Route: from

¹⁰Flight number:

¹¹Route: to

¹²Flight number:

¹³Chartered by Operator*

¹⁴Charterer's State:

* (where applicable)

¹⁵Aircraft Type

¹⁶Registration mark

¹⁷Construction number

¹⁸Flight crew: State of licensing:

¹⁹Remarks:

Code / Std / Remark

—	—	—
:		
—	—	—
:		
—	—	—
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—	—	—
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—	—	—
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—	—	—
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—	—	—
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²⁰Action taken:

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.....

²¹Inspectors' names:.....

This report represents an indication of what was found on this occasion and must not be construed as a determination that the aircraft is fit for the intended flight.

²²National Coordinator's name

²³Signature

National Aviation Authority (Name)
(State)

Item	Checked	Remark
A. Flight Deck		
General		
1. General condition	1 <input type="checkbox"/>	1 <input type="checkbox"/>
2. Emergency exit.....	2 <input type="checkbox"/>	2 <input type="checkbox"/>
3. Equipment.....	3 <input type="checkbox"/>	3 <input type="checkbox"/>
Documentation		
4. Manuals	4 <input type="checkbox"/>	4 <input type="checkbox"/>
5. Checklists.....	5 <input type="checkbox"/>	5 <input type="checkbox"/>
6. Radio navigation charts.....	6 <input type="checkbox"/>	6 <input type="checkbox"/>
7. Minimum equipment list.....	7 <input type="checkbox"/>	7 <input type="checkbox"/>
8. Certificate of registration.....	8 <input type="checkbox"/>	8 <input type="checkbox"/>
9. Noise certificate (where applicable)	9 <input type="checkbox"/>	9 <input type="checkbox"/>
10. AOC or equivalent	10 <input type="checkbox"/>	10 <input type="checkbox"/>
11. Radio licence	11 <input type="checkbox"/>	11 <input type="checkbox"/>
12. C of A.....	12 <input type="checkbox"/>	12 <input type="checkbox"/>
Flight data		
13. Operational flight plan	13 <input type="checkbox"/>	13 <input type="checkbox"/>
14. Load distribution.....	14 <input type="checkbox"/>	14 <input type="checkbox"/>
Safety Equipment		
15. Hand fire extinguishers.....	15 <input type="checkbox"/>	15 <input type="checkbox"/>
16. Life jackets / flotation device.....	16 <input type="checkbox"/>	16 <input type="checkbox"/>
17. Harness.....	17 <input type="checkbox"/>	17 <input type="checkbox"/>
18. Oxygen equipment.....	18 <input type="checkbox"/>	18 <input type="checkbox"/>
19. Flash light.....	19 <input type="checkbox"/>	19 <input type="checkbox"/>
Flight crew		
20. Flight crew.....	20 <input type="checkbox"/>	20 <input type="checkbox"/>
Journey log book /technical log or equivalent		
21. Journey log book.....	21 <input type="checkbox"/>	21 <input type="checkbox"/>
22. Maintenance release	22 <input type="checkbox"/>	22 <input type="checkbox"/>
23. Deferred defect rectification	23 <input type="checkbox"/>	23 <input type="checkbox"/>
24. Preflight inspection.....	24 <input type="checkbox"/>	24 <input type="checkbox"/>

B. Safety / Cabin			
1. General internal condition.....	1	<input type="checkbox"/>	1 <input type="checkbox"/>
2. Cabin attendant's seat	2	<input type="checkbox"/>	2 <input type="checkbox"/>
3. First aid kit / emergency medical kit.....	3	<input type="checkbox"/>	3 <input type="checkbox"/>
4. Hand fire extinguishers.....	4	<input type="checkbox"/>	4 <input type="checkbox"/>
5. Life jackets / flotation devices	5	<input type="checkbox"/>	5 <input type="checkbox"/>
6. Seat belts.....	6	<input type="checkbox"/>	6 <input type="checkbox"/>
7. Emergency exit, lighting and marking, torches	7	<input type="checkbox"/>	7 <input type="checkbox"/>
8. Slides / life-rafts (as required)	8	<input type="checkbox"/>	8 <input type="checkbox"/>
9. Oxygen supply (crew and passengers)	9	<input type="checkbox"/>	9 <input type="checkbox"/>
10. Safety instructions.....	10	<input type="checkbox"/>	10 <input type="checkbox"/>
11. Sufficient number of cabin crew members.....	11	<input type="checkbox"/>	11 <input type="checkbox"/>
12. Access to emergency exits	12	<input type="checkbox"/>	12 <input type="checkbox"/>
13. Safety of passenger baggage.....	13	<input type="checkbox"/>	13 <input type="checkbox"/>
14. Sufficient seat capacity.....	14	<input type="checkbox"/>	14 <input type="checkbox"/>
C. Aircraft Condition			
1. General external condition	1	<input type="checkbox"/>	1 <input type="checkbox"/>
2. Doors and hatches	2	<input type="checkbox"/>	2 <input type="checkbox"/>
3. Flight controls	3	<input type="checkbox"/>	3 <input type="checkbox"/>
4. Wheels and tyres	4	<input type="checkbox"/>	4 <input type="checkbox"/>
5. Undercarriage	5	<input type="checkbox"/>	5 <input type="checkbox"/>
6. Wheel well.....	6	<input type="checkbox"/>	6 <input type="checkbox"/>
7. Intake & exhaust nozzle	7	<input type="checkbox"/>	7 <input type="checkbox"/>
8. Fan blades	8	<input type="checkbox"/>	8 <input type="checkbox"/>
9. Propellers	9	<input type="checkbox"/>	9 <input type="checkbox"/>
10. Obvious repairs	10	<input type="checkbox"/>	10 <input type="checkbox"/>
11. Obvious unrepaired damage.....	11	<input type="checkbox"/>	11 <input type="checkbox"/>
12. Leakage.....	12	<input type="checkbox"/>	12 <input type="checkbox"/>
D. Cargo			
1. General condition of cargo compartment	1	<input type="checkbox"/>	1 <input type="checkbox"/>
2. Dangerous goods	2	<input type="checkbox"/>	2 <input type="checkbox"/>
3. Security of cargo on board.....	3	<input type="checkbox"/>	3 <input type="checkbox"/>

