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The IATA-FIATA Air Cargo Program (IFACP) is the culmination of several years of collaborative work between IATA, the airlines, FIATA, and its forwarder members. The objective of the Program has been to recognise both the principal-to-principal contractual relationship that exists between the airlines and forwarders, and going forward, the requirement to better address and meet the day-to-day needs and expectations of an evolving air cargo industry. The Program therefore clarifies and validates the business model of a buyer-seller relationship between the parties. Working together to jointly manage the IFACP in future, will enable IATA and FIATA, and their respective airline and forwarder members, to jointly develop, progress and promote key air cargo industry initiatives designed to achieve industry efficiencies and to maintain the highest standards relative to safety and security.

The IFACP recognizes the evolving role of the Forwarder who today no longer acts as an agent of the carrier in most markets, but as a customer or principal of the carrier. The IFACP has been established therefore in order to better reflect the reality of this changed business relationship. The Program is jointly managed and funded by Carriers and forwarders, with governance transferred from the Cargo Agency Conference to a joint Governance Board with equal Carrier and forwarder representation and authority.

Working together under the commitment of a Cooperation Agreement, IATA and FIATA will jointly promote the professional standards and common industry operating objectives and practices of the IFACP as well as industry initiatives such as e-cargo, product quality, cargo security and safety.

How the IFACP works - Overview of the Program Governance structure

The IATA-FIATA Air Cargo Program (IFACP) will be gradually rolled-out in a phased approach replacing the IATA Cargo Agency or Intermediary Programs globally. A new streamlined structure will replace the current local or regional Cargo Assemblies, Executive Councils or Joint Cargo Councils and IATA Cargo Advisory Panels (ICAPs), established under the IATA Cargo Agency Conference (CAC). A more standard streamlined structure will improve efficiencies and reinforce consultations at all levels. A brief overview is provided below.

IATA-FIATA Governance Board (IFGB), IFACP Regional Joint Councils and Program officials

The IFGB is the decision-making body that shall be responsible for the general management and administration of the IFACP, including the establishment of guidelines relating to operational procedures and financial standards required to be maintained by IFACP Endorsed Forwarders. The IFGB, which is composed of senior airline and forwarder delegates, will develop and maintain its own terms of reference, as well as those of the IFACP Regional Joint Councils. Furthermore, the IFGB will engage in the promotion of jointly agreed industry projects and initiatives. In order to achieve this the IFGB shall appoint a number of officials to manage the Program operations and to administer its rules and apply its procedures on a day-to-day basis, including the ongoing development of the IFACP Handbook and the administration of Program fees. The full terms of reference of the IFGB are contained the Governance Handbook.

As the IFACP will apply worldwide (except in the USA), it is recognized there is a need to manage certain delegated components of the program in specific geographical regions and country(ies). The IFGB may therefore establish an IFACP Joint Council (JC) wherever regionally required, to ensure adequate management of such delegated responsibilities to such region or country(ies). The IFACP-JCs shall be responsible for providing recommendations and proposals to the IFGB in respect of criteria for the endorsement of Forwarders in each country, or countries of the region assigned to it. This may include, but will not be limited to: standards of staff competence relative the processing and handling air cargo; suitability of operational premises; knowledge of air cargo products and services and minimum criteria of financial standing required for endorsement and retention of Forwarders in the region or any country(ies).

It is planned that initially the following IFACP Joint Councils will be established: Canada, LATAM, Europe including Russia, India, China, Africa, Middle East, Asia Pacific, Hong Kong & Taiwan, Australia including New Zealand & South Pacific.
A number of Program officials will be appointed to assist the work of the above bodies and to manage the activities of the IFACP. Further details can be found in Section 4.
Program Governance

Section 2 IATA-FIATA Governance Board (IFGB)

Role and Terms of Reference

1. OBJECTIVES

WHEREAS it is recognized that the air cargo industry has undergone significant changes over recent years, including the emergence of new business relationships, in which today's freight forwarders in most cases conduct business as principals and airline customers instead of acting as agent of a Carrier;

WHEREAS it is recognized the need to develop and introduce a new air cargo program (IATA-FIATA Air Cargo Program, hereinafter referred to as “IFACP”) which the Parties mutually intend to administer on behalf of the freight forwarder and Carrier participants (the “IFACP Participants”), and as instructed by the IATA-FIATA Governance Board (“IFGB”);

WHEREAS, nothing in the IFACP is meant to create exclusive business dealings between and among IFACP Participants, and IFACP Participants are free to enter into any other commercial business arrangement in their sole business discretion;

WHEREAS it is recognized that the new IFACP should provide a means for Forwarders to tender shipments (hereinafter referred to as “cargo” or “goods”) as principals; and

WHEREAS the IFACP shall be administered jointly and governed in accordance with procedures laid out in the IATA-FIATA Cooperation Agreement, the terms of reference of the IATA-FIATA Governance Board and the Program Handbook.

WHEREAS the duties and responsibilities of IATA and FIATA are to be carried out pursuant to applicable policy guidelines of the IATA Cargo Committee and the FIATA Airfreight Institute.

IT IS AGREED THAT

The IATA-FIATA Governance Board (IFGB) is established to provide strategy, policies, oversight and guidance as to how the program operates.

2. COMPOSITION

2.1 Voting Members

The IFGB shall consist of a minimum of eight (8) and a maximum of twelve (12) Voting Members. The IFGB membership shall include an IATA constituency and a FIATA constituency with an equal number of up to six (6) members to be appointed by IATA and up to six (6) members to be appointed by FIATA. The appointment process shall be in accordance with the internal governance rules of FIATA and IATA. Each appointed member shall be either a carrier representative if appointed by IATA, or a freight forwarder representative if appointed by FIATA and shall serve a 2-year term, renewable for up to four terms. Such members of the IFGB shall serve as industry representatives and not as representatives of any particular carrier or forwarder. Any member who misses two consecutive meetings will be subject to removal from the IFGB membership and another Carrier or Forwarder member shall be appointed in replacement.Carrier and forwarder representatives shall reflect a general market balance; in geography, small to medium sized enterprises and the Parties support the inclusion of one or two freight forwarder representatives from large global freight forwarder organizations and one or two carrier representatives from IATA's Cargo Committee. Additionally, representatives shall hold senior management positions within their respective organizations.

2.2 Non-Voting Members. FIATA and IATA each may appoint also two (2) non-voting representatives to the IFGB. One (1) such appointment by IATA must be the IATA Global Head of Cargo and one (1) such appointment by FIATA must be the Chairman of the Airfreight Institute.

2.3 A replacement Voting or Non-Voting Member may be appointed by the Party responsible for appointing the member to be replaced. Such substitute or replacement member should be notified to
other IFGB members and the IFGB Chairman in writing, and if possible at least 24 hours before any meeting.

2.4 To facilitate its work, the IFGB shall be empowered to set up temporary sub-groups as it deems appropriate.

3. PROCEDURES

3.1 Decisions by the IFGB shall require the concurrence of a majority of the representatives of each voting constituency, in person, or via telecommunications if allowed by the Chairman, provided that the quorum necessary to take action shall be four or more members of each constituency.

3.2 In order to ensure competition law compliance, all agendas prior to IFGB or any Joint Council meetings and the minutes of such meetings must be reviewed by competition law counsel without any limitation or exception. Such review shall also include, without limitation or exception, any and all Task Force(s) or Working Group(s) set up by the IFGB or otherwise administered by the IFGB. Any recommendations or proposals emanating from a Joint Council, IFGB, or Task Force/Working Group meeting must also be reviewed by competition law counsel, without limitation or exception, prior to consideration and/or adoption by the IFGB.

3.3 The IFGB shall have a non-voting Chairman appointed for a period of two (2) years. The Chairman shall be elected by the IFGB and subsequent Chairmen shall be nominated by each constituency alternating for subsequent 2 year periods. The first such nomination shall be made by IATA. In the absence of the Chairman at any meeting, the IFGB shall appoint a non-voting member as acting Chairman for such meeting.

3.4 The IFGB shall also appoint a Governance Manager whose responsibilities shall include secretary of the IFGB, coordination of meetings, preparation of agenda and minutes and to generally ensure compliance with IFGB Terms of Reference. The Governance Manager shall also have prime accountability for industry projects and initiatives as agreed and assigned by the IFGB and shall manage the performance and reports of the Regional Joint Council meetings. The Governance Manager shall be nominated by FIATA and appointed by the IFGB. Remuneration, travel and other expenses of the Governance Manager, shall be part of the IFACP budget and paid or reimbursed to the manager by FIATA, in accordance with remittance policies set by the IFGB.

3.5 The Operations Manager shall oversee the day-to-day administration of the IFACP. The Operations Manager shall also take instruction from the IFGB on development of a business plan, budgeting and performance objectives. The Operations Manager shall also be responsible for ensuring the implementation of industry projects and initiatives as agreed and assigned by the IFGB from time to time. The Operations Manager shall be nominated by IATA and appointed by the IFGB. Remuneration, travel and other expenses of the Operations Manager, shall be part of the IFACP budget and paid or reimbursed to the manager by IATA, in accordance with remittance policies set by the IFGB.

3.6 IFGB Board Members will not be compensated for their services and shall participate on a voluntary basis. Reasonable travel and meeting expenses will be reimbursed. Meetings may be convened either in person or electronically. IFGB members travel and meeting expenses shall be part of the IFACP budget, and reimbursed to Forwarder representatives by FIATA and Carrier representatives by IATA, in accordance with applicable accounting and administrative policies as set by the IFGB.

3.7 The IFGB shall meet in person at least once a year. Other meetings conducted via telecommunications, shall be permissible. Decisions through mail vote shall be permissible. Mail votes shall be subject to a 21-days voting period with result circulated by name to all IFGB members. Non-responses shall count as a positive vote.

4. ROLES AND RESPONSIBILITIES

4.1 The responsibilities of the IFGB shall include, but not be limited to the following:

(a) Establish the general mission of the IFACP;

(b) Establish guidelines related to the operational and financial criteria (relevant standards and procedures) for endorsement of IFACP Forwarders;
(c) Consider and adopt, where appropriate, recommendations from the regional and national Joint Councils;

(d) Engage in commonly agreed industry projects and initiatives;

(e) Develop and maintain the IFACP Handbook (the “Handbook”): The Handbook shall include, but not be limited to, the following items:

i) the operational and financial criteria set by the IFGB for endorsement and retention of IFACP Forwarders;

ii) the requirements for the tendering of freight by such IFACP Forwarders to carriers;

iii) the rules applicable to IFACP Participants generally; and

iv) IATA CASS rules as amended from time to time by the IATA Cargo Agency Conference.

(f) Promote the IFACP to the air cargo industry and shipping community;

(g) Develop and maintain the Forwarder Agreement;

(h) Develop and maintain the IFGB Terms of Reference and working procedures;

(i) Develop and maintain the Terms of Reference for Joint Councils and their working groups;

(j) Determine annual membership and other IFACP fees;

(k) Mediate disputes between IATA and FIATA as set forth in the Cooperation Agreement;

(l) Publish in the IFACP Handbook a series of recommended practices on industry initiatives such as e-cargo, quality, security and safety;

(m) Appoint a Governance Manager and an Operations Manager;

(n) Appoint the Program Secretariat and define its responsibilities and oversee its performance;

(o) Appoint an Ombudsman and define its responsibilities and monitor its performance; and

(p) Appoint an Independent IFACP Assessor not affiliated with either IATA or FIATA who shall be responsible for conducting financial reviews of Forwarders pursuant to IFGB guidelines and application financial criteria.

4.2 The IFGB shall function as the main body maintaining and upholding fair and equitable procedures as agreed by the IFGB. The IFGB will instruct IATA and FIATA on carrying out the goals of the IFACP.

4.3 Further functions, duties, obligations or responsibilities of the IFGB shall be set forth as an Appendix to these Terms of Reference.

4.4 IFGB will consider any recommendations or proposals emanating from a Joint Council, having been reviewed by competition law counsel, prior to consideration and/or adoption by the IFGB.
Section 3 IATA-FIATA Air Cargo Program (IFACP) Joint Council

Role and Terms of Reference

1. OBJECTIVES

WHEREAS it is recognized that the relationship between Carriers and Forwarders within the cargo industry has significantly evolved since the creation of the original IATA Cargo Agency Programme.

WHEREAS it is acknowledged, by Carriers and Forwarders alike, that an industry distribution system provides significant efficiencies and valuable standards that benefit all participants and their customers.

WHEREAS the IATA-FIATA Governance Board (IFGB) has established a jointly managed IATA-FIATA Air Cargo Program (IFACP) worldwide, it is recognized that regional bodies (Joint Councils) need to be established to manage delegated components of the program covering the country(ies) represented by the applicable Joint Council.

IT IS AGREED THAT

IATA-FIATA Air Cargo Program (IFACP) - Joint Council, is hereby established to be implemented by the IFGB wherever geographically required to ensure adequate management of delegated components of the IFACP in a region or country(ies).

2. COMPOSITION

2.1 The Joint Council shall consist of an equal number of not more than SIX members and not be fewer than FOUR members from each constituency (Carriers and Freight Forwarders), reasonable and equitable balance of representation should be sought, together with reasonable and practical regional geographic coverage.

2.2 Carriers representatives are appointed by Cargo Agency Conference, or other delegated body. Appointed Carrier representatives serve for a two-year term, renewable for up to four terms.

2.3 Freight Forwarder representatives are appointed by FIATA, drawing from the respective national or regional cargo or forwarder associations

2.4 Appointed Joint Council members may nominate alternates, subject to approval by the respective appointing body.

2.5 Any Joint Council members or their alternate(s) who miss two consecutive meetings will be subject to removal from Joint Council membership and another Carrier or freight forwarder member shall be appointed in replacement.

2.6 Joint Council Members, elected by name and organization serve as industry representative and not of their organization.

2.7 The IATA Global Head of Cargo and the Chairman of AFI-FIATA, or their appointed representatives are considered to be ex-officio members of the Joint Council. In addition, the Program Secretariat shall also act as the secretary.

2.8 The Program Secretariat shall provide adequate secretariat support for meetings of the Joint Council, and shall ensure that agenda documentation and reports/minutes are reviewed by competition law counsel without any limitation or exception and circulated to all Joint Council members according to IATA-FIATA Governance Board and Joint Council agreed procedure.

2.9 The Joint Council shall elect its Chairman and Vice-Chairman who shall not be from the same constituency group. The position of Chairman shall be non-voting. In the event the Chairman is elected from voting members, an alternate voting member shall be nominated to take the voting seat vacated by the Chairman for the period of his/her chairmanship. The Chairman and Vice Chairman serve for two years.
3. PROCEDURES

3.1 The Joint Council sets its rules and procedures; provided that the quorum necessary to take action shall not be fewer than three members of each of its two constituencies. The Chairman may authorize the presence of observers, where he deems it advantageous to the expeditious dispatch of business.

3.2 The Joint Council actions are in the form of recommendations made by a majority present of each of the two constituencies.

3.3 The Joint Council shall meet as necessary; either in person and/or via teleconference. Decisions through mail vote shall be permissible. Mail votes shall be subject to a 21 days voting period with result circulated by name to all Joint Council members. Non-responses shall count as a positive vote.

3.4 To facilitate its work, the Joint Council shall be empowered to set up such temporary subsidiary groups, as it deems appropriate.

4. ROLES AND RESPONSIBILITIES

The Joint Council shall be responsible for providing recommendations and proposal to the IFGB.

4.1 The Joint Council shall propose objective criteria for the endorsement of Freight Forwarders in each country, or countries of the region, assigned to it. This may include, but not be limited to:

4.1.1 standards of staff competence, experience and knowledge of air cargo products;

4.1.2 suitability of cargo handling and processing equipment;

4.1.3 knowledge of air cargo products and services;

4.1.4 carrier’s operational and financial criteria for endorsement of IFACP Forwarders.

4.2 The Joint Council may propose to IFGB the minimum criteria of financial standing required for endorsement and retention of Forwarders in the region or any country.

4.3 The Joint Council may consider all other aspects of the IFACP in the region and accordingly make proposals to the IFGB.

4.4 The Joint Council may be requested by the IFGB to submit its proposal of individuals to be considered for the Ombudsman in accordance with the procedures contained within the Handbook, and the Ombudsman shall be appointed in accordance with IFGB’s procedures applicable for appointment of the Ombudsman.
Section 4 IFACP Program Officers

The IFGB shall appoint the following officers to manage various aspects of the IFACP:

(a) a Governance Manager and an Operations Manager;

(b) the Program Secretariat and define its responsibilities and oversee its performance;

(c) an Ombudsman and define its responsibilities and monitor its performance;

(d) an Independent IFACP Assessor, not affiliated with either Party, who shall be responsible for conducting Financial Reviews of Forwarders pursuant to IFGB guidelines and applicable financial criteria.

GOVERNANCE MANAGER

The IFGB shall appoint a Governance Manager for a period of up to 24 (twenty four) months whose responsibilities shall include secretary of the IFGB, coordination of meetings, preparation of agendas and minutes and to generally ensure compliance with IFGB Terms of Reference. The Governance Manager shall also have prime accountability for industry projects and initiatives as agreed and assigned by the IFGB and shall manage the performance and reports of the Regional Joint Council meetings. The Governance Manager shall be nominated by FIATA and appointed by the IFGB.

Remuneration, travel and other expenses of the Governance Manager, shall be part of the IFACP budget and paid or reimbursed to the manager by FIATA, in accordance with remittance policies set by the IFGB.

OPERATIONS MANAGER

The IFGB shall appoint an Operations Manager for a period of up to 24 (twenty four) months, who shall oversee the day-to-day administration of the IFACP. The Operations Manager shall also take instruction from the IFGB on development of a business plan, budgeting and performance objectives. The Operations Manager shall also be responsible for ensuring the implementation of industry projects and initiatives as agreed and assigned by the IFGB from time to time. The Operations Manager shall be nominated by IATA and appointed by the IFGB.

Remuneration, travel and other expenses of the Operations Manager, shall be part of the IFACP budget and paid or reimbursed to the manager by IATA, in accordance with remittance policies set by the IFGB.

PROGRAM SECRETARIAT

Subject to the oversight of the IFGB, IATA shall act as the Program Secretariat for an initial term of twenty four (24) months such initial term to commence upon full launch of the IFACP after all pilots have been completed. Thereafter, the IFGB shall decide whether to renew IATA’s appointment as Program Secretariat or to appoint a new Program Secretariat.

The Program Secretariat shall have the following responsibilities:

(a) Endorsement of Forwarders pursuant to IFGB guidelines and taking into account the financial review conducted by the Independent IFACP Assessor;

(b) Selection of competition law counsel for IFGB and Joint Council meetings; and

(c) Day-to-day administration of the IFACP.

The Program Secretariat, IATA and FIATA shall be entitled to indemnification from the IFACP Participants for any liability that may arise as a direct consequence of the administration of the IFACP.

INDEPENDENT IFACP ASSESSOR

The Independent Assessor shall conduct financial evaluations and reviews of applicants and IFACP Forwarders in accordance with the financial criteria, including any Local Financial Criteria (LFC) agreed and applicable for IFACP participation in the country of the Forwarder’s operations. In addition the Independent IFACP Assessor shall review any participating IFACP Forwarder that is suspended from
CASS for financial reasons, to determine by that entity’s continued participation in the IFACP, or not, under the IFACP financial criteria and IFACP Rules adopted by the IFGB.

LEGAL COUNSEL - COMPETITION LAW COUNSEL

In order to ensure competition law compliance, all agendas prior to IFGB or any Joint Council meetings and the minutes of such meetings must be reviewed by competition law counsel without any limitation or exception. Such review shall also include, without limitation or exception, any and all Task Force(s) or Working Group (s) set up by the IFGB or otherwise administered by the IFGB.

Any recommendations or proposals emanating from a Joint Council meeting, IFGB meeting or Task Force / Working Group meeting must also be reviewed by competition law counsel, without limitation or exception, prior to consideration and/or adoption by the IFGB.

Before any existing IATA financial criteria used in the Cargo Agency Program are considered for the adoption for the IFACP, such financial criteria shall be reviewed by an independent legal counsel for legal compliance. Those criteria that have been approved by the independent legal counsel shall be considered by the IFGB for adoption for the IFACP.

OMBDUSMAN

The IFACP Ombudsman has specific responsibilities and therefore the profile and job description of the individual(s) appointed to this role have been agreed by the IFGB. Also the procedures for the Ombudsman to conduct of any reviews of IFACP Forwarders or applicants are also outlined in the following Rules.

Ombudsman – Role and Profile

The IFGB has RESOLVED that:

1. The office of the Ombudsman, (‘the Ombudsman’) is hereby established.

2. Any person, or any IFACP Joint Council, may submit candidates for Ombudsman to the IFGB which will evaluate each candidate and decide the term and remuneration conditions. The Ombudsman will be appointed by the IFGB. A serving Ombudsman may be allowed to continue if required, until such time that a successor has been appointed.

3. The IFGB may appoint one or more Ombudsmen as necessary, to meet the demands of the office. In such case, the term ‘Ombudsman’ shall be deemed to include all the Ombudsmen.

4. In the discharge of their duties the Ombudsman shall be impartial and independent.

5. An Ombudsman may at his/her discretion, and for cause, appoint a substitute to act in respect of individual cases.

6. The term of office of an Ombudsman may be curtailed by the IFGB.

7(a) the costs of the Ombudsman's office shall be borne in equal proportions by Carriers and Forwarders in the countries where the IFACP has been implemented; provided that an IFACP Forwarder shall be called upon to contribute, as a regular contribution: USD 10 (or acceptable equivalent) per year per Head Office Location and per Branch Office Location.

7(b) all such contributions shall be paid into the Ombudsman Fund, held by the IFACP Program Secretariat and expended in accordance with the provisions of these Rules or the IFGB instructions. Such regular contribution shall not be deemed to include any payment of fee or monetary penalty decided by the Ombudsman in the execution of his/her mandate. The purpose of the Fund is for IFACP participants to discharge jointly their obligation to cover the costs of the Ombudsman's office (fees and expenses) in equal proportions. Additionally, the Forwarder's contributions shall be used to reimburse through the Airfreight Institute of FIATA (FIATA/AFI) their representatives' travel costs to attend IFACP meetings, and meetings endorsed by the IFGB and industry meetings to further the relationship between IATA Airlines and Forwarders participating in the IFACP.

8. Each Ombudsman shall act in accordance with the appropriate IFACP Rules which provides for the Conduct of Review by Ombudsman.
Attachment ‘A’

Ombudsman Profile

1. The Ombudsman is an independent arbiter nominated by the IFGB and appointed jointly by the International Air Transport Association (IATA) and International Federation of Freight Forwarders Associations (FIATA) to conduct reviews and act with respect to decisions and/or actions affecting Forwarders and applicants under the IATA-FIATA Air Cargo Program (IFACP)

1.1. The office of the Ombudsman is established under the terms expressed in the IFACP Rules

1.2. The procedures under which the Ombudsman operates are also contained in the IFACP Rules

2. The IFGB and IATA and FIATA will assess applicants for the office of the Ombudsman against the following profile:

The ideal candidate will meet the following criteria:

a) experience in the cargo industry ideally gained from previous employment with an airline or cargo agent/intermediary or forwarder;

b) at the time of application the applicant must not be employed or have any involvement with an airline, cargo agent/intermediary or freight forwarder, cargo forwarders association or IATA;

c) good knowledge of the IFACP or IATA Cargo Programme and the associated rules and regulations or a demonstrated ability to acquire knowledge of the IFACP;

d) experience in dispute resolution and/or legal background;

e) independent contractor not associated with an airline, cargo agent/intermediary or forwarder, any local or regional association of forwarders or IATA;

f) fluent in written and oral English;

g) ability to travel at short notice.

Cargo Ombudsman Job Description

1. An Ombudsman shall act only as described to make reviews requested under the terms of the IFACP Rules.

2. In the performance of his/her duties the Ombudsman is not authorised to attend and/or address industry conferences of forwarder associations or of IATA except as required by the terms of the relevant Rules.

3. In the performance of his/her duties the Ombudsman is not authorised to counsel, train, coach or in any similar capacity offer guidance to individual freight forwarders, freight forwarders associations, airlines or IATA except as specifically provided under the terms of the IFACP Rules. However, the Ombudsman may answer punctually requests for information from individual freight forwarders, forwarders associations, airlines or IATA, if this request is not linked to any case of review or other dispute.

4. In the pursuit of their activities the Cargo Ombudsman(s) shall be independent and not subject to supervision by any one party, however, the Cargo Ombudsman(s) shall provide regular reports of activity to the IFGB, which is entitled to review the activities of the Cargo Ombudsman(s), and is responsible for approval of the budget and monitoring of expenditure.

5. Any travel conducted by the Cargo Ombudsman(s) shall be as authorized by the IFGB under the terms of the IFACP Rules.

6. The office of the Cargo Ombudsman(s) shall maintain records of all Cargo Ombudsman(s) proceedings for a minimum of two years or as required under local law. The Cargo Ombudsman(s) shall ensure knowledge transfer and continuity with his/her successor. Copies of Ombudsman records shall be provided by the Ombudsman to the IFACP Program Secretariat
7. The Cargo Ombudsman shall maintain an information website, funding for which will be provided from the IFGB established budget.

8. Ombudsman shall be entitled to obtain administrative support which support shall be funded from the IFGB established budget.

Ombudsman – Procedures for the Conduct of Reviews by the IFACP Ombudsman

The IFACP Ombudsman shall conduct reviews with respect to decisions affecting IFACP Forwarders and applicants, in accordance with the following procedures:

1. REVIEW INITIATED BY A FORWARDER OR APPLICANT

1.1 The Ombudsman shall rule on cases initiated by:

1.1.1 any Person whose application to become an IFACP Forwarder has been rejected by the Program Secretariat,

1.1.2 any Person who has acquired ownership or is seeking to acquire ownership of a Forwarder and whose application for change of ownership has been disapproved by the Program Secretariat,

1.1.3 a Forwarder who has received notice from the Program Secretariat of impending removal from the Program List or Directory, for whatever reason;

1.1.4 a Forwarder who has received notice of impending action by the Program Secretariat that it considers unreasonably diminishes its ability to conduct business in a normal manner;

1.1.5 a Forwarder whose application for a Change of Location and/or Name has been disapproved;

1.1.6 a Forwarder who considers that the Program Secretariat has not followed correct procedures, as delegated by the IFGB, to that Forwarder's direct and serious detriment.

1.2 For a review under this Paragraph the person authorized to initiate the review may do so by submitting a written request to the Ombudsman, with copy to the Program Secretariat. Requests for reviews of rejected applicants, or disapproved changes must be submitted within 30 calendar days of the Program Secretariat’s notice of the decision under appeal. The Ombudsman shall review the case in a de novo adversary proceeding and shall decide, on the basis of all probative evidence presented during the proceeding, whether or not the applicant is qualified pursuant to the Program Rules for inclusion, or continued inclusion on the Program list or Directory.

2. REVIEW INITIATED BY THE PROGRAM SECRETARIAT

2.1 The Program Secretariat shall on his own initiative and may at the request of any Carrier, initiate a review to re-determine the endorsement of a Forwarder under the appropriate provisions of the Program Rules; or determine whether the Forwarder has violated any other provision of these same Rules or of its IFACP Forwarder Agreement in the following instances:

2.1.1 when an Agent has failed to comply, to the satisfaction of the Program Secretariat, with financial requirements of the Rules, or as prescribed by the Ombudsman, as a condition for the retention of the Forwarder following a review,

2.1.2 when an Agent has failed to make a full accounting and settlement of all amounts due to Carriers as a condition for retention on the Cargo Program List following a review conducted as a consequence of non-payment,

2.1.3 when an Agent has failed to submit, by the specific date, financial documents requested by the Program Secretariat in order to conduct a financial review of the Forwarder,

2.1.4 when the Program Secretariat has reason to believe that the Forwarder no longer meets any of the minimum criteria, including trading, operational and/or minimum staff qualifications, as set forth in the IFACP Handbook

2.1.5 when the Program Secretariat has reason to believe that the Forwarder no longer meets the minimum financial requirements, or is not in a position to meet its financial obligations,
2.1.6 when a Forwarder has failed to make timely application to the Program Secretariat for a change of ownership, status, name or address,

2.1.7 when a Forwarder has changed its name or address and the Program Secretariat is unable to approve the change of name or address,

2.1.8 on receipt of information tending to prove that the Forwarder no longer fulfils all of the requirements of the Handbook,

2.1.9 when a Forwarder has failed to renew, before their expiry date, bank or insurance bonds or guarantees required,

2.1.10 when an Agent's licence, where required, has been reinstated following withdrawal or suspension thereof by licensing authorities;

2.2 each written request for a review shall be accompanied by a certification by the Program Secretariat that a true copy has been served also on the Forwarder. The Ombudsman shall conduct each review initiated under this Paragraph in an adversary proceeding and will decide, on the basis of all probative evidence presented during the proceedings, whether or not the Forwarder has failed to comply with or has violated the Rules and provisions as alleged by the Program Secretariat. If the decision is affirmative, the Ombudsman shall impose on the Forwarder a penalty in accordance with the provisions of these Rules, which he deems appropriate under the circumstances;

2.3 in addition to the reviews set forth in Subparagraph 2.1 of this Paragraph, the Program Secretariat shall file a written complaint with the Ombudsman, with copy to the Forwarder in the following circumstances:

2.3.1 on receipt of an official complaint for non-compliance with the IFACP Rules lodged by the Program Secretariat

2.3.2 on receipt of a notice from a Carrier of an alleged misrepresentation or violation by a Forwarder of the IATA Dangerous Goods Regulations, including the Shipper's Declaration,

2.3.3 on receipt of a notice from a Carrier of an alleged misrepresentation or violation of security control measures prescribed by the responsible authority(ies), or by the Carrier, or as set out in the 'Ready for Carriage' provisions of the IFACP Rules.

3. RULES OF PROCEDURE

3.1 The Ombudsman shall promulgate rules of practice and procedures designed to ensure a prompt and impartial review of all matters properly submitted to him. The rules shall grant to each party the following minimum rights:

i) to move for dismissal,

ii) to move for summary judgement or other appropriate relief,

iii) to submit in writing any relevant information which it deems appropriate,

iv) to call witnesses,

v) to appear personally and/or be represented by counsel and present evidence and arguments in support of its position,

vi) to hear the evidence and arguments of the other party and its witnesses,

vii) to cross-examine the other party and its witnesses;

3.1.2 proceedings before the Ombudsman shall be informal, and the parties shall not be required to adhere to strict rules of evidence;

3.1.3 the party who has initiated a Request for Review may withdraw all or part of it, in writing, at any time prior to the issuance of a decision.

3.2 In a review conducted pursuant to this Rule, the parties shall be the Program Secretariat or the Carrier concerned, the applicant or Forwarder concerned, or the complainant, as the case may be.
Except as the Ombudsman may otherwise direct in writing, any person who is not a party, or a witness, who desires to make relevant information available to the Ombudsman in connection with a pending review shall do so only through one of the parties thereto. The party concerned shall promptly forward such information in writing to the Ombudsman with a copy to the other party. Such person shall be subject to cross-examination.

3.3 Except for good cause stated in writing, the Ombudsman shall schedule each review proceeding not later than 45 days after receipt of a request pursuant to this Resolution, and shall render his decision within 30 days after the close of the record in the proceeding;

3.3.1 in each decision, the Ombudsman shall be bound by the provisions of the applicable IFACP Rules, and shall make specific findings of fact and conclusions with respect thereto. The decision shall be in writing and shall include all such findings and conclusions and with respect to reviews conducted under Paragraph 1 of this Rule any conditions imposed by the Ombudsman. With respect to review proceedings instituted pursuant to Paragraph 2 of this Rule, the decision shall be in writing and shall include all such findings and conclusions and any penalty imposed pursuant to Subparagraph 3.5 of this Resolution.

3.3.2 A signed copy of the decision shall be served on each party. Subject to action taken under Paragraph 4 of this Rule, the decision shall be final and binding on the applicant or Forwarder, and on the Program Secretariat;

3.3.3 each decision which includes a finding that the Forwarder, at the time of hearing, is improperly withholding money from a Carrier, shall in addition to any penalty imposed pursuant to this Rule suspend the Forwarder's approval, in which case the provision governing "Effect of Removal or Suspension or Reprimand, sub paragraph "Suspension" as stipulated in the Program Rules shall apply until all outstanding amounts due have been paid;

3.3.4 the Ombudsman shall be empowered to waive an oral hearing of a review based on written submissions of the parties and to render a decision on written stipulations between the parties;

3.3.5 each decision by the Ombudsman shall, with respect to future interpretations of the IFACP Rules concerned, constitute a binding precedent.

3.4 A review requested by a Forwarder pursuant to Subparagraph 1.1.1 or 1.1.2 of this Resolution shall have the effect of staying the adverse decision affecting the Forwarder, pending the decision of the Ombudsman. If the Ombudsman finds that the Forwarder qualifies for retention, the Program Secretariat shall retain the Forwarder Agent on the Cargo Program List/Directory and shall so notify the Forwarder and all IFACP Carriers;

3.4.1 if the Ombudsman finds that the Forwarder can be relied upon to adhere to the terms of the IFACP Rules subject to the fulfillment of certain terms and conditions it shall be retained after verification that such terms and conditions have been met pursuant to the specific terms of the Ombudsman's decision. The Program Secretariat shall notify the Forwarder and all Carriers that the Forwarder is maintained on the Program List/Directory.

3.5 The Ombudsman may decide the following:

i) dismissal of the case;

ii) inclusion in or exclusion from the Cargo Program List (in the case of an applicant),

iii) retention on the Cargo Program List ,

iv) removal from the Cargo Program List subject to IFGB endorsement,

v) suspension of for a period, of not less than 30 days, but not exceed 90 days or at the Forwarder's option, a monetary indemnity payable to the IFACP in lieu of suspension,

vi) a reprimand,

vii) decide on any other measure or attach such conditions to his decision as he considers appropriate and which are consistent with and may reasonably be applied under the Rules, particularly in the matter of restitution, and set the date for the Forwarder's compliance therewith,
viii) any appropriate combination of these, including that the Ombudsman may offer the Forwarder a choice between two or more of the above;

3.6 The Ombudsman shall regularly schedule review proceedings at his office but may, if he deems circumstances warrant, schedule reviews at other places.

4. REVIEW BY ARBITRATION

A Forwarder or applicant which considers itself aggrieved by a decision of the Ombudsman taken under provisions of this Rule shall have the right to have such decision reviewed by arbitration in accordance with the procedures set out in the applicable Rules (Section 6) of the IFACP Handbook.

5. EFFECTIVENESS, IMPLEMENTATION AND SPECIAL APPLICABILITY

The effectiveness and implementation of these provisions shall be governed by the provisions of the IFACP Rules, including any local criteria applicable to the country in which the Forwarder operates, and the review by the Program Ombudsman is being conducted.