



FACILITATION (FAL) DIVISION — TWELFTH SESSION

Cairo, Egypt, 22 March to 2 April 2004

Agenda Item 2: Facilitation and security of travel documents and border control formalities

PROPOSED AMENDMENTS TO ANNEX 9 SARPS – CHAPTER 3: MEASURES TO COMBAT TRAVEL DOCUMENT FRAUD

(Presented by the Secretariat)

1. INTRODUCTION

1.1 Article 13 of the Chicago Convention requires that aircraft passengers on an international journey comply with the entry, clearance, immigration and passport laws of the States of departure, transit and destination. Since a passport is required of most persons for travel between States, it is a key element of international travel by aircraft.

1.2 In recent years, there has been a worldwide upsurge in passport fraud for the purposes of attempted unlawful migrations from one State to another, placing extensive economic and social burdens on States. The problem is compounded by the involvement of criminal elements who smuggle migrants and the adoption of various methods, by would-be migrants, of trying to evade lawful immigration processes by the use of fraudulent passports and other travel documents, or professing to be the lawful holders of the genuine documents of other people.

1.3 This fraudulent use of travel documents may be considered an abuse of international civil aviation because it is contrary to the provisions of the Chicago Convention. Passport fraud adversely affects the general security of States, regardless of whether their territories may be a source, a transit point or a recipient of this type of traffic. Therefore, a concerted, international effort to address this problem is required, since its persistence may lead to the erosion of facilitation programmes as States seek to contain it by tightening controls on legitimate traffic.

1.4 As a result, raising the level of confidence in the security of travel documents and inspection procedures has become an important objective of the ICAO FAL Programme. Strategies that may be adopted by member States in this regard include promoting the issuance of machine readable travel documents, the use of new security techniques and systems to verify the authenticity of such documents and confirm the identity of the holders, supporting initiatives to improve inspection procedures for better security and efficiency, and supporting measures established by public authorities to deter illegal migration, with respect to both originating traffic and transit traffic.

1.5 These strategies form the basis of the proposals for amendments to Chapter 3 of Annex 9, set out in the Appendix to this paper. The recommendations also reflect updated Doc 9303 specifications strengthening document security, and the adoption by ICAO, in May 2003, of a global “blueprint” for identity confirmation with biometric technologies using Integrated Circuit chips.

2. THE CHAPTER 3 PROPOSALS

2.1 The major structural changes proposed to the structure of Chapter 3 are the addition of a new section, on the security of travel documents and the transfer of Standards and Recommended Practices (SARPs) concerned solely with inadmissible persons and deportees, and other similar “problem” areas, to the presently vacant Chapter 5 (taken up in detail in FAL/12-WP/5 and Appendix).

2.2 Two new Standards, paragraphs 3.4, which concerns the validity of Machine Readable Passports (MRPs) and paragraph 3.10, which requires States to issue MRPs by 2006, are examined in separate working papers (FAL/12-WP/13 and WP/14, respectively).

2.3 Paragraph 3.9 proposes a Recommended Practice that promotes the use of biometric data in MRPs, in line with ICAO’s approval of a global, harmonized blueprint for the integration of biometric data in Machine Readable Travel Documents (MRTDs) to confirm the identity of the document holders. The increased use of biometric-enhanced MRTDs enable expedited passage of travelers through airport controls, heightened aviation security and added protection against identity theft. Pursuant to this mandate, technical specifications for the deployment of biometric information in MRTDs are being developed for use by States.

2.4 Some of the proposed new SARPs (e.g. 3.7, 3.8, 3.10, 3.31, 3.32 and 3.46) reflect general principles on the security and integrity of travel documents, contained in the United Nations Protocol on illegal migration, supplementary to the UN Convention against transnational organized crime, and resolutions of the UN General Assembly.

2.5 Proposals for amendments to SARPs concerning crew and other personnel will be taken up separately, in FAL/12-WP/15.

3. ACTION BY THE DIVISION

3.1 The Division is invited to recommend adoption of the amendments to SARPs in Chapter 3 of Annex 9, presented in the Appendix.

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APPENDIX

CHAPTER 3. ENTRY AND DEPARTURE OF PERSONS AND THEIR BAGGAGE

Revise Chapter 3 as follows:

A. General

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3.3 (3.7) Contracting States that use ~~bar-codes~~ Integrated Circuit (IC) chips or other optional machine readable technologies for the representation of personal data, including biometric data, in passports ~~their travel documents~~ shall make provision whereby the encoded data may be revealed to the holder of the document upon request.

3.4 (3.11 ~~Note 1~~) Contracting States shall not attempt to extend the validity of their machine readable travel documents by a rubber stamp or other manual means.

Note.—Specifications for machine readable travel documents (Doc 9303, Series) do not permit alteration of the expiration date and other data in the machine readable zone.

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C. Security of travel documents

3.7 Contracting States shall regularly update security features in new versions of their travel documents, to guard against their misuse and to facilitate detection of cases where such documents have been unlawfully altered, replicated or issued.

3.8 Contracting States shall establish controls on the lawful creation and issuance of travel documents in order to safeguard against the theft of their stocks and the misappropriation of newly issued travel documents.

3.9 **Recommended Practice.**—*Contracting States should incorporate biometric data into their machine readable travel documents, using one or more optional data storage technologies to supplement the machine readable zone, as specified in Doc 9303, Machine Readable Travel Documents (series).*

~~C.~~ D. Passports

3.10 Contracting States shall begin issuing Machine Readable Passports in accordance with the specifications of Doc 9303, Part 1, no later than 1 April 2006.

3.11 (3.5) **Recommended practice.**—*When issuing ~~passports~~, visas or other identity documents accepted for travel purposes, Contracting States should issue these in machine readable form, as specified in Doc 9303 (series), Machine Readable Travel Documents.*

3.12 (3.6) When issuing passports that are not machine readable, Contracting States shall ensure that the personal identification and document issuance data and the format of the data page conform to the specifications for the “visual zone” set forth in Doc 9303, Part 1, *Machine Readable Passports*. The “machine readable zone” area shall be filled with words such as “this passport is not machine readable” or other data to preclude fraudulent insertion of machine readable characters.

3.13 (3.8) Recommended Practice.— Contracting States ~~should~~ **shall** establish publicly accessible facilities for the receipt of passport applications and/or for the issuance of passports.

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3.16 (3.11) Recommended Practice.— *When issuing or reissuing passports for tourism or business travel, Contracting States should normally provide that such passports be valid for a period of at least five years, for an unlimited number of journeys and for travel to all States and territories.*

Note 1.— Specifications for machine readable passports (Doc 9303, Part 1) do not permit alteration of the data in the machine readable zone, including the expiration date. Therefore it is not practicable to extend the validity of a machine readable passport.

Note 2.— In consideration of the limited durability of documents and the changing appearance of the passport holder over time, a validity period of not more than ten years is recommended.

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I. Inspection of travel documents

3.54.1 Recommended Practice.— *The appropriate public authorities of Contracting States, either singly or jointly, should enter into cooperative arrangements such as memoranda of understanding (MOUs) with the operators providing international services to and from those States, setting out guidelines for their mutual support and cooperation in countering the abuses associated with travel document fraud. Such arrangements should assign mutual responsibilities to the public authorities and to the operators, in the ascertainment of the validity and authenticity of the travel documents of embarking passengers, and in the necessary steps to prevent the loss or destruction of documents by passengers en route to their destinations.*

3.31 Contracting States and operators providing international services to and from those States shall collaborate in order to achieve the goal of eliminating the abuses associated with travel document fraud.

3.32 (3.54.2) Recommended Practice.— *Contracting States should **consider making make** arrangements such as memoranda of understanding (MOUs) with other Contracting States **with the intention of permitting to permit** the positioning of “liaison officers” at airports **or to establish other forms of international cooperation** in order to assist operators to establish the validity and authenticity of the passports and visas **travel documents** of embarking passengers **persons**.*

3.33 (3.53) Operators shall take precautions at the point of embarkation to ensure that passengers are in possession of the documents prescribed by the States of transit and destination for control purposes as described in Chapter 3, ~~Section B~~.

3.54 Contracting States and operators shall cooperate, where practicable, in establishing the validity and authenticity of passports and visas that are presented by embarking passengers.

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I. K. Entry procedures and responsibilities

3.39 (3.31) Recommended Practice.— *Contracting States, in cooperation with operators and airport authorities, should establish as a goal the clearance within forty-five (45) minutes of disembarkation from the aircraft of all passengers requiring not more than the normal inspection, regardless of aircraft size and scheduled arrival time.*

3.40 (3.33) Recommended Practice.— In order to expedite inspections, Contracting States, in cooperation with airport management, ~~should~~ **shall** use applicable technology and adopt a multi-channel immigration inspection system, or other means of streaming passengers, at international airports where the volume of passenger traffic justifies its installation.

3.41 (3.32) Except in special circumstances, Contracting States shall not require that ~~passports, official travel documents or other identity documents~~ be collected from passengers or crew before they arrive at the passport control points.

3.42 (3.52) The public authorities concerned shall expeditiously accept passengers and crew for examination as to their admissibility into the State.

3.42—Note (3.52.1Note) *The term “accepted for examination” is commonly understood to refer to the first appearance of the passenger before a control officer after disembarkation, to seek entry into the country concerned, at which time the control officer examines the documentation presented by the passenger and normally makes a determination as to his admissibility or not. Such examination does not encompass the documentary sighting at the aircraft immediately upon disembarkation, which may be carried out by public authorities for profiling purposes.*

A passenger or crew member is “accepted for examination” when he makes his first appearance at the arrivals control point after disembarkation, to seek entry into the country concerned, at which time the control officer makes a determination whether he should be admitted or not. This does not include the sighting of travel documents, which may be carried out immediately upon disembarkation.

3.43 (3.52.1) The operator shall be responsible for the custody and care of **disembarking** passengers and crew ~~members from the time they leave the aircraft~~ until they are accepted for ~~such~~ examination **as provided in paragraph 3.42.**

3.44 (3.52.2 (first part)) Recommended Practice.— After such acceptance, ~~whether conditional or unconditional,~~ the public authorities concerned ~~should~~ **shall** be responsible for the custody and care of passengers and crew **members** until they are ~~legally~~ admitted ~~for entry~~ or found inadmissible. ~~and transferred back to the custody of the operator for transport away from the territory of the State.~~

3.45 (3.65) The ~~obligation~~ **responsibility** of an operator **for custody and care of passengers and crew members** ~~to transport any person away from the territory of a Contracting State~~ shall terminate from the moment such persons ~~has~~ **have** been ~~legally~~ admitted ~~for entry~~ into that State.

3.46 (3.56) The public authorities of each Contracting State shall seize fraudulent, falsified or counterfeit travel documents. The public authorities shall also seize the travel documents of a person impersonating the rightful holder of the travel document. Such documents shall be removed from circulation **immediately** and returned to the appropriate authorities of the State named as issuer ~~as soon as practicable or to the resident Diplomatic Mission of that State.~~

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