



## **FACILITATION (FAL) DIVISION — TWELFTH SESSION**

**Cairo, Egypt, 22 March to 2 April 2004**

### **Agenda Item 4: Controlling travel document fraud and illegal migration**

#### **HUMAN RIGHTS OF INADMISSIBLE PERSONS AND DEPORTEES**

(Presented by the African Civil Aviation Commission (AFCAC))<sup>2</sup>

##### **SUMMARY**

This working paper emphasizes the respect of human rights of inadmissible persons and deportees and proposes the integration in the new Chapter 5 of Annex 9 of a new standard taking into consideration these rights.

Action by the Division is in paragraph 2.1.

### **1. INTRODUCTION**

1.1 Migratory movements have not been created by the modern era. At all times and for various reasons, men and women have left their home land for other countries. The difference is that today there are more migratory flows in the history of the mankind as compared with the past and transport means, in particular the aircraft make possible the circulation of persons easily and rapidly.

1.2 This phenomenon has yielded another phenomenon of a peculiar nature, i.e. illegal migration. Indeed, for twenty-five years now, illegal immigration by air notably expanded worldwide given that all world regions and continents do have their own share of illegal immigrants.

1.3 This phenomenon with serious socio-economic implications and consequences on States' global safety and flight security, is a source of major concern not only for States, but also for the international aviation community at large.

1.4 For the reasons given above, African States are satisfied with the work performed by ICAO concerning illegal immigration and which culminated in the adoption by the ICAO Council of Standards and

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<sup>1</sup> French version provided by the African Civil Aviation Commission (AFCAC).

<sup>2</sup> Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cap Verde, Central African Republic, Chad, Comoros, Congo, Cote d'Ivoire, Democratic Republic of the Congo, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Sudan, Swaziland, Togo, Tunisia, Uganda, United Republic of Tanzania, Zambia, Zimbabwe.

Recommended Practices covering the various aspects of the issue: preventive measures, immigration and repatriation procedures of inadmissible persons.

1.5 To address this issue properly, the ICAO Secretariat has proposed, in working papers FAL/12-WP/3 and FAL/12-WP/5, amendments to the existing Chapter 3 structure of Annex 9, with the addition of a new Section on the security of travel documents and the shifting of standards and recommended practices relating only to admissible persons and deportees and other similar cases to Chapter 5 of Annex 9 which is currently blank, dealt with in paper FAL/12-WP/5 and its Appendix.

1.6 African States do support these draft structural amendments. However, the wording of the text in FAL/12-WP/5 by the Secretariat, which recapitulates some amendments by the Panel of FAL experts on the issue of inadmissible persons and deportees, has an “oversight” - which was already included in the existing Chapter 3 of Annex 9 – that was incorporated in the Secretariat proposals on the new Chapter 3, i.e. the human and not “technical” treatment/processing of inadmissible persons and deportees. It has been admitted nowadays that the scope of human rights issue of this traveller category is almost the same as the illegal immigration issue by air itself.

1.7 Indeed, for several years a number of public opinions have been offended when watching the TV, listening to the radio or reading in news papers the bad treatment the officers of some countries have been giving to travellers whose status has been termed as “inadmissible person” or “person to be deported” and whose custody is under their responsibility for a period of time. These officers’ behaviour, which could take various forms (intimidation, insults, racist remarks, physical violence, etc.) is, obviously, contrary to human rights rules.

1.8 Inadmissible persons or deportees must be protected against any infringement to their dignity, notably insults, public curiosity and any act of violence or intimidation.

1.9 African States believe that such a concern must be duly reflected in Annex 9 and become an ICAO standard.

1.10 Consequently, the **Appended** Draft Standard is submitted to the Divisional Meeting for consideration and adoption.

## 2. ACTION BY THE DIVISION

2.1 The Division is hereby invited to recommend the adoption of the Draft Standard in the Appendix, to be duly incorporated in the new Chapter 5 of Annex 9.

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**APPENDIX**

**ANNEX 9 – *FACILITATION***  
**CHAPTER 5**

**NEW STANDARD PROPOSAL**

“During the period when an inadmissible passenger or a passenger to be deported is under their custody, the State Officers concerned shall preserve the dignity of such persons and take no action likely to infringe such dignity”.

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