



WORKING PAPER

ASSEMBLY — 38TH SESSION

EXECUTIVE COMMITTEE

Agenda Item 16: Facilitation and Machine Readable Travel Documents

**DEVELOPMENTS PERTAINING TO ANNEX 9 — FACILITATION
AND PROPOSED WORK PROGRAMME FOR THE NEXT TRIENNium**

(Presented by the Council of ICAO)

EXECUTIVE SUMMARY

This paper highlights the mandate and current priorities of the ICAO Facilitation (FAL) Programme and reports on developments in the Programme since the last Assembly. It concludes by proposing priorities for the FAL Programme and expected outcomes of its work for the next triennium. The priorities fall under two categories. In “working better with what we have,” the Programme’s priorities should be to undertake a consolidation of its work, examine issues relating to non-compliance with Annex 9 Standards and Recommended Practices (SARPs), and forge closer links with other bodies relevant to facilitation. The second category, “planning for the future,” will involve continuous engagement with advances in technologies pertaining to the work of the FAL Programme, including in the preparation of responses to new and emerging issues. The FAL Panel has also proposed outcomes associated with each of these priorities.

Action: The Assembly is invited to endorse the proposed priorities for the FAL Programme and expected outcomes for the 2014-2016 triennium, as set out in paragraph 3.12.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objectives B — <i>Security</i> and C — <i>Environmental Protection and Sustainable Development of Air Transport</i>
<i>Financial implications:</i>	No additional resources required.
<i>References:</i>	Annex 9 — <i>Facilitation</i>

1. INTRODUCTION

1.1 The ICAO Facilitation (FAL) Programme is based on eleven Articles of the *Convention on International Civil Aviation* (the Chicago Convention) which require the civil aviation community to comply with laws governing the inspection of passengers, aircraft, and cargo by border control authorities. An additional mandate is provided by Assembly Resolutions and decisions of the Council and the Air Transport Committee.

1.2 As the means of carrying out this mandate, the FAL Programme is intended to help States achieve maximum efficiency in border clearance operations, and at the same time achieve and maintain high-quality security and law enforcement. Standards and Recommended Practices (SARPs) designed to meet these objectives are developed by ICAO and maintained in Annex 9 – *Facilitation* to the Convention.

1.3 Annex 9 thus articulates the obligations of Member States and standardizes procedures for meeting legal requirements pursuant to the Chicago Convention. Annex 9 SARPs are complemented by guidance material (circulars or manuals), published with the aim of assisting States in implementing the provisions of the Annex. Certain security-related provisions of Annex 9 fall within the scope of the ICAO Universal Security Audit Programme (USAP).

2. PRIORITIES AND DEVELOPMENTS

2.1 The FAL Programme must address primarily the varied, but inter-related, interests of Member States, aircraft and airport operators, and customers in a coordinated manner, while working towards achieving more efficient, orderly and attractive air transportation. Responding to the needs of States, the Programme contends with external challenges that include threats to security, illegal migration, travel document fraud, illicit narcotics trafficking, and the spread of contagious disease.

2.2 The FAL Panel, established in 1995, plays a critical role in the accomplishment of the Programme's priorities. It helps to ensure that Annex 9 is kept current. Since its inception, the Panel has comprehensively reorganized and updated its SARPs.

2.3 Developments since the last Assembly include the adoption by the Council, in 2011, of Amendment 22 to Annex 9 to, *inter alia*, assist States in preparing for international outbreaks of communicable diseases, and to enhance measures to facilitate assistance to air travellers whose flights are disrupted as a result of *force majeure*. On 18 June 2012, the Council adopted Amendment 23, that revises Appendix 13 in order to enhance data sharing and efficient response in the event of a pandemic or large scale epidemic. In October 2012, the seventh meeting of the FAL Panel (FALP/7) recommended a wide range of amendments to Annex 9 on issues such as accessibility to air transport for persons with disabilities, air cargo facilitation, and the security of the travel document issuance process. The Panel established a working group to develop new guidance material on the content of a National Air Transport FAL Programme and to revise and improve existing facilitation guidance material. The Council is expected to consider these recommendations for adoption as Amendment 24 during its 200th Session, following the Assembly. The FALP/7 meeting also endorsed the first edition of a *Manual on Access to Air Transport by Persons with Disabilities*. Doc 9984 is an updated and revised version of existing guidelines on the matter.

3. PRIORITIES AND OUTCOMES: 2014-2016 TRIENNIUM

3.1 As reflected in the Strategic Objective *Security and Facilitation* for the 2014-2016 triennium, there is an enhanced emphasis for ICAO leadership in facilitation and related aviation security border integrity matters.

3.2 The FAL Panel (currently composed of experts nominated by twenty-eight Member States, as well as the Airports Council International and the International Air Transport Association as permanent observers) continues to play a large part in ICAO facilitation-related services, and to provide expertise in the development of new or revised SARPs, complemented by guidance material.

3.3 After consultations with the members of the FAL Panel, the Secretariat proposes the following priorities and outcomes for the next triennium.

Working better with what we have

3.4 States face challenges in implementing Annex 9. It is therefore suggested that the FAL Programme undertake a **consolidation of its work** to assist in providing, in so far as possible, a simplified set of enhanced performance-based SARPs for the benefit of States. This exercise would focus on identifying common outcomes and themes contained in Annex 9 SARPs to determine their continuing utility and relevance and to reorganize and simplify existing provisions. The Programme should manage its tasks to ensure that it does not just focus on developing new SARPs and guidance material, but on keeping existing material useful, relevant and targeted.

3.5 The USAP audits have identified a number of SARPs with a high lack of effective implementation. Other issues of **non-compliance with SARPs** have also been identified. The FAL Programme should thus be able to determine the reasons for non-compliance with current SARPs. The first step required in this process is to develop an understanding of the reasons behind non-compliance. Suitable strategies to assist States could then follow, e.g. by further clarification of SARPs in manuals, capacity-building initiatives, and training.

3.6 **Stronger links and cooperation** should also be developed between various ICAO fora (such as the Technical Advisory Group on Machine Readable Travel Documents and the Aviation Security Panel) to utilize the advantage from possible overlapping and parallel issues considered by each body. Similarly, coordination should be enhanced with other non-ICAO bodies working on similar facilitation issues.

Planning for the future

3.7 Planning for the future will involve the FAL Programme's continuous engagement with **advances in technologies** in its work, and in the preparation of **responses to new and emerging issues**. Noting the importance of international aviation to many different industries, the FAL Programme has the opportunity to provide leadership and guidance in such situations.

3.8 The incorporation of technological advances in Annex 9 would strengthen current procedures and also provide States with greater capabilities in border processing and aviation security measures. Provisions on Automated Border Controls (ABCs), including the use of biometrics, contingency planning, e-boarding, and identity checks, would ensure global harmonization and provide a greater level of efficiency for the benefit of States and passengers. Additional SARPs on the use and transfer of API and PNR data would lead to greater quality and accuracy in data collection and further strengthen the current use of such systems. Increasing use of technology (e.g. ABCs) could also contribute to greater levels of service where airport resources are constrained. An enhanced Annex 9

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framework will enable flexibility, allowing new technologies to be integrated effectively into the international system.

3.9 In light of recent health-related and other disruptive events to aviation, there is also a need to address gaps in the handling of and responses to such events, e.g. in national health planning, border processing, and disaster preparedness. As these disruptive events usually arise with little or no warning, the development of strategies to provide guidance and uniformity in such situations needs to be addressed by the FAL Programme in order to provide States with guidance regarding the most appropriate response to future events.

3.10 Recent events have brought into focus issues relating to air cargo facilitation, and related security aspects. This calls for an additional emphasis on strengthening SARPs and developing guidance material on the matter, particularly in cooperation with the World Customs Organization (WCO) and relevant industry partners.

3.11 The FAL Panel highlighted the important issue of managing and processing the transportation by air of unaccompanied minors. Differing national practices and aircraft operator processes contribute to confusion and misunderstanding regarding the handling of minors. Work to harmonize Standards and provide clear guidance will alleviate many concerns and sensitivities on this matter.

3.12 The table below summarizes the proposed priorities for the FAL Programme and expected outcomes for the 2014-2016 triennium:

Categories	Priorities: 2014-2016	Outcomes
A. Working better with what we have	1. Non-compliance with SARPs	a) Determination of reasons for non-compliance with SARPs; and b) Development of strategies to assist State compliance
	2. Consolidation of work	a) Identification of common outcomes and themes in Annex 9; b) Determination of continued usefulness and relevance of SARPs; and c) Reorganization and simplification of SARPs
	3. Stronger links and cooperation with relevant entities	a) Establishment of closer links within ICAO and with non-ICAO entities
B. Planning for the future	1. Responses to new and emerging issues	a) Enhancement of SARPs or guidelines on disruptive events and cargo facilitation, the latter in cooperation with the WCO and industry; b) Development of SARPs and guidance on unaccompanied minors.
	2. Advances in technologies	a) Inclusion of additional SARPs in Annex 9 on ABCs; and b) Enhancement of SARPs on API and PNR

APPENDIX

Examples of challenges addressed by the FAL Programme (paragraph 2.1 refers), include:

1. **Threats to security, including illegal migration:** e.g. the movement of persons who may pose a threat to both national and/or aviation security; illegal migration (persons migrating under false pretences from one State to another, with or without the assistance of criminal elements); passengers arriving at their destinations without documents (having destroyed their travel documents *en route*, on the aircraft); drug smuggling.
 - Addressed, for example, by SARPs and guidance material on inadmissible persons and deportees and Advance Passenger Information (API), Interactive API and Passenger Name Record (PNR) data systems, to assist States identify and prevent the travel of, or take necessary enforcement measures against, persons posing a risk to national/aviation security and/or who are attempting to migrate illegally. PNR data transfer also aids in combatting drug smuggling. Cargo-related SARPs enable authorities and the industry adapt to the new post-9/11 security cargo environment, to use risk management techniques and to make optimal use of automated information systems.
2. **Travel document fraud:** e.g. passengers travelling with fraudulent travel documents or with genuine documents belonging to others.
 - Addressed, for example, by SARPs and guidance material on the security of the travel document issuance process, controls on travel document fraud, protection against identity theft, the “one passport, one person” concept and the mandatory issuance of machine readable passports.
3. **Spread of contagious diseases:** e.g. Severe Acute Respiratory Syndrome (SARS); H1N1 influenza; Avian influenza.
 - Addressed, for example, by SARPs and guidance material to assist States prepare for international outbreaks of communicable diseases posing public health risks or public health emergencies of international concern and to enhance data sharing and efficient response in the event of a pandemic or large scale epidemic.
4. **Disruption to flights/Challenges facing aviation industry:** e.g. natural disasters; disruption of air services on the grounds of public health.
 - Addressed, for example, by SARPs and guidance material on measures for States to take to assist air travellers whose flights are disrupted as a result of *force majeure*, to implement international standards that impart global uniformity in passenger data interchange and alleviate the difficulties that airlines face with non-uniform API and PNR regimes.
5. **Other challenges** addressed include the mitigation of entry/exit delays and denials in the transport of radioactive material by air, particularly material used in medical applications, the facilitation of entry/departure requirements for aircraft accident victims and their families and the accessibility to air transport for persons with disabilities.

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