ANNEX 9:
MANDATE, DESCRIPTION & LATEST DEVELOPMENTS:

MANDATE

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OVERVIEW

Part I: FAL Programme: Mandate

→ Chicago Convention
→ Assembly
→ Council

Part II: Facilitation Panel & Annex 9 Amendment Process
PART I: FAL PROGRAMME MANDATE

A. CHICAGO CONVENTION (1944)

- Convention on International Civil Aviation
- Conference, Chicago, 1944
- International treaty: 192 Member States (latest: Tuvalu, 18 Nov 2017)

Article 44 (Objectives)
The aims and objectives of the Organization are . . . to foster the planning and development of international air transport so as to: . . . meet the needs of the peoples of the world for safe, regular, efficient and economical air transport.
MANDATE — FACILITATION PROGRAMME

Article 10: Landing at customs airport
Article 11: Applicability of air regulations
Article 13: Entry and clearance regulations
Article 14: Prevention of spread of disease
Article 22: Facilitation of formalities
Article 23: Customs and immigration procedures
Article 24: Customs duty
Article 29: Documents carried in aircraft
Article 35: Cargo restrictions
Article 37: Adoption of international standards and procedures

[→ FOCUS ON BORDER CONTROLS AT INTERNATIONAL AIRPORTS]
Art. 10: Aircraft to land at designated customs airport for customs & other examination

Art. 13 (Entry and clearance regulations): Laws & regulations of a State as to the admission into or departure from its territory of passengers, crew, cargo . . . such as regulations relating to entry, clearance, immigration, passports, customs and quarantine . . . complied with by or on behalf of pax, crew, cargo upon entrance into or departure from, or while within the territory of that State.

Art. 14: State to take measures to prevent the spread by means of air navigation of communicable diseases . . . (cholera, yellow fever, plague, etc.)
Art. 22: Each Contracting State agrees to adopt all practicable measures . . .

- to facilitate & expedite navigation by aircraft . . . & to prevent unnecessary delays to aircraft, crews, passengers and cargo

→ especially in the administration of the laws relating to *immigration*, *quarantine*, *customs & clearance*.

→ “Facilitation of formalities”

Art. 23: State to establish customs & immigration procedures in accordance with practices recommended (by ICAO)  

[►Art. 37]
Art. 29: Documents carried in aircraft: . . .

  (d) journey log book [A/Res: Gen Dec acceptable];
  (f) passenger manifest;  (g) cargo manifest

Article 37: (Adoption of International Standards and Procedures)
Each State undertakes to collaborate in securing . . . uniformity . . . regulations, standards . . . facilitate & improve air navigation. ICAO required to adopt SARPs . . .

  – (j) Customs & immigration procedures . . .

& such other matters concerned with the . . . regularity & efficiency of air navigation . . .

. . . . Art. 38 [Compliance]; Art. 90 [Amendment]
Obligations of States: Articles 11, 14, 22, 23, 24, 35, 37, 38
Obligations of Users: Articles 10, 11, 13, 29, 35
Obligation of ICAO: [Adopt] & Amend Annex

http://www.icao.int/publications/Pages/doc7300.aspx
Facilitation is the efficient management of border control processes to expedite clearance (of aircraft, passengers/crew, baggage, cargo) and prevent unnecessary delays.

→ Immigration, Customs, Health, Quarantine
B. RESOLUTIONS OF THE ICAO ASSEMBLY

A39-20

Consolidated statement of continuing ICAO policies related to facilitation

Appendix A: Development and implementation of facilitation provisions

- States: increase efforts to implement Annex 9 SARPs
- States: give due regard to Doc 9984 (PWD Manual)
- Council: ensure Annex 9 is current and addresses the contemporary requirements of States
Appendix B. National and international action in ensuring the security and integrity of traveller identification & border controls

- 5 elements of traveller identification & border management
- States: implement a robust identification management system to safeguard the security & integrity of the travel document issuance process
- States: ensure that non-machine readable passports are withdrawn from circulation
- States: ensure that MRCTDs are machine readable
- States urged to join ICAO PKD
- States to provide input to Interpol’s Stolen & Lost Travel Document Database
Appendix C: National and international action and cooperation on facilitation matters

- States: establish national facilitation committees
- States: call upon aircraft and airport operators to participate in electronic data interchange systems: cargo traffic
- States: facilitate assistance to aircraft accident victims and their families
- Handling & clearance of air cargo; security of the international supply chain
Appendix D: Passenger Data Exchange Systems

- States: call upon aircraft operators to provide advance passenger information

- States: to ensure that the passenger data requirements conform to international standards adopted by relevant United Nations agencies

- States: to assist and share best practices with other Member States in the establishment of passenger data exchange systems
• **A35-12 (2004):** “Protection of the health of passengers and crews and prevention of the spread of communicable disease through international air travel”
  
  → Increase in worldwide transmission of communicable diseases by means of air transport
  
  → Council requested to review existing SARPs & develop new SARPs
  
  → States urged to implement SARPs

• **A36-21 (2007):** “Preventing the introduction of invasive alien species”
  
  → International civil transportation represents a potential pathway for the introduction of invasive alien species
  
  → States urged to support one another’s efforts to reduce the risk of introducing potentially IAS to areas outside their natural range
● **A37-13 (2010):** “Prevention of spread of **communicable disease** through air travel”
   → States urged to develop national preparedness plan & join the CAPSCA project

● **A39-27 (2016):** “Assistance to **victims of aviation accidents** and their families”
  → States urged to establish legislation (etc.) . . . Annex 9
  → States urged to inform ICAO, through CC in EFOD, of level of implementation of Annex 9 [RP 8.46]

A39-18: Consolidated statement: ICAO policies related to aviation security

Appendix C (Implementation of technical security measures):

- Importance of MRTDs highlighted
- Use of MRTDs and other passenger information tools can also be employed for security purposes... before aircraft boarding process
- States urged to implement security-related provisions of Annex 9
- States called upon to use of API to strengthen aviation security & reduce the risk to passengers

A37 Declaration on Aviation Security

States... promote the use of cooperation mechanisms... for early detection and dissemination of information on security threats... through the use of API and PNR as an aid to security
C. COUNCIL

Article 50: The Council shall be a permanent body responsible to the Assembly.

Article 54 (Mandatory functions of Council):

→ Appoint and define the duties of an Air Transport Committee
→ Adopt . . . international standards and recommended practices; for convenience, designate them as Annexes to this Convention; and notify all contracting States of the action taken.
Council, 11 May 2009: Outbreak of the Influenza A(H1N1) (“Swine flu”)

→ Secretary General to review the provisions of Annex 9
→ FALP/6 (2010)
→ April 2011 (Amendment 22 to Annex 9)

ATC, 1995: Established the Facilitation Panel . . . . . . .
PART II: FACILITATION PANEL & ANNEX 9 AMENDMENT PROCESS

32 Members of FAL Panel

- 3 NACC, 2 ESAF, 3 WACAF, 3 SAM, 8 APAC, 4 MID
- 2 ESAF + 3 WACAF: Kenya, South Africa; Ghana, Nigeria, Senegal
- States as Observers
- IATA, ACI: Permanent Observers

→ FALP/10, 10-13 September 2018, Montreal
Terms of Reference of the FAL Panel

- make recommendations on SARPs
- contribute to guidance material
- develop proposals for FAL Division meetings
- perform other tasks assigned by ATC
THANK YOU!